Creative and Cultural industries are considered one of the fastest growing sectors in the global economy. They contribute significantly to the Gross Domestic Product (GDP) of many developed and developing countries as they capitalized on their cultural and creative industries to enhance and grow their economies.

Although the East African region has the potential to develop new areas of wealth and employment as it is rich in cultural heritage and inexhaustible pool of talents, the region still remains a marginal player in the global market. While the East African Community Partner States produce world-renowned artists, still the contribution of creative and cultural industries to our economy has remained insignificant. Likewise, due to lack of incentives, financial, educational, infrastructure and technology support from the EAC Partner States and the business community, our local creative industries are not yet fully developed.
Nurturing and exploitation of creative and cultural industries in the East African Community through an effective regional legal framework can contribute to job creation, income generation and poverty alleviation.

The object of this Bill is therefore to promote creative and cultural industries in the East African Community. The Bill seeks to establish the Creative and Cultural Industries Development Council that shall provide an environment conducive to the enhancement and stimulation of creativity and innovative endeavors among the citizens of the Community.

The Council shall, among others—

(a) provide high quality trainings for skills and creativity development;

(b) formulate policies and strategies that shall stimulate creativity and innovations among the youths to ensure long term supply of creative talents;

(c) conduct a comprehensive mapping of individuals or groups involved in creative industries; and

(d) design practical tools to assist individual creators and creative communities to effectively use and diversify their products to be locally and globally competitive.

HON. DR. JAMES NDAHIRO,
Member East African Legislative Assembly.
THE EAST AFRICAN COMMUNITY CREATIVE AND CULTURAL INDUSTRIES BILL, 2015

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THE EAST AFRICAN COMMUNITY CREATIVE INDUSTRIES BILL, 2015

A Bill for an Act

ENTITLED

THE EAST AFRICAN COMMUNITY CREATIVE INDUSTRIES ACT, 2015

An Act to regulate the establishment and management of creative industries in the Community, and to provide for other related matters.

Enacted by the East African Community and assented to by the Heads of State.

PART I—PRELIMINARY

1. This Act may be cited as the East African Community Creative and Cultural Industries Act, 2015 and shall come into force on such a date as the Council of Ministers may, by notice published in the Gazette, appoint.

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

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

Interpretation.
“Board” means the Board of Directors established by section 10;

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

“Council” means the East African Creative and Cultural Industries Council established by section 5;

“creativity” means the ability to bring into existence something new, whether it be an artistic object or form, a solution to a problem or a method or device; the creation of a work of art bringing about a new combination of elements pre-existing in the medium;

“creative industries” means industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property;

“creative clusters” means pooling together resources into networks and partnerships of creative enterprises or industries to cross-stimulate activities, boost creativity and realize economies of scale;

“creative and cultural industries” means the Industries that originate from creativity or accumulation of culture which through the formation and application of intellectual properties, possess potential capacities to create wealth and job opportunities, enhance the citizens’ capacity for arts, and elevate the citizens’ living environment in the areas specified in the Schedule.
"Fund" means the East African Creative and Cultural Industries Fund established by section 17;

"mapping" means identifying creative industry branches of individuals or groups that have potential for growth, their location in the country or region, and to quantify their potential for inducing socio-economic growth:

"Minister" means the Minister responsible for creative and cultural industries' matters in a Partner State;

"Secretariat" means the Secretariat of the Community established by Article 9 of the Treaty;

"Secretary General" means the Secretary General of the Community appointed under Article 67 of the Treaty;

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

3. This Act is based on the need to foster the development of Cultural and Creative Industries in the Community, to establish a social environment with abundant culture and creativity, to utilize the technology and create researches and developments, to strengthen talent cultivation of the cultural and creative Industries, and to actively exploit the regional and international market.

4. The objectives of this Act are to—

(a) promote the development of creative and cultural Industries in the Partner States; and
(b) appreciate and enhance the popularity of cultural art in order to comply with both the regional and international trends.

PART II—ESTABLISHMENT OF CREATIVE AND CULTURAL INDUSTRIES DEVELOPMENT COUNCIL

5. There is established a council known as the East African Community Creative and Cultural Industries Council, which shall provide direction for setting an environment for sustainable growth of creative industries through the utilization of the skills, talents and capabilities of the region's human resources and assist the creative industries achieve their full economic potential.

6. The Council shall have the following purposes—

(a) to develop greater awareness and understanding of the creative industry and its contribution to the East African Community economy and to formulate strategies on how the government, business and private sectors may work together to help develop and promote the economy;

(b) to broaden knowledge and visibility of the products of creative industries by providing a showroom for them in a suitable and well-located environment;

(c) to create more employment through the development of creative industries in other areas other than urban areas;

(d) to provide high quality trainings for skills and creativity development; and
(e) to enhance awareness of intellectual property rights, and consequently strengthen the foundation for successful creative and cultural industries.

7. The Council shall—

(a) promote, assist and facilitate the efficient development of the creative and cultural industries;

(b) design and implement suitable marketing strategies for the effective promotion of the creative and cultural industries;

(c) create and maintain a registry of the applications of creative and cultural entrepreneurs or creative and cultural practitioners submitted to the Community and the approvals granted in respect of those applications;

(d) determine the eligibility of creative and cultural projects for funding;

(e) process the applications for concessions and benefits to be derived under this Act;

(f) monitor and inspect each approved cultural project to ensure the compliance of the creative and cultural entrepreneur, creative and cultural practitioner or governmental entity with the terms and conditions governing the project and for this purpose may—

(i) cause the books, records and accounts of the creative and cultural entrepreneur, creative and cultural practitioner or entities in relation to a creative and cultural project to be inspected;
(ii) request such information from the creative and cultural entrepreneur, practitioner or governmental entity as the Council considers necessary to enable the inspection to be carried out; and

(g) perform such other functions as are conferred on the Council by this Act.

8. (1) The Council shall consist of at least one member from each Partner State nominated by the Minister and appointed by the Council of Ministers.

(2) A member of the Council shall be a person of proven integrity and experience in matters relating to cultural and creative industries.

9. (1) There is established a Board of Directors of the Council which shall be the executive organ of the Council.

(2) The Board shall advise the Council on any matter connected to cultural and creative industries and shall be responsible for the execution of the policy of the Council.

(3) The Board shall consist of a Chairperson and Deputy Chairperson and such other members as the Council of Ministers may appoint.

10. (1) The Council shall, with the approval of the Council of Ministers, appoint such persons to such offices as may be designated by the Secretary General.

(2) The Chief Executive Officer of the Council, by whatever name called, shall be responsible to the Board.

11. (1) The Board shall meet at least once every six months and at such other times as may be necessary, or expedient for the transaction of its business.
(2) The Board shall, at any of its meetings regulate its procedure.

PART III—MAPPING CREATIVE INDUSTRIES

12. The Council shall, through the respective Ministries in the Partner States conduct comprehensive mapping in the various localities across the region, to determine the sustainable creative and cultural industries that may be promoted and assisted by the Council.

13. (1) Every creative and cultural industry in the Community shall register with the Council, who shall issue a Certificate of Authority to entitle that industry to the benefits provided for under this Act.

(2) The Council shall process an application for registration under sub section (1) within fifteen working days upon submission of complete documents.

(3) A certificate issued under this section shall be effective for a specific period and shall be renewed for a period to be determined by the Council.

(4) A fee to defray the administrative costs of registering and monitoring shall be imposed on creative industries.

(5) A Partner State may establish a registration center under the respective Ministry and appoint an officer to handle the efficient registration and processing of permits or licenses of creative industries.

(6) The Council shall make a periodic evaluation of the creative and cultural industries’ financial status for monitoring and reporting purposes.
14. The creative industries under this Act being an emerging and dynamic sector of the economy shall include the industries specified in the Schedule.

15. The Council shall set up a specific amount of money for technology transfer, production and management training and marketing assistance for qualified identified creative and cultural industries at the regional level, to fully develop and promote the creative and cultural industries in the Community.

PART IV—ESTABLISHMENT OF CREATIVE AND CULTURAL INDUSTRIES FUND

16. (1) There is established a fund known as the Creative and Cultural Industries Development Fund.

(2) The resources of the Fund shall consist of money—

(a) transferred to the Fund from the Arts and Sports Promotion Fund;

(b) voted by the Assembly for the Fund;

(c) received from the private sector;

(d) arising from gifts, grants or donations; and

(e) money received from such other sources as the Council of Ministers may determine.

17. The purposes of the Fund are to—

(a) finance creative and cultural projects and programmes that are designed to develop the concerned industries sector and train creative and cultural entrepreneurs, practitioners, administrators and creative and cultural workers;
(b) provide creative and cultural entrepreneurs or creative and cultural practitioners with non repayable grants to enable them to participate in local and international events, workshops and seminars, and allow for training, marketing, export and product development;

(c) provide repayable grants to support creative and cultural projects on the condition that the grants be repaid out of the future business revenues;

(d) provide loans which allow for easy and flexible repayment together with interest;

(e) provide equity financing to allow investors to inject funds into creative and cultural businesses and in return to take an equity share in the capital of such businesses; and

(f) defray the costs incurred in the administration of this Act.

18. (1) The Fund shall be administered and managed by the Council under the general control and direction of the Secretariat.

(2) The initial expenditure required for, or in connection with the establishment of the Fund shall be defrayed out of moneys provided by the Assembly.

(3) Any temporary insufficiency of the Fund to discharge its liabilities shall be defrayed out of such moneys as the Assembly may approve, by way of supplementary expenditure for this purpose to the Fund.
19. (1) The Board shall cause to be prepared, quarterly reports of the accounts and economic activities of the Fund, and shall deliver those reports to the Council not later than 21 days following the end of each quarter.

(2) The Council shall, as soon as practicable after receiving a report submit it to the Secretary General.

20. The accounts of the Fund shall be audited at least once every financial year in accordance with the provisions of the Treaty.

PART V—INCENTIVES FOR AUDIO-VISUAL PRODUCTION

21. (1) Where a creative and cultural entrepreneur or practitioner who is an approved producer of audio-visual content imports—

(a) equipment, machinery and materials for the construction of facilities for use in audio-visual and motion picture production; or

(b) equipment for use in audio-visual and motion picture production,

the approved producer shall be exempt from the payment of all duties and taxes payable on imports of such equipment.

(2) Where an approved producer referred to under subsection (1) is desirous of establishing facilities for the production of audio-visual and motion pictures, that approved producer shall be—

(a) allowed to set off approved capital expenditure incurred on such facilities against income derived from the audio-visual and motion industry over a period of 10 years commencing in the year following completion of the facilities;
(b) exempt from the payment of property transfer tax on the initial purchase of any property acquired for the specific purpose of providing such facilities;

(c) eligible for interest rate subsidies on funds borrowed from the private sector lending institutions for the establishment of such facilities.

(3) Where an approved producer referred to in subsection (1) has, in an income year incurred expenditure for the purpose of the production and acquisition, in respect of local films, then in calculating the assessable income of the approved producer for an income year, there shall be a write-off of 100 per cent.

(4) Where an approved producer referred to under subsection (1) has in an income year incurred expenditure for the purpose of training persons employed by the approved producer, then in calculating the assessable income of the approved producer for an income year, there shall be deducted an amount equal to 150 per cent of the expenditure incurred.

(5) Where an approved producer referred to under subsection (1) has in an income year incurred expenditure for marketing, product development and research related to an approved cultural project, then in calculating the assessable income of the approved producer for an income year, there shall be deducted an amount equal to 100 per cent of the expenditure incurred.

(6) Where in connection with an approved creative and cultural project, an approved producer requires the services of a specially qualified individual to carry out its business effectively from within the Community and it is
unable to acquire those services in the region; and it is unable to retain those services from outside the Community without special tax concessions, the Secretariat may grant a tax concession in respect of the specially qualified individual retained from outside the region.

(7) The tax concession referred to in subsection (6) is one that allows a prescribed percentage of the qualified individual’s salary or fees to be—

(a) exempt from income tax in the Community to an amount that is 60 per cent of his or her accessible income;

(b) paid in a foreign currency in a trust account without being liable to the payment of income tax as to the amount paid or any interest paid or any interest earned thereon; or

(c) paid in some other prescribed manner in another currency or otherwise without being liable to income tax in all the Partner States.

22. (1) A cultural entrepreneur, cultural practitioner or a governmental entity who imports supplies for a cultural project in the area of heritage building and conservation shall be exempt from the payment of all duties and taxes on such imports where—

(a) the imports are used for the purposes of heritage building and conservation; and

(b) the cultural entrepreneur, cultural practitioner or governmental entity complies with the provisions of this Act.
(2) Where a cultural entrepreneur, cultural practitioner or a governmental entity referred to in subsection (1)—

(a) secures a loan from a private sector lending institution for the purposes of financing a project concerning heritage building and conservation; and

(b) has in an income year, incurred expenditure in relation to the heritage building and conservation,

then in calculating the assessable income of the cultural entrepreneur, cultural practitioner or governmental entity for an income year, there shall be deducted an amount equal to 100 per cent of the interest paid on the loan in the income year.

(3) Where a cultural entrepreneur, cultural practitioner or a governmental entity referred to in subsection (1) expends money on an approved heritage building and conservation project, the cultural entrepreneur, cultural practitioner or governmental entity shall be allowed to set off approved capital expenditure against income derived from the heritage building and conservation project over a period of 10 years commencing in the year following the completion of the project.

23. (1) The Partner States shall, in public interest put up necessary measures for promotion and development of sports, welfare and interests of sports persons and elimination of unethical and unfair practices in sports and other measures necessary.

(2) The Council shall be responsible for the development of sports, for their participation by participants from all over the Community in multi-sport events as well as their conduct and performance in such events.
(3) The Council shall be responsible for all matters pertaining to organizing cross-border games with prior approval of the Secretariat and comply with the conditions, if any, contained in Partner State's sport protocols.

(4) The Council of Ministers may, by notification specify, the period on expiry of which, no body or association of persons shall function as a National Sports Federation in respect of a sport, unless it is recognized by the Council.

Part VI—Miscellaneous

Regulations. 24. The Council of Ministers may, in consultation with the Board make regulations for giving effect to the provisions of this Act.
SCHEDULE

1. Visual art industry.
3. Cultural assets application and exhibition and performance facility industry.
4. Handicrafts industry.
5. Film industry.
6. Radio and television broadcast industry.
7. Publication industry.
8. Advertisement industry.
9. Product design industry.
10. Visual communication design industry.
11. Designer fashion industry.
12. Architecture design industry.
13. Digital content industry.
14. Creativity living industry.
15. Popular music and cultural content industry.
16. Sport activities.
17. Other industries as designated by Competent Authority.