

**THE EAST AFRICAN TRADE NEGOTIATIONS ACT, 2008.**

**An Act to make provision for an East African Trade Commission, the development of an East African Trade Regime, to provide for Joint Trade Negotiations and other related matters.**

ENACTED by the East African Community and assented to by the Heads of States

1. This Act may be cited as the East African Trade Short title.  
Negotiations Act, 2008.

2. The objectives of this Act are to—

Objectives  
of the Act.

- (a) facilitate the promotion of regional and international trade for the sustainable development of the Partner States;
- (b) establish a mechanism for joint negotiations of the Partner States in bilateral, regional and multilateral trade; and
- (c) develop an East African Trade regime in accordance with the Treaty and the Protocol establishing the East African Community Customs Union.

Establishment of a Trade Regime.

3. (1) The Community shall develop and adopt a common trade regime and cooperate in matters of trade policy.

(2) The Partner States shall negotiate as a bloc in all matters relating to regional and multilateral trade.

(3) Every Partner State may establish a national trade negotiations committee which shall prepare a national position on each and every issue or item for negotiation at the regional and multilateral level.

Inter-pretation.

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

“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.

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

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

Establishment and Functions of the Commission.

(2) The Commission shall—

(a) harmonize trade policies;

(b) develop an East African Trade Regime;

(c) conduct trade negotiations on behalf of the EAC Partner States;

(d) harmonize negotiating positions for individual Partner States in instances where other Partner States are not present;

(e) conduct research and studies to produce strategic papers;

(f) maintain a databank on trade matters; and

(g) perform such other functions in accordance with the laws of the Community.

6. (1) The Commission shall consist of the following members—

Composition of the Commission.

- (a) two members one of each gender nominated by each Partner State provided that such persons shall be qualified in matters of Trade;
- (b) the Secretary General or his or her delegate who shall be an *ex-officio* member of the Commission;
- (c) one *ex-officio* member from each of the Partner States designated by the relevant Ministry; and
- (d) the Director General who shall be an *ex-officio* member of the Commission.

(2) All Members of the Commission referred to in subsection (1)(a) of this Section shall be appointed by the Council for a period of five years and shall be eligible for re-appointment once.

(3) The Chairperson of the Commission shall be elected on a rotational basis by the Commissioners from among themselves to serve for a period of one year.

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

(5) A person shall be qualified to serve as a Member of the Commission if that person—

- (a) is a citizen of a Partner State;
- (b) has proven experience in relevant areas on trade;
- (c) is not a government Minister;
- (d) save as is otherwise provided in this Act is not an officer in the service of the Community; and
- (e) has interest and proven experience in the affairs of the Community.

7. (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 any of the following grounds—

(a) inability to perform the functions of his or her office due to infirmity of body or mind;

(b) failure to attend five consecutive meetings without reasonable justification; and

(c) misconduct.

8. (1) Decisions of the Commission on matters of policy shall be by consensus. Proceedings of the Commission.

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

(3) The Commission shall establish its own rules of procedure for the conduct of its business.

9. (1) The Commission may appoint such Committees as it may deem appropriate to assist it in carrying out its functions and may assign to any Committee such functions as it may consider necessary. Committees of the Commission.

(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.

The  
Directorate  
of the  
Commission.

**10.** (1) The Commission shall have a Directorate which shall be responsible for the day to day operations of the Commission.

(2) The Directorate shall have such departments as may be necessary to discharge the functions of the Commission.

(3) The Directorate shall be headed by a Director General for Trade Negotiations who shall be appointed by the Council on the recommendation of the Commission on such terms and conditions specified in the instrument of appointment.

(4) The Director General shall hold office for five years and be eligible for re- appointment for one further term.

(5) The Director General for Trade shall be appointed by the Council for a term of five years on such terms and conditions as specified in the EAC Staff Rules and Regulations.

Other  
officers and  
employees  
of the  
Commission.

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

(2) The officers and employees appointed under this provision shall hold office on such terms and conditions as specified in the EAC Staff Rules and Regulations..

Negotiating  
mandate of  
the  
Commission.

**12.** (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.

(2) Prior to concluding any negotiated agreement, the Commission shall consult with the Council of Ministers who shall approve the final text of the agreement.

(3) For the avoidance of doubt the Chairperson of the Council of Ministers shall sign all negotiated agreements.

(4) The East African Common position on any issue for negotiation shall be developed by the Commission from the national positions of Partner States.

(5) The Commission shall present to the Council and to each of the Partner States quarterly progress reports on its operations.

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

**13.** (1) Save as is otherwise provided by this Act 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 Council of Ministers. Independence of the Commission.

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

**14.** (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. Remuneration of members.

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

**15.** (1) The Commission may establish offices at the seats of regional and multilateral organizations as may be necessary. Representation of the Commission.

(2) The Partner 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.

Budget.

**16.** The financial year of the Commission shall be the same as the financial year of the Community and the Commission budget for each financial year shall be prepared by the Secretary General of the Community for consideration by the Council and approval by the Assembly.

Audit of  
Accounts.

**17.** (1) For purposes of auditing, the Secretary General shall cause to be prepared financial statements of the Commission on an annual basis.

(2) The financial statements of the Commission shall be verified by the Audit Commission in accordance with the provisions of the Treaty and to include a certificate to that effect in its report.

(3) The Audit Commission shall submit its reports under subsection (2) of this Section to the Council which shall cause the same to be laid before the Assembly within six months on receipt for debate and for such other consultations and action as the Assembly may deem necessary.

(4) For the avoidance of doubt the financial rules and regulations of the Commission shall be the same as those of the Community.

Appointment  
of the first  
members of  
the  
Commission.

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

Regulations.

**19.** (1) The Council shall make regulations generally for giving effect to the provisions of this Act.

(2) Regulations made under subsection (1) of this Section shall be laid before the Assembly for approval within six months after commencement of this Act.