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ISHAKIRO

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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

INTEKO ISHINGA AMATEGEKO YEMEJE, NONE NATWE DUHAMIJE, DUTANGAJE ITEGEKO RITEYE RITYA KANDI DUTEGETSE KO RYANDIKWA MU IGAZETI YA LETA YA REPUBULIKA Y'U RWANDA

THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING LAW AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA

LE PARLEMENT A ADOPTÉ ET NOUS SANCTIONNONS, PROMULGUONS LA LOI DONT LA TENEUR SUIT ET ORDONNONS QU'ELLE SOIT PUBLIÉE AU JOUNAL OFFICIEL DE LA RÉPUBLIQUE DU RWANDA

INTEKO ISHINGA AMATEGEKO:

THE PARLIAMENT:

LE PARLEMENT:

Umutwe w'Abadepite, mu nama yawo yo kuwa 10 Nyakanga 2019;

The Chamber of Deputies, in its session of 10 July 2019;

La Chambre des Députés, en sa séance du 10 juillet 2019;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015,

ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo iya 64, iya 69, iya 70, iya 88, iya 90, iya 91, iya 93, iya 106, iya 120, iya 167, iya 168 n'iya 176;

2015, especially in Articles 64, 69, 70, 88, 90, 91, 93, 106, 120, 167,168 and 176;

spécialement en ses articles 64, 69, 70, 88, 90, 91, 93, 106, 120, 167,168 et 176;

Imaze gusuzuma Amasezerano hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Singapuru yerekeye guteza imbere no kurinda ishoramari, yashyiriweho umukono i Kigali mu Rwanda, ku wa 14 Kamena 2018;

After consideration of the Agreement between the Government of the Republic of Rwanda and the Government of the Republic of Singapore on the promotion and protection of investments, signed at Kigali, Rwanda, on 14 June 2018;

Après examen de l'Accord entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Singapour relatif à la promotion et la protection des investissements, signé à Kigali, Rwanda, le 14 juin 2018;

YEMEJE:

ADOPTS:

ADOPTE:

Ingingo ya mbere: Kwemera kwemeza burundu

Article One: Approval for ratification

Article premier: Approbation pour ratification

Amasezerano hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Singapuru yerekeye guteza imbere no kurinda ishoramari yashyiriweho umukono i Kigali mu Rwanda, ku wa 14 Kamena 2018, ari ku mugereka, yemerewe kwemezwa burundu.

The Agreement between the Government of the Republic of Rwanda and the Government of the Republic of Singapore on the promotion and protection of investments signed at Kigali, Rwanda, on 14 June 2018, in annex, is approved for ratification.

L'Accord entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Singapour relatif à la promotion et la protection des investissements signé à Kigali, Rwanda, le 14 juin 2018, en annexe, est approuvé pour ratification.

Ingingo ya 2: Itegurwa, isuzumwa n'itorwa by'iri tegeko

Article 2: Drafting, consideration and adoption of this Law

Article 2: Initiation, examen et adoption de la présente loi

Iri tegeko ryateguwe mu rurimi rw'Icyongereza, risuzumwa kandi ritorwa mu rurimi rw'Ikinyarwanda.

This Law was drafted in English, considered and adopted in Ikinyarwanda.

La présente loi a été initiée en anglais, examinée et adoptée en Ikinyarwanda.

Ingingo ya 3: Igihe iri tegeko ritangira gukurikizwa

Iri tegeko ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 16/08/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Article 3: Commencement

This Law comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 16/08/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Article 3: Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 16/08/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEGEKO N° 018/2019 RYO KU WA 16/08/2019 RYEMERA KWEMEZA BURUNDU AMASEZERANO HAGATI YA LETA YA REPUBULIKA Y'U RWANDA NA LETA YA REPUBULIKA YA SINGAPURU YEREKEYE GUTEZA IMBERE NO KURINDA ISHORAMARI, YASHYIRIWEHO UMUKONO I KIGALI MU RWANDA, KU WA 14 KAMENA 2018

ANNEX TO THE LAW N° 018/2019 OF 16/08/2019 APPROVING THE RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE ON THE PROMOTION AND PROTECTION OF INVESTMENTS, SIGNED AT KIGALI, RWANDA, ON 14 JUNE 2018

ANNEXE A LA LOI N° 018/2019 DU 16/08/2019 APPROUVANT LA RATIFICATION DE L'ACCORD ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE DE SINGAPOUR RELATIF À LA PROMOTION ET LA PROTECTION DES INVESTISSEMENTS, SIGNÉ À KIGALI, RWANDA, LE 14 JUIN 2018

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE REPUBLIC OF RWANDA

ON

THE PROMOTION AND PROTECTION OF INVESTMENTS

PREAMBLE

The Government of the Republic of Singapore and the Government of the Republic of Rwanda (hereinafter referred to individually as a "Party", and collectively as the "Parties");

DESIRING to create favourable conditions for greater economic co-operation between them and in particular for investments by investors of one State in the territory of the other State based on the principles of equality and mutual benefit;

RECOGNISING that the encouragement and reciprocal protection of such investments will be conducive to stimulating business initiative(s) and increasing prosperity in both States;

HAVE AGREED AS FOLLOWS:

CHAPTER I: GENERAL PROVISIONS

ARTICLE 1
DEFINITIONS

For the purposes of this Agreement:

enterprise means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation; and a branch of an enterprise;

freely usable currency means "freely usable currency" as determined by the International Monetary Fund under the *Articles of Agreement* of the International Monetary Fund and any amendments thereto;

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Additional Facility Rules means the *Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes*, as amended and in effect on 10 April 2006;

ICSID Arbitration Rules means the *Rules of Procedure for Arbitration Proceedings (Arbitration Rules)*, as amended and in effect on 10 April 2006;

ICSID Convention means the *Convention on the Settlement of Investment Disputes between States and Nationals of other States*, done at Washington on 18 March 1965;

investment means every kind of asset, owned or controlled, directly or indirectly, by an investor, that has the characteristics of an investment[1]. Forms that an investment may take include but are not limited to:[2]

(a) an enterprise;

(b) shares, stock, and other forms of equity participation in an enterprise, including rights derived therefrom;

(c) bonds, debentures, and loans and other debt instruments,[3] including rights derived therefrom;

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[1] Where an asset lacks the characteristics of an investment, that asset is not an investment regardless of the form it may take. The characteristics of an investment include the commitment of capital, the expectation of gain or profit, or the assumption of risk.

[2] The term "investment" does not include an order or judgment entered in a judicial or administrative action.

[3] For the purpose of this Agreement, "loans and other debt instruments" described in (c) and "claims to money or to any contractual performance" described in (f) of this Article refer to assets which relate to a business activity and do not refer to assets which are of a personal nature, unrelated to any business activity.

(d) futures, options, and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;

(f) claims to money or to any contractual performance related to a business and having an economic value;

(g) intellectual property rights and goodwill;

(h) licences, authorisations, permits, and similar rights conferred pursuant to applicable domestic law, including any concession to search for, cultivate, extract or exploit natural resources; and

(i) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges;

investor means:

(a) a Party;

(b) an enterprise of a Party; or

(c) a natural person who resides in the territory of a Party or elsewhere and who under the law of that Party is a citizen of that Party;

that has made an investment;

measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form, and includes measures taken by:

(a) central, regional or local governments and authorities; and

(b) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

New York Convention means the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, adopted at the United Nations in New York on 10 June 1958;

return means an amount yielded by or derived from an investment, including profits, dividends, interest, capital gains, royalty payments, payments in connection with intellectual property rights, and all other lawful income. For the purposes of the definition of "investment", returns that are invested shall be treated as investments and any alteration of the form in which assets are invested or reinvested shall not affect their character as investments;

territory means:

(a) in respect of the Republic of Singapore: its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea

which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;

(b) in respect of the Republic of Rwanda: its land, internal waters and airspace;

UNCITRAL Arbitration Rules means the Arbitration Rules of the United Nations Commission on International Trade Law, as adopted by the United Nations General Assembly on 15 December 1976; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade Organization* done at Marrakesh on 15 April 1994.

ARTICLE 2
APPLICABILITY OF AGREEMENT

1. Each Party shall admit the entry of investments made by investors of the other Party pursuant to its applicable laws and regulations.

2. The provisions in this Agreement shall apply to all investments made by investors of one Party in the territory of the other Party, whether made before or after the entry into force of this Agreement, but shall not apply to claims arising out of events which occurred, or claims which had been raised, prior to the entry into force of this Agreement.

3. This Agreement shall not apply to:

(a) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance, or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to investors of the Party or investments of investors of the Party; and

(b) matters of taxation in the territory of either Party, which shall, except as set out in Article 29 (Indirect Expropriation through Taxation), be governed by any tax treaty between the two Parties and the domestic laws of each Party.

CHAPTER II: PROTECTION

ARTICLE 3
MINIMUM STANDARDS OF TREATMENT

1. Each Party shall accord to investments of investors of the other Party treatment in accordance with the customary international law minimum standard of treatment of aliens,[4] including fair and equitable treatment and full protection and security.

2. For greater certainty, paragraph 1 prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to investments of investors of the other Party. The obligation to provide "fair and equitable treatment" and "full protection and security" as described below do not require treatment in addition to or beyond the customary international law minimum standard of treatment of aliens, and do not create additional substantive rights.

(a) The obligation to provide "fair and equitable treatment" includes the obligation not to deny justice in criminal, civil or administrative adjudicatory proceedings in accordance with the principle of due process embodied in the principal legal systems of the world.

(b) The obligation to provide "full protection and security" requires each Party to provide the level of police protection required under customary international law.

3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

ARTICLE 4
MOST-FAVOURED NATION TREATMENT

1. Each Party shall accord to investments of investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investments in its territory of investors of any non-Party with respect to the management, conduct, operation, and sale or other disposition of investments.

2. The provisions of this Article shall not be construed so as to oblige one Party to extend to the investors of the other Party and investments of investors of the other Party the benefit of any treatment, preference or privilege resulting from:

(a) any existing or future customs union, free trade area, free trade arrangement, common market, monetary union or similar international agreement or other forms of regional cooperation to which either of the Parties is or may become a

[4] Customary international law results from a general and consistent practice of States that they follow from a sense of legal obligation. With regard to this Article, the customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the economic rights and interests of aliens.

party; or the adoption of an agreement designed to lead to the formation or extension of such a union, area or arrangement;

(b) any existing bilateral investment agreements (also commonly referred to as "investment guarantee agreements", "investment promotion and protection agreements" or "international investment agreements");

(c) any existing or future international investment agreements between or among Member States of a regional economic community, including investment agreements between or among Member States of a regional economic community and any one or more third States; or

(d) any arrangement with a non-Party or parties in the same geographical region designed to promote regional cooperation in the economic, social, labour, industrial or monetary fields within the framework of specific projects.

3. For greater certainty, paragraphs 1 and 2 shall not be construed as granting to investors options or procedures for the settlement of disputes other than those set out in Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement).

ARTICLE 5
EXPROPRIATION[5]

1. Neither Party shall nationalise, expropriate or subject to measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") the investments of investors of the other Party unless such a measure is taken on a non-discriminatory basis, for a public purpose, in accordance with due process of law, and upon payment of compensation in accordance with this Article.

2. The expropriation shall be accompanied by the payment of prompt, adequate and effective compensation. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation or before the impending expropriation became public knowledge, whichever is earlier. Such compensation shall be effectively realisable, freely usable and freely transferable in accordance with Article 7 (Transfers), and made without undue delay. The compensation shall include interest at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

3. Notwithstanding paragraphs 1 and 2, any measure of expropriation relating to land, which shall be as defined in the Party's existing domestic legislation on the date of entry into force of this Agreement, shall be for a purpose and upon payment of compensation in accordance with the aforesaid legislation.

[5] Article 5 (Expropriation) is to be interpreted in accordance with Annex 1 (Expropriation).

4. Any measure of expropriation or valuation may, at the request of the investors affected, be reviewed by a judicial or other independent authority of the Party taking the measure in the manner prescribed by its laws.

5. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the *Agreement on Trade-Related Aspects of Intellectual Property Rights* in Annex 1C to the WTO Agreement.

ARTICLE 6
COMPENSATION FOR LOSSES

1. Investors of one Party whose investments in the territory of the other Party suffer losses owing to war or other armed conflict, civil disturbances, a state of national emergency, revolt, insurrection, riot or other similar situations in the territory of the latter Party, shall be accorded by the latter Party treatment, as regards restitution, indemnification, compensation or other settlement, if any, no less favourable than that which the latter Party accords to investors of any non-Party or to its own investors, whichever is more favourable. Any resulting compensation shall be made in freely usable currency and be freely transferable in accordance with Article 7 (Transfers).

2. Notwithstanding paragraph 1, if an investor of a Party, in the situations referred to in paragraph 1, suffers a loss in the territory of the other Party resulting from:

(a) requisitioning of the investment or part thereof of the investor by the latter Party's forces or authorities; or

(b) destruction of the investment or part thereof of the investor by the latter Party's forces or authorities, which was not required by the necessity of the situation,

the latter Party shall provide the investor restitution, compensation, or both, as appropriate, for such loss.

ARTICLE 7
TRANSFERS

1. Each Party shall permit all transfers relating to investments in its territory of an investor of the other Party to be made freely and without delay into and out of its territory. Such transfers include:

(a) contributions to capital, including the initial contribution;

(b) profits, dividends, capital gains, and proceeds from the sale of all or any part of the investment or from the partial or complete liquidation of the investment;

(c) interest, royalty payments, management fees, and technical assistance and other fees;

(d) payments made under a contract entered into by the investor, or its investment, including payments made pursuant to a loan agreement;

(e) payments made pursuant to Article 5 (Expropriation) and Article 6 (Compensation for Losses); and

(f) payments arising under Chapter III (Dispute Settlement).

2. Each Party shall permit such transfers to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer through the equitable, non-discriminatory, and good faith application of its laws relating to:

(a) bankruptcy, insolvency, or the protection of the rights of creditors;

(b) issuing, trading, or dealing in securities, futures, options or derivatives;

(c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

(d) taxation;

(e) criminal or penal offences;

(f) ensuring compliance with orders or judgments in judicial or administrative proceedings; or

(g) social security, public retirement or compulsory savings schemes.

4. Nothing in this Agreement shall affect the rights and obligations of the members of the International Monetary Fund under the *Articles of Agreement* of the International Monetary Fund, including the use of exchange actions which are in conformity with the *Articles of Agreement* of the International Monetary Fund, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its obligations under this Agreement regarding such transactions, except under Article 8 (Restrictions to Safeguard the Balance of Payments) or at the request of the International Monetary Fund.

ARTICLE 8
RESTRICTIONS TO SAFEGUARD THE BALANCE OF PAYMENTS

1. In the event of serious balance of payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on payments or transfers related to investments. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development may necessitate the use of restrictions to ensure,

inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development.

2. The restrictions referred to in paragraph 1 shall:

(a) be consistent with the *Articles of Agreement* of the International Monetary Fund;

(b) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

(c) not exceed those necessary to deal with the circumstances described in paragraph 1;

(d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves; and

(e) be applied on a non-discriminatory basis such that the other Party is treated no less favourably than any non-Party.

3. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the other Party.

4. The Party adopting any restrictions under paragraph 1 shall commence consultations with the other Party in order to review the restrictions adopted by the former Party.

ARTICLE 9
SUBROGATION

1. In the event that either Party (or any agency, institution, statutory body or corporation designated by it), as a result of an indemnity it has given in respect of an investment or any part thereof, makes payment to its own investors in respect of any of their claims under this Agreement, the other Party acknowledges that the former Party (or any agency, institution, statutory body or corporation designated by it) is entitled by virtue of subrogation to exercise the rights and assert the claims of its own investors. The subrogated rights or claims shall not be greater than the original rights or claims of the said investor.

2. Any payment made by one Party (or any agency, institution, statutory body or corporation designated by it) to its investors shall not affect the right of such investors to make their claims against the other Party in accordance with Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement).

CHAPTER III: DISPUTE SETTLEMENT

SECTION ONE: SETTLEMENT OF DISPUTES BETWEEN A PARTY AND AN INVESTOR OF THE OTHER PARTY

ARTICLE 10
SCOPE

1. This Section shall apply to disputes between a Party and an investor of the other Party concerning an alleged breach of an obligation of the former under this Agreement which causes loss or damage to the investor or its investment.

2. This Section shall not apply to any dispute concerning any measure adopted or maintained or any treatment accorded to investors or investments by a Party in respect of tobacco or tobacco-related products[6] that is aimed at protecting or promoting human health.

ARTICLE 11
INSTITUTION OF ARBITRAL PROCEEDINGS

1. The disputing parties shall initially seek to resolve the dispute by consultations and negotiations.

2. Where the dispute cannot be resolved as provided for under paragraph 1 within 6 months from the date of a written request for consultations and negotiations, then, unless the disputing parties agree otherwise, the disputing investor may submit the dispute to arbitration:

(a) under the ICSID Convention and the ICSID Arbitration Rules, provided that both the respondent Party and the Party of the disputing investor are parties to the ICSID Convention;

(b) under the ICSID Additional Facility Rules, provided that either the respondent Party or the Party of the disputing investor is a party to the ICSID Convention;

(c) under the UNCITRAL Arbitration Rules; or

(d) to any other arbitral institutions or under any other arbitration rules, if the disputing parties so agree.

For the avoidance of doubt, the disputing investor may submit a claim on its own behalf in respect of loss or damage that has been incurred by the disputing investor, or on behalf of an enterprise of the respondent Party that the disputing investor owns or controls, either directly or indirectly, in respect of loss or damage that has been incurred by the enterprise.

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[6] For the purpose of this Agreement, "tobacco products" means products under Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes) and tobacco-related products falling outside Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes).

3. Each Party hereby consents to the submission of a dispute to arbitration under paragraph 2 in accordance with the provisions of this Section, conditional upon:

(a) the submission of the dispute to such arbitration taking place within 3years of the time at which the disputing investor became aware, or should reasonably have become aware, of a breach of an obligation under this Agreement causing loss or damage to the disputing investor or its investment;

(b) the disputing investor not being an enterprise of the respondent Party until the disputing investor refers the dispute for arbitration pursuant to paragraph 2;

(c) the disputing investor providing written consent to arbitration in accordance with the provisions set out in this Section; and

(d) the disputing investor providing written notice, which shall be submitted at least 90 days before the claim is submitted, to the respondent Party of its intent to submit the dispute to such arbitration and which:

(i) states the name and address of the disputing investor and, where a dispute is submitted on behalf of an enterprise, the name, address, and place of constitution of the enterprise;

(ii) nominates one of the *fora* referred to in paragraph 2 as the forum for dispute settlement;

(iii) waives the disputing investor's right to initiate or continue any proceedings (excluding proceedings for interim measures of protection referred to in paragraph 1 of Article 15 (Interim Measure of Protection and Diplomatic Protection)) before any of the other dispute settlement *fora* referred to in paragraph 2 in relation to the matter under dispute; and

(iv) briefly summarises the alleged breach of the respondent Party under this Agreement (including the provisions alleged to have been breached), the legal and factual basis for the dispute, and the loss or damage allegedly caused to the disputing investor or its investment by reason of that breach.

4. The consent under paragraph 3 and the submission of a claim to arbitration under this Section shall satisfy the requirements of:

(a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules for written consent of the parties to the dispute; and

(b) Article II of the New York Convention for an "agreement in writing".

5. A claim that is submitted for arbitration under this Section shall be considered to arise out of a commercial relationship or transaction for purposes of Article I of the New York Convention.

ARTICLE 12
CONSTITUTION OF THE ARBITRAL TRIBUNAL

1. Unless the disputing parties otherwise agree, the arbitral tribunal shall be composed of three arbitrators, who shall not be nationals or permanent residents of either Party. Each disputing party shall appoint one arbitrator and the disputing parties shall agree upon a third arbitrator, who shall be the chairman of the arbitral tribunal. If an arbitral tribunal has not been established within 90 days from the date on which the claim was submitted to arbitration, either because a disputing party failed to appoint an arbitrator or because the disputing parties failed to agree upon the chairman, the Secretary-General of ICSID, upon request of either disputing party, shall appoint, at his own discretion, the arbitrator or arbitrators not yet appointed. If the Secretary-General is a national or permanent resident of either Party, or he or she is otherwise unable to act, the Deputy Secretary-General, who is not a national or permanent resident of either Party, may be invited to make the necessary appointments.

2. The arbitrators shall:

(a) have experience or expertise in public international law or international investment law; and

(b) be independent from the Parties and the disputing investor, and not be affiliated to or receive instructions from any of them.

ARTICLE 13
PLACE OF ARBITRATION

Unless the disputing parties otherwise agree, the tribunal shall determine the place of arbitration in accordance with the applicable arbitration rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

ARTICLE 14
THE ARBITRAL PROCEEDINGS

1. A tribunal established under this Section shall decide the issues in dispute in accordance with this Agreement and the applicable rules and principles of international law.

2. Without prejudice to a tribunal's authority to address other objections as a preliminary question, such as an objection that a dispute is not within the competence of the tribunal, a tribunal shall address and decide as a preliminary question any objection by the respondent Party that, as a matter of law, a claim submitted is not a claim for which an award in favour of the disputing investor may be made under Article 16 (Award).

(a) Such objection shall be submitted to the tribunal as soon as possible after the tribunal is constituted, and in no event later than the date the tribunal fixes for the respondent Party to submit its counter-memorial (or, in the case of an amendment to the notice of arbitration, the date the tribunal fixes for the respondent Party to submit its response to the amendment).

(b) On receipt of an objection under this paragraph, the tribunal shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision or award on the objection, stating the grounds therefor.

(c) In deciding an objection under this paragraph, the tribunal shall assume to be true the disputing investor's factual allegations in support of any claim in the notice of arbitration (or any amendment thereof) and, in disputes brought under the UNCITRAL Arbitration Rules, the statement of claim referred to in the relevant article of the UNCITRAL Arbitration Rules. The tribunal may also consider any relevant facts not in dispute.

(d) The respondent Party does not waive any objection as to competence or any argument on the merits merely because the respondent Party did or did not raise an objection under this paragraph or make use of the expedited procedure set out in paragraph 3.

3. In the event that the respondent Party so requests within 45 days after the tribunal is constituted, the tribunal shall decide on an expedited basis an objection under paragraph 2 and any objection that the dispute is not within the tribunal's competence. The tribunal shall suspend any proceedings on the merits and issue a decision or award on the objection(s), stating the grounds therefor, no later than 150 days after the date of the request. However, if a disputing party requests a hearing, the tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a hearing is requested, a tribunal may, on a showing of extraordinary cause, delay issuing its decision or award by an additional brief period, which may not exceed 30 days.

4. When deciding the respondent Party's objection under paragraph 2 or 3, the tribunal may, if warranted, award to the prevailing disputing party reasonable costs and attorney's fees incurred in submitting or opposing the objection. In determining whether such an award is warranted, the tribunal shall consider whether either the claim of the disputing investor or the respondent Party's objection was frivolous, and shall provide the disputing parties a reasonable opportunity to comment.

ARTICLE 15
INTERIM MEASURES OF PROTECTION AND DIPLOMATIC PROTECTION

1. Neither Party shall prevent the disputing investor from seeking interim measures of protection, not involving the payment of damages or resolution of the substance of the matter in dispute before the courts or administrative tribunals of the respondent Party, prior to the institution of proceedings before any of the dispute settlement *fora* referred to in paragraph 2 of Article 11 (Institution of Arbitral Proceedings), for the preservation of its rights and interests.

2. Neither Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its investors and the other Party shall have consented to submit or have submitted to arbitration under this Section, unless such other Party has failed

to abide by and comply with the award rendered in such dispute. Diplomatic protection, for the purposes of this paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

ARTICLE 16
AWARD

1. Where a tribunal makes a final award against a respondent Party, the tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest; and

(b) restitution of property, in which case the award shall provide that the respondent Party may pay monetary damages and any applicable interest in lieu of restitution.

A tribunal may also award costs and attorney's fees in accordance with this Section and the applicable arbitration rules.

2. Any arbitral award shall be final and binding upon the disputing parties. Each Party shall ensure the recognition and enforcement of the award in accordance with its relevant laws and regulations.

3. Where a claim is submitted on behalf of an enterprise of the respondent Party, the arbitral award shall be made to the enterprise.

4. In any arbitration conducted under this Section, at the request of a disputing party, a tribunal shall, before issuing a decision or award on liability, transmit its proposed decision or award to the disputing parties. Within 60 days after the tribunal transmits its proposed decision or award, the disputing parties may submit written comments to the tribunal concerning any aspect of the proposed decision or award. The tribunal shall consider any such comments and issue its decision or award not later than 45 days after the expiration of the 60-day comment period.

ARTICLE 17
CONSOLIDATION

1. Where two or more claims have been submitted separately to arbitration under this Section, and the claims raised have a question of law or fact in common and arise out of the same events or circumstances, any disputing party may seek a consolidation order, in accordance with the agreement of all the disputing parties sought to be covered by the order or the terms of this Article.

2. A disputing party that seeks a consolidation order under this Article shall deliver, in writing, a request to the Secretary-General of ICSID and to all the disputing parties sought to be covered by the order, specifying the name and address of each of the disputing parties sought to be covered by the order; the nature of the order sought; and the grounds on which the order is sought.

3. Unless the Secretary-General of ICSID finds within 30 days after receiving a request in conformity with paragraph 2 that the request is manifestly unfounded, a tribunal shall be established under this Article.

4. Unless all the disputing parties sought to be covered by the consolidation order otherwise agree, the tribunal established under this Article shall comprise 3 arbitrators, who shall not be nationals or permanent residents of either Party, and who shall be appointed as follows:

(a) one arbitrator appointed by agreement of the disputing investors;

(b) one arbitrator appointed by the respondent Party; and

(c) the chairman of the arbitral tribunal appointed by the Secretary-General of ICSID.

5. If, within the 60 days after the Secretary-General of ICSID receives a request made under paragraph 2, the respondent Party fails or the disputing investors fail to appoint an arbitrator in accordance with paragraph 4, the Secretary-General of ICSID, on request of any disputing party sought to be covered by the order, shall appoint the arbitrator or arbitrators not yet appointed.

6. Where a tribunal established under this Article is satisfied that two or more claims that have been submitted to arbitration in accordance with Article 11 (Institution of Arbitral Proceedings), have a question of law or fact in common, and arise out of the same events or circumstances, the tribunal may, in the interest of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:

(a) assume jurisdiction over, and hear and determine together, all or part of the claims;

(b) assume jurisdiction over, and hear and determine one or more claims, whose determination it considers would assist in the resolution of the other claims; or

(c) instruct a tribunal previously established under Article 12 (Constitution of the Arbitral Tribunal) to assume jurisdiction over and to hear and determine together, all or part of the claims, provided that:

(i) that tribunal, at the request of any disputing investor, not previously a disputing party before that tribunal, shall be reconstituted with its original members, except that the arbitrator for the disputing investors shall be appointed pursuant to paragraphs 4(a) and 5; and

(ii) that tribunal shall decide whether any previous hearing must be repeated.

7. Where a tribunal has been established under this Article, a disputing investor that has submitted a claim to arbitration pursuant to Article 11 (Institution of Arbitral Proceedings)

and that has not been named in a request made under paragraph 2, may make a written request to the tribunal that it be included in any order issued under paragraph 6, specifying:

(a) the name and address of the disputing investor;

(b) the nature of the order sought; and

(c) the grounds on which the order is sought.

The claimant shall provide the Secretary-General of ICSID with a copy of its request.

8. A tribunal established pursuant to this Article shall conduct the proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this Section.

9. A tribunal established under Article 12 (Constitution of the Arbitral Tribunal) shall not have jurisdiction to decide a claim or a part of a claim over which a tribunal established or instructed under this Article has assumed jurisdiction.

10. On application of a disputing party, a tribunal established pursuant to this Article may, pending its decision under paragraph 6, order that the proceedings of a tribunal established under Article 12 (Constitution of the Arbitral Tribunal) be stayed, unless the latter tribunal has already adjourned its proceedings.

SECTION TWO: SETTLEMENT OF DISPUTES BETWEEN THE PARTIES

ARTICLE 18
SCOPE

1. This Section applies to the settlement of disputes between the Parties arising from the interpretation or application of the provisions of this Agreement.

2. This Section shall not apply to any dispute concerning any measure adopted or maintained or any treatment accorded to investors or investments by a Party in respect of tobacco or tobacco-related products[7] that is aimed at protecting or promoting human health.

ARTICLE 19
CONSULTATIONS AND NEGOTIATIONS

1. Either Party may request in writing, consultations on the interpretation or application of this Agreement. If a dispute arises between the Parties on the interpretation or application of this Agreement, it shall, to the extent possible, be settled amicably through consultations and negotiations.

2. In the event the dispute is not settled through the means mentioned above within 6 months from the date such negotiations or consultations were requested in writing, then, unless the Parties agree otherwise, either Party may submit such dispute to an arbitral tribunal established in accordance with this Section or, by agreement of the Parties, to any other international tribunal.

ARTICLE 20
CONSTITUTION OF THE ARBITRAL TRIBUNAL

1. Arbitration proceedings shall initiate upon written notice delivered by one Party (hereinafter referred to as "requesting Party") to the other Party (hereinafter referred to as "respondent Party") through diplomatic channels. Such notice shall contain a statement setting forth the provisions of Chapter II (Protection) alleged to have been breached, the legal and factual grounds of the claim, a summary of the development and results of the consultations and negotiations pursuant to Article 19 (Consultations and Negotiations), the requesting Party's intention to initiate proceedings under this Section and the name of the arbitrator appointed by such requesting Party.

2. Within 30 days after delivery of such notice, the respondent Party shall notify the requesting Party the name of its appointed arbitrator.

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[7] For the purpose of this Agreement, "tobacco products" means products under Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes) and tobacco-related products falling outside Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes).

3. Within 30 days following the date on which the second arbitrator was appointed, the Parties shall appoint, by mutual agreement, a third arbitrator, who shall be the chairman of the arbitral tribunal. In the event that the Parties fail to mutually agree on the appointment of the third arbitrator, the arbitrators appointed by the Parties shall, within 30 days, appoint the third arbitrator, who shall be the chairman of the arbitral tribunal.

4. The arbitrators shall:

(a) have experience or expertise in public international law or international investment law; and

(b) be independent from the Parties, and not be affiliated to or receive instructions from either of them.

5. With regards to the selection of arbitrators under paragraphs 1, 2 and 3 of this Article, both Parties and, where relevant, the arbitrators appointed by them, shall not select arbitrators who are nationals or permanent residents of either Party.

6. If the required appointments have not been made within the time limits set forth in paragraphs 2 and 3 above, either Party may invite the President of the International Court of Justice to appoint the arbitrator or arbitrators not yet appointed. If the President is a national or a permanent resident of either Party, or he or she is otherwise unable to act, the Vice-President of the International Court of Justice shall be invited to make the said appointments. If the Vice-President is a national or a permanent resident of either Party, or he or she is otherwise unable to act, the Member of the International Court of Justice next in seniority who is not a national nor a permanent resident of either Party shall be invited to make the necessary appointments.

7. In the event that an arbitrator appointed under this Article resigns or becomes unable to act, a successor shall be appointed in the same manner as prescribed for the appointment of the original arbitrator, and he or she shall have the same powers and duties that the original arbitrator had.

8. Each Party shall bear the costs of its appointed arbitrator and of any legal representation in the proceedings. The costs of the chairman of the arbitral tribunal and of other expenses associated with the conduct of the arbitration shall be borne equally by the Parties, unless the arbitral tribunal decides that a higher proportion of costs be borne by one of the Parties.

ARTICLE 21
PLACE OF ARBITRATION

Unless the Parties agree otherwise, the place of arbitration shall be determined by the arbitral tribunal.

ARTICLE 22
THE ARBITRAL PROCEEDINGS

1. An arbitral tribunal established under this Section shall decide all questions relating to its competence and, subject to any agreement between the Parties, determine its own procedure. At any stage of the proceedings, the arbitral tribunal may propose to the Parties that the dispute be settled amicably. At all times, the arbitral tribunal shall afford a fair hearing to the Parties.

2. The arbitral tribunal shall decide the issues in dispute in accordance with this Agreement and the applicable rules and principles of international law.

3. The arbitral tribunal shall reach its decision by majority vote. The award shall be issued in writing and shall contain the applicable factual and legal findings. A signed award shall be delivered to each Party. The award shall be final and binding on the Parties.

CHAPTER IV: FINAL PROVISIONS

ARTICLE 23
OTHER OBLIGATIONS

If the legislation of either Party, or any international obligation existing at present or established hereafter between the Parties in addition to this Agreement, results in a position entitling investments by investors of the other Party to treatment more favourable than is provided for by this Agreement, such position shall not be affected by this Agreement.

ARTICLE 24
DENIAL OF BENEFITS

Subject to prior notification and consultation, a Party (the "denying Party") may deny the benefits of this Agreement to an investor of the other Party that is an enterprise of that other Party and to investments of such an investor where the denying Party establishes that the enterprise is owned or controlled by persons of a non-Party, or of the denying Party, and has no substantive business operations in the territory of the other Party.

ARTICLE 25
TRANSPARENCY

1. Each Party shall ensure that its laws, regulations and administrative rulings of general application pertaining to or affecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons or the other Party to become acquainted with them. International agreements pertaining to or affecting investors or investment activities to which a Party is a signatory shall also be published.

2. To the extent possible, each Party shall make the measures and international agreements of the kind referred to in paragraph 1 available on the internet. Each Party shall, upon request by the other Party, promptly respond to specific questions from and provide information to the other Party with respect to matters referred to in paragraph 1.

ARTICLE 26
INFORMATION REQUIREMENTS AND DISCLOSURE OF INFORMATION

1. Notwithstanding Article 4 (Most-Favoured Nation Treatment), a Party may require an investor of the other Party, or its investment, to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such business information that is confidential from any disclosure that would prejudice the competitive position of the investor or its investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

2. Nothing in this Agreement shall require either Party to provide confidential information the disclosure of which would impede law enforcement, or otherwise be contrary

to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

ARTICLE 27
GENERAL EXCEPTIONS[8]

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party or its investors where like conditions prevail, or a disguised restriction on investments of investors of the other Party in the territory of a Party, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures:

(a) necessary to protect public morals or to maintain public order[9];

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on a contract;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or

(iii) safety;

(d) imposed for the protection of national treasures of artistic, historic or archaeological value; or

(e) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

ARTICLE 28
SECURITY EXCEPTIONS

Nothing in this Agreement shall be construed to:

(a) require a Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or

[8] For greater certainty, the application of the general exceptions to this Agreement shall not be interpreted so as to diminish the ability of governments to take measures where investors are not in like circumstances due to the existence of legitimate regulatory objectives.

[9] The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(b) preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

ARTICLE 29
INDIRECT EXPROPRIATION THROUGH TAXATION

1. Article 5 (Expropriation) and Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement) shall apply to taxation measures to the extent that such taxation measures constitute expropriation as provided for in Article 5 (Expropriation).[10] An investor that seeks to invoke Article 5 (Expropriation) with respect to a taxation measure must first refer to the competent taxation authorities of both Parties as described in paragraph 2, at the time that it gives notice under Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement), the issue of whether that taxation measure involves an expropriation as provided for under Article 5 (Expropriation). If the competent taxation authorities of both Parties do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation as provided for under Article 5 (Expropriation) within a period of 6 months of such referral, the investor may submit its claim to arbitration under Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement).

2. For the purposes of this Article, "competent taxation authorities" means:

(a) in the case of Rwanda, the Ministry of Finance and Economic Planning;

(b) in the case of the Republic of Singapore, the Ministry of Finance;

or their successors.

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[10] With reference to Article 5 (Expropriation), in assessing whether a taxation measure constitutes expropriation, the following considerations are relevant:

(i) the imposition of taxes does not generally constitute expropriation. The mere introduction of new taxation measures or the imposition of taxes in more than one jurisdiction in respect of an investment, does not in and of itself constitute expropriation;

(ii) taxation measures which are consistent with internationally recognised tax policies, principles and practices do not constitute expropriation. In particular, taxation measures aimed at preventing the avoidance or evasion of taxes should not, generally, be considered to be expropriatory; and

(iii) taxation measures which are applied on a non-discriminatory basis, as opposed to being targeted at investors of a particular nationality or specific individual taxpayers, are less likely to constitute expropriation. A taxation measure should not constitute expropriation if, when the investment is made, it was already in force, and information about the measure was made public or otherwise made publicly available.

ARTICLE 30
ENTRY INTO FORCE, DURATION, AMENDMENT AND TERMINATION

1. Each Party shall notify (through diplomatic channels) the other Party of the fulfillment of its internal legal procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the thirtieth day after the date of notification of the later Party.

2. The Agreement may be amended by mutual consent of the Parties in writing. The amendments shall enter into force in accordance with the same legal procedure prescribed under paragraph 1.

3. This Agreement shall remain in force for a period of 10 years and shall continue in force thereafter unless, after the expiry of the initial period of 9 years, either Party notifies the other Party in writing of its intention to terminate this Agreement. The notice of termination shall become effective one year after it has been received by the other Party.

4. In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of this Agreement shall remain in force for a further period of 10 years from that date.

DONE in Kigali, on 14th June 2018

FOR THE GOVERNMENT OF THE REPUBLIC OF RWANDA

VINCENT MUNYESHYAKA
MINISTER OF TRADE AND INDUSTRY

FOR THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

Koh Poh Koon

KOH POH KOON
SENIOR MINISTER OF STATE FOR TRADE AND INDUSTRY

Bibonywe kugira ngo bishyirwe ku mugereka w'Itegeko n° 018/2019 ryo ku wa 16/08/2019 ryemera kwemeza burundu Amasezerano hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Singapuru yerekeye guteza imbere no kurinda ishoramari, yashyiriweho umukono i Kigali mu Rwanda, ku wa 14 Kamena 2018

Kigali, ku wa 16/08/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Law n° 018/2019 of 16/08/2019 approving the ratification of the Agreement between the Government of the Republic of Rwanda and the Government of the Republic of Singapore on the promotion and protection of investments, signed at Kigali, Rwanda, on 14 June 2018

Kigali, on 16/08/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à la Loi n° 018/2019 du 16/08/2019 approuvant la ratification de l'Accord entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Singapour relatif à la promotion et la protection des investissements, signé à Kigali, Rwanda, le 14 juin 2018

Kigali, le 16/08/2019.

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEGEKO N° 019/2019 RYO KU WA 16/08/2019 RYEMERA KWEMEZA BURUNDU AMASEZERANO ASHYIRAHO AGACE K'UBUCURUZI N'UBUHAHIRANE BUTAGIRA UMUPAKA GAHURIWEHO N'ISOKO RUSANGE RY'IBIHUGU BY'AFURIKA Y'IBURASIRAZUBA N'AMAJYEPFO, UMURYANGO W'IBIHUGU BY'AFURIKA Y'IBURASIRAZUBA N'UMURYANGO W'ITERAMBERE RY'IBIHUGU BY'AFURIKA Y'AMAJYEPFO, YASHYIRIWEHO UMUKONO I SHARM EL SHEIKH, MURI REPUBULIKA NYARABU YA MISIRI, KU WA 10 KAMENA 2015

LAW N° 019/2019 OF 16/08/2019 APPROVING THE RATIFICATION OF THE AGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY, SIGNED AT SHARM EL SHEIKH, IN THE ARAB REPUBLIC OF EGYPT, ON 10 JUNE 2015

LOI N° 019/2019 DU 16/08/2019 APPROUVANT LA RATIFICATION DE L'ACCORD INSTITUANT LA ZONE DE LIBRE ÉCHANGE TRIPARTITE ENTRE LE MARCHÉ COMMUN D'AFRIQUE ORIENTALE ET AUSTRALE, LA COMMUNAUTÉ D'AFRIQUE DE L'EST ET LA COMMUNAUTÉ DE DÉVELOPPEMENT D'AFRIQUE AUSTRALE, SIGNÉ À SHARM EL SHEIKH, EN RÉPUBLIQUE ARABE D'ÉGYPTE, LE 10 JUIN 2015

ISHAKIRO

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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

INTEKO ISHINGA AMATEGEKO YEMEJE, NONE NATWE DUHAMIJE, DUTANGAJE ITEGEKO RITEYE RITYA KANDI DUTEGETSE KO RYANDIKWA MU IGAZETI YA LETA YA REPUBULIKA Y'U RWANDA

INTEKO ISHINGA AMATEGEKO:

LAW N° 019/2019 OF 16/08/2019 APPROVING THE RATIFICATION OF THE AGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY, SIGNED AT SHARM EL SHEIKH, IN THE ARAB REPUBLIC OF EGYPT, ON 10 JUNE 2015

We, KAGAME Paul,
President of the Republic;

THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING LAW AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA

THE PARLIAMENT:

LOI N° 019/2019 DU 16/08/2019 APPROUVANT LA RATIFICATION DE L'ACCORD INSTITUANT LA ZONE DE LIBRE ÉCHANGE TRIPARTITE ENTRE LE MARCHÉ COMMUN D'AFRIQUE ORIENTALE ET AUSTRALE, LA COMMUNAUTÉ D'AFRIQUE DE L'EST ET LA COMMUNAUTÉ DE DÉVELOPPEMENT D'AFRIQUE AUSTRALE, SIGNÉ À SHARM EL SHEIKH, EN RÉPUBLIQUE ARABE D'ÉGYPTE, LE 10 JUIN 2015

Nous, KAGAME Paul,
Président de la République;

LE PARLEMENT A ADOPTÉ ET NOUS SANCTIONNONS, PROMULGUONS LA LOI DONT LA TENEUR SUIT ET ORDONNONS QU'ELLE SOIT PUBLIÉE AU JOURNAL OFFICIEL DE LA RÉPUBLIQUE DU RWANDA

LE PARLEMENT:

Umutwe w'Abadepite, mu nama yawo yo kuwa 10 Nyakanga 2019;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 64, iya 69, iya 70, iya 88, iya 90, iya 91, iya 93, iya 106, iya 120, iya 167, iya 168 n'iya 176;

Imaze gusuzuma Amasezerano ashyiraho Agace k'Ubucuruzi n'Ubuhahirane butagira Umupaka gahuriweho n'Isoko Rusange ry'Ibihugu by'Afurika y'Iburasirazuba n'Amajyepfo, Umuryango w'Ibihugu by'Afurika y'Iburasirazuba n'Umuryango w'Iterambere ry'Ibihugu by'Afurika y'Amajyepfo, yashyiriweho umukono i Sharm El Sheikh, muri Repubulika Nyarabu ya Misiri, ku wa 10 Kamena 2015;

YEMEJE:

<u>Ingingo ya mbere</u>: Kwemera kwemeza burundu

Amasezerano ashyiraho Agace k'Ubucuruzi n'Ubuhahirane butagira Umupaka gahuriweho n'Isoko Rusange ry'Ibihugu by'Afurika y'Iburasirazuba n'Amajyepfo, Umuryango w'Ibihugu by'Afurika y'Iburasirazuba n'Umuryango

The Chamber of Deputies, in its session of 10 July 2019;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 64, 69, 70, 88, 90, 91, 93, 106, 120, 167, 168 and 176;

After consideration of the Agreement establishing a Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa, the East African Community and the Southern African Development Community, signed at Sharm El Sheikh, in the Arab Republic of Egypt, on 10 June 2015;

ADOPTS:

<u>Article One</u>: Approval for ratification

The Agreement establishing a Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa, the East African Community and the Southern African Development Community, signed at Sharm El Sheikh, in

La Chambre des Députés, en sa séance du 10 Juillet 2019;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 64, 69, 70, 88, 90, 91, 93, 106, 120, 167, 168 et 176;

Après examen de l'Accord instituant la Zone de Libre Échange Tripartite entre le Marché Commun d'Afrique Orientale et Australe, la Communauté d'Afrique de l'Est et la Communauté de Développement d'Afrique Australe, signé à Sharm El Sheikh, en République Arabe d'Égypte, le 10 juin 2015;

ADOPTE:

<u>Article premier</u>: Approbation pour ratification

L'Accord instituant la Zone de Libre Échange Tripartite entre le Marché Commun de l'Afrique Orientale et Australe, la Communauté d'Afrique de l'Est et la Communauté de Développement d'Afrique Australe, signé à Sharm El

w'Iterambere ry'Ibihugu by'Afurika y'Amajyepfo, yashyiriweho umukono i Sharm El Sheikh, muri Repubulika Nyarabu ya Misiri, ku wa 10 Kamena 2015, ari ku mugereka, yemerewe kwemezwa burundu.

the Arab Republic of Egypt, on 10 June 2015, in annex, is approved for ratification.

Sheikh, en République Arabe d'Égypte, le 10 juin 2015, en annexe , est approuvé pour ratification.

Ingingo ya 2: Itegurwa, isuzumwa n'itorwa by'iri tegeko

Iri tegeko ryateguwe mu rurimi rw'Icyongereza, risuzumwa kandi ritorwa mu rurimi rw'Ikinyarwanda.

Article 2: Drafting, consideration and adoption of this Law

This Law was drafted in English, considered and adopted in Ikinyarwanda.

Article 2: Initiation, examen et adoption de la présente loi

La présente loi a été initiée en anglais, examinée et adoptée en Ikinyarwanda.

Ingingo ya 3: Igihe iri tegeko ritangira gukurikizwa

Iri tegeko ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Article 3: Commencement

This Law comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Article 3: Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, ku wa 16/08/2019

Kigali, on 16/08/2019

Kigali, le 16/08/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEGEKO N° 019/2019 RYO KU WA 16/08/2019 RYEMERA KWEMEZA BURUNDU AMASEZERANO ASHYIRAHO AGACE K'UBUCURUZI N'UBUHAHIRANE BUTAGIRA UMUPAKA GAHURIWEHO N'ISOKO RUSANGE RY'IBIHUGU BY'AFURIKA Y'IBURASIRAZUBA N'AMAJYEPFO, UMURYANGO W'IBIHUGU BY'AFURIKA Y'IBURASIRAZUBA N'UMURYANGO W'ITERAMBERE RY'IBIHUGU BY'AFURIKA Y'AMAJYEPFO, YASHYIRIWEHO UMUKONO I SHARM EL SHEIKH, MURI REPUBULIKA NYARABU YA MISIRI, KU WA 10 KAMENA 2015

ANNEX TO THE LAW N° 019/2019 OF 16/08/2019 APPROVING THE RATIFICATION OF THE AGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY, SIGNED AT SHARM EL SHEIKH, IN THE ARAB REPUBLIC OF EGYPT, ON 10 JUNE 2015

ANNEXE À LA LOI N° 019/2019 DU 16/08/2019 APPROUVANT LA RATIFICATION DE L'ACCORD INSTITUANT LA ZONE DE LIBRE ÉCHANGE TRIPARTITE ENTRE LE MARCHÉ COMMUN D'AFRIQUE ORIENTALE ET AUSTRALE, LA COMMUNAUTÉ D'AFRIQUE DE L'EST ET LA COMMUNAUTÉ DE DÉVELOPPEMENT D'AFRIQUE AUSTRALE, SIGNÉ À SHARM EL SHEIKH, EN RÉPUBLIQUE ARABE D'ÉGYPTE, LE 10 JUIN 2015

AGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

Preamble

WE, the Member States of the Common Market for Eastern and Southern Africa, the Partner States of the East African Community, and the Member States of the Southern African Development Community, hereinafter referred to as "Tripartite Member/Partner States":

RECALLING AND AFFIRMING the strong and indissoluble bonds of history, freedom, liberation struggles, friendship, solidarity, commerce, trade, shared natural resources, and culture among the people and Governments of the Member/Partner States of the Common Market for Eastern and Southern Africa, the East African Community, and the Southern African Development Community;

RECOGNISING the Kampala Communiqué of the Tripartite Summit of 22 October2008 under which the Heads of State and Government representing the three regional economic communities agreed, *inter alia*, to establish a single Customs Union beginning with a Free Trade Area;

FURTHER RECOGNISING the Declaration Launching the Negotiations for the Establishment of the Tripartite Free Trade Area of Johannesburg, South Africa, 12 June 2011;

RECALLING the Tripartite Memorandum of Understanding signed on 19 January, 2011 and its provisions on the establishment of the Tripartite Free Trade Area;

COMMITED to championing and expediting the continental integration process under the Treaty establishing the African Economic Community and the Constitutive Act of the African Union through regional initiatives;

COGNISANT of the provisions establishing free trade areas in the Common Market of Eastern and Southern Africa Treaty, Treaty for the Establishment of the East African Community and the Southern African Development Community Protocol on Trade;

DETERMINED to build upon the success and best practices achieved in trade liberalisation within the three Regional Economic Communities;

COMMITTED to resolving the challenges of overlapping memberships of the Tripartite Member/Partner States to the three Regional Economic Communities;

CONSIDERING that trade in goods and services, infrastructure, cross-border investment, industrial development and movement of business persons should be major areas of co-operation;

DETERMINED to take the necessary measures for reducing the cost of doing business and creating a conducive environment for private sector development;

MINDFUL of the important role of micro, small and medium enterprises in job creation and income generation for the majority of the people in the Tripartite Member/Partner States;

RECOGNISING the significant contribution of trade in goods and services to national incomes of the Member/Partner States;

DETERMINED to progressively liberalise trade in goods and services, promote industrial development, facilitate movement of business persons, support the strengthening of infrastructure, promote competitiveness, build the capacity of micro, small and medium scale enterprises, and contribute to the deepening of integration in the Tripartite Member/Partner States;

RECOGNISING that the development of trade and investment is essential to the economic integration of the Region and will create new opportunities for a dynamic business sector;

CONVINCED that a framework of trade co-operation among Tripartite Member/Partner States based on equality, fair competition and mutual benefit will contribute to the creation of a viable development community;

MINDFUL of the different levels of economic development and geographic specificities of the Tripartite Member/Partner States and the need to share equitably the benefits of regional economic integration;

COMMITED to improving the competitiveness of Tripartite Member/Partner States at enterprise, industrial and regional levels so as to fully derive benefits from regional and global trade opportunities;

RECOGNISING the progress achieved in the elimination of import duties and other trade barriers within the three regional economic communities;

RECOGNISING the initiatives undertaken by the regional economic communities in establishing themselves as single investment areas and building on this progress; and

RECOGNISING our international obligations under the existing agreements;

HEREBY AGREE as follows:

PART I

INTERPRETATION, ESTABLISHMENT, OBJECTIVES AND PRINCIPLES

Article 1
Interpretation

In this Agreement, unless the context otherwise requires:

"Agreement" means this agreement establishing the Tripartite Free Trade Area;

"COMESA" means the Common Market for Eastern and Southern Africa as established by the Treaty Establishing the Common Market for Eastern and Southern Africa which entered into force on 8th December, 1994;

"Customs duties" means duties laid down in the customs tariff to which goods are liable on entering or leaving the customs territory of the Member/Partner State;

"EAC" means the East African Community established by the Treaty for the Establishment of the East African Community which entered into force on 7th July, 2000;

"Import duties" means customs duties or charges of equivalent effect imposed on, or in connection with, the importation of goods consigned from any Tripartite Member/Partner State to a consignee in another Tripartite Member/Partner State, but do not include any;

a) charges equivalent to internal taxes imposed consistently with Article III(2) of the GATT 1994 and its interpretative notes in respect of like directly competitive or substitutable goods of the party or the signatory party or in respect of goods from which imported goods have been manufactured or produced in whole or in part;

b) antidumping or countervailing duties imposed in accordance with Articles VI, and XVI of GATT 1994 and the WTO Agreement on Subsidies and countervailing measures and Article 17 of this Agreement;

c) safeguard duties or levies imposed in accordance with Articles XIX of GATT 1994, the WTO Agreement on Safeguards and Articles 18 and 19 of this Agreement other fees or charges imposed consistently with Article VIII of GATT 1994.

"Most Favoured Nation treatment" (MFN) means that advantages that any Tripartite Member/Partner State offers to third countries would be offered to other Tripartite Member/Partner States. The purpose is to ensure that Tripartite

Member/Partner State trade amongst each other on terms as good as or better than that offered to non-FTA partners. These advantages would be extended on reciprocity.

"Non-Tariff Barriers" (NTB) means any laws, regulations, administrative and technical requirements other than tariffs imposed by a partner state whose effect is to impede trade;

"Quantitative restrictions" means prohibitions or restrictions on imports into, or exports from a Tripartite Member/Partner State whether made effective through quotas, import licences, or other measures and requirements restricting imports or exports;

"REC" means Regional Economic Community;

"**Region**" means the geographical territories of the Tripartite Member/Partner States collectively;

"SADC" means the Southern African Development Community as established by the Treaty of the Southern African Development Community which entered into force on 30th September, 1993;

"Special Economic Zones" means a designated economic area in a Tripartite Member/Partner State with regulations that may be different from other areas in the same Tripartite Member/Partner State for the purpose of attracting foreign and domestic investments, know-how and technology;

"SPS" means Sanitary and Phyto-Sanitary Measures;

"TBT" means Technical Barriers to Trade;

"Transit" refers to Customs transit which means a Customs procedure under which goods are transported under Customs control from one Customs office to another; (Annex A and Specifically Annex E to the Istanbul Convention);

"Tripartite Member/Partner States" means the Member States of Common Market for Eastern and Southern Africa, the Partner States of the East African Community, and the Member States of the Southern African Development Community who are party to this Agreement and any other member of the African Union that would have become party to this Agreement;

"Third country" means a country that is not a party to this Agreement;

"variable geometry" means the principle of flexibility which allows for progression in cooperation amongst members in a larger integration scheme in a variety of areas and at different speeds;

"WTO" means the World Trade Organisation.

Article 2
Establishment of the Tripartite Free Trade Area

A Free Trade Area among the Member/Partner States of COMESA, EAC and SADC is hereby established.

Article 3
Scope and Coverage

This Agreement shall, without derogating from the purpose already outlined herein comprise of:

a) Trade in goods;
b) Trade in services; and
c) Other trade-related matters.

Article 4
General Objectives

The general objectives of the Tripartite Free Trade Area shall be to:

a) promote economic and social development of the Region;
b) create a large single market with free movement of goods and services to promote intra-regional trade;
c) enhance the regional and continental integration processes; and
d) build a strong Tripartite Free Trade Area for the benefit of the people of the Region.

Article 5
Specific Objectives

For purposes of fulfilling and realising the objectives set out in Article 4 of this Agreement, Tripartite Member/Partner States shall:

a) progressively eliminate tariffs and Non-Tariff Barriers to trade in goods;
b) liberalise trade in services;
c) cooperate on customs matters and implementation of trade facilitation measures;
d) establish and promote cooperation in all trade-related areas among Tripartite Member/Partner States; and
e) establish and maintain an institutional framework for implementation and administration of the Tripartite Free Trade Area.

Article 6
Principles

The principles governing this Agreement shall be the following:

a) REC and/ or Tripartite Member/Partner States driven;
b) variable geometry;
c) flexibility and special and differential treatment;
d) transparency;
e) building on the *acquis*;
f) single undertaking with regard to the various phases of the Agreement;
g) MFN treatment
h) national treatment;
i) reciprocity;
j) substantial liberalisation;
k) consensus decision making; and
l) best practices in the regional economic communities, the Tripartite Member/Partner States and international conventions binding Tripartite Member/Partner States.

PART II

NON-DISCRIMINATION

Article 7
Most-Favoured-Nation Treatment

1. Tripartite Member/Partner States shall accord to one another the Most-Favoured- Nation Treatment.

2. Nothing in this Agreement shall prevent a Tripartite Member/Partner State from maintaining or entering into new preferential trade agreements with third countries provided that any advantage, concession, privilege or favour granted to a third country under such agreements are offered to the other Tripartite Member/Partner States on a reciprocal basis.

3. Nothing in this Agreement shall prevent two or more Tripartite Member/Partner States from entering into new preferential agreements which aim at achieving the objectives of this Agreement among themselves, provided that any preferential treatment accorded under such agreements is extended to the other Tripartite Member/Partner States on a reciprocal and non-discriminatory basis.

4. Any agreement entered into under paragraph 2 and 3 shall be notified to the Tripartite Sectoral Ministerial Committee responsible for Trade, Finance, Customs, Economic Matters and Home/Internal Affairs.

Article 8
National Treatment

A Tripartite Member/Partner State shall accord to products imported from other Tripartite Member/Partner States treatment no less favourable than that accorded to like domestic products, after the imported products have passed customs, and that this treatment covers all measures affecting the sale and conditions for sale of such products in accordance with Article III of GATT 1994.

PART III

LIBERALISATION OF TRADE IN GOODS

Article 9
Elimination of Import Duties

1. Tripartite Member/Partner States shall not impose new import duties or charges of equivalent effect except as provided for under this Agreement.

2. The provisions of paragraph 1 shall not apply to goods that are not subject to liberalisation.

3. The Tripartite Member/Partner States shall progressively eliminate import duties in accordance with schedules contained in **Annex** I on Elimination of Import Duties.

Article 10
Non-Tariff-Barriers

1. Tripartite Member/Partner States shall eliminate all existing Non-Tariff-Barriers to trade with each other and shall not impose any new ones in line with **Annex III** on Non-Tariff Barriers.

2. Tripartite Member/Partner States recognise the existing reporting, monitoring and elimination mechanisms on Non-Tariff-Barriers established by the three RECs and undertake to harmonise them into a single mechanism as provided for in **Annex III.**

Article 11
Elimination of Quantitative Restrictions

Tripartite Member/Partner States shall not impose quantitative restrictions on imports or exports in trade with other Tripartite Member/Partner States except as otherwise provided for in Article XI.2 of GATT1994, the WTO Agreement on Safeguards and Articles 17 and 18 and **Annex II** on Trade Remedies of this Agreement.

Article 12
Rules of Origin

Goods shall be eligible for preferential treatment under this Agreement if they are originating goods in any of the Tripartite Member/Partner States in accordance with the criteria and conditions set out in **Annex IV** on Rules of Origin.

PART IV
CUSTOMS COOPERATION AND TRADE FACILITATION

Article 13
Customs Cooperation

Tripartite Member/Partner States shall take appropriate measures including arrangements regarding customs cooperation and mutual administrative assistance to ensure that the provisions of this Agreement are effectively applied in accordance with **Annex V** on Customs Cooperation and Mutual Administrative Assistance.

Article 14
Trade Facilitation

1. Tripartite Member/Partner States agree to design and standardise their trade and customs documentation and information in accordance with internationally accepted standards, taking into account the use of electronic data processing systems.

2. Tripartite Member/Partner States shall ensure an efficient and effective application of this Article in accordance with **Annex VI** on Trade Facilitation.

3. Tripartite Member/Partner States undertake to initiate trade facilitation programmes in accordance with **Annex VI** on Trade Facilitation aimed at:

    a) reducing the cost of processing documents and volume of paper work required in respect of trade among Tripartite Member/Partner States;

    b) ensuring that the nature and volume of information required in respect of trade within the Tripartite Free Trade Area does not adversely affect the economic development of, or trade among, the Tripartite Member/Partner States;

    c) adopting common standards of trade procedures within the Tripartite Free Trade Area where international requirements do not suit the conditions prevailing among Tripartite Member/Partner States;

    d) ensuring adequate coordination between trade and transport facilitation within the Tripartite Free Trade Area;

e) keeping under review procedures adopted in international trade and transport with a view to simplifying and adopting them;

f) collecting and disseminating information on international development regarding trade facilitation;

g) promoting the development and adoption of common solutions to problems in trade facilitation instruments;

h) initiating and promoting the establishment of joint programmes, for the training of personnel engaged in trade facilitation; and

i) establishing and promoting one-stop border posts.

Article 15
Transit

Tripartite Member/Partner States agree to facilitate the movement of goods and means of transport in transit to other Tripartite Member/Partner States in accordance with **Annex VII** on Transit Trade and Transit Facilitation.

PART V

TRADE REMEDIES

Article 16
Transitional Arrangements

1. Where there is evidence of dumping, subsidisation or surge in imports into the territory of a Tripartite Member/Partner State, nothing in this Agreement shall prevent that Tripartite Member/Partner State from applying, in the interim, an anti-dumping, countervailing or safeguard measure governed by:

   a) REC provisions among the Member/Partner State of the same REC;
   b) The relevant WTO provisions across the RECs.

2. The Tripartite guidelines on the implementation of trade remedies shall be drafted by a Tripartite Committee of Experts as part of the built in agenda and shall form an integral part of **Annex II** on Trade Remedies.

3. Articles 17, 18 and 19 shall be suspended until **Annex II** on Trade Remedies is finalised and operational.

Article 17
Anti-dumping and Countervailing Measures

1. Subject to the provisions of this Agreement, nothing in this Agreement shall prevent Tripartite Member/Partner States from adopting anti-dumping and countervailing measures in accordance with the relevant WTO Agreements and **Annex II** on Trade Remedies.

2. In applying this Article, Tripartite Member/Partner States shall be guided by provisions of the WTO Agreement on the Interpretation of Article VI of the GATT 1994; and the WTO Agreement on Subsidies and Countervailing Measures.

Article 18
Safeguard Measures

1. A Tripartite Member/Partner State may apply a safeguard measure to a product only after determining that such product is being imported into its territory:

   a) in such increased quantities, absolute or relative to domestic production; and

   b) under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

2. In applying this Article, Tripartite Member/Partner States shall be guided by the provisions of Article XIX of GATT 1994 WTO Agreement on Safeguard Measures and **Annex II** on Trade Remedies.

Article 19
Preferential Safeguards

1. Preferential safeguard measures may be applied by a Tripartite Member/Partner States under the provisions in **Annex II** on Trade Remedies, if as a result of the obligations undertaken by that Tripartite Member/Partner State goods are imported into the territory of a Tripartite Member/Partner State under such conditions as to cause or threaten to cause serious injury to the domestic industry.

2. Preferential safeguard measures shall be applied only to the extent necessary to prevent or remedy serious injury.

Article 20
Cooperation on Trade Remedies

Recognising that dumping, subsidisation and import surges, whether originating from the Region or a Third Country, can adversely affect more than one Tripartite Member

/Partner State within the Region, Tripartite Member/Partner States shall co-operate in the detection and investigation of dumping or subsidisation or sudden imports urges and in the imposition of the appropriate measures to curb such practices.

PART VI

TRADE-RELATED AREAS

Article 21
Technical Barriers to Trade

1. Tripartite Member/Partner States reaffirm their rights and obligations in respect of the WTO Agreement on Technical Barriers to Trade.

2. Tripartite Member/Partner States undertake to facilitate trade through cooperation in the areas of technical regulations, standards, metrology, conformity assessment and accreditation.

3. Tripartite Member/Partner States shall, cooperate to eliminate unnecessary and unjustifiable Technical Barriers to Trade.

4. Cooperation shall include but not be limited to:

   a) the reinforcement of good regulatory and standards setting practices;
   b) the implementation of various mechanisms to facilitate the acceptance of conformity assessment results;
   c) promoting the use of relevant international standards as a basis for technical regulations;
   d) identifying and assessing instruments for trade facilitation such as the harmonisation, and or equivalence of technical regulations; and
   e) mutual recognition of conformity assessment results.

5. Tripartite Member/Partner States shall strengthen cooperation and agree on priority areas of mutual interest in matters relating to Technical Barriers to Trade.

6. Tripartite Member/Partner States shall establish and implement a capacity building programme to support the implementation of **Annex** VIII on Technical Barriers to Trade.

7. Tripartite Member/Partner States shall establish mechanisms and structures to enhance transparency in the development and implementation of standards, technical regulations, and conformity assessment requirements.

8. The implementation of this Article shall be in accordance with the provisions of **Annex VIII** on Technical Barriers to Trade.

Article 22
Sanitary and Phytosanitary Measures

1. Tripartite Member/Partner States reaffirm their rights and obligations in respect of the WTO Agreement on the application of Sanitary and Phytosanitary measures.

2. Tripartite Member/Partner States shall undertake to facilitate safe trade in animals and animal products, plants and plant products whilst safeguarding human, animal and plant life or health.

3. Tripartite Member/Partner States shall cooperate to eliminate unjustifiable SPS measures in order to facilitate safe trade in sectors of mutual economic interest.

4. Tripartite Member/Partner States shall establish and implement a capacity building programme to support the implementation of **Annex IX** on Sanitary and Phytosanitary Measures.

5. The implementation of this Article shall be in accordance with **Annex IX** Sanitary and Phytosanitary Measures.

Article 23
Special Economic Zones

1. Tripartite Member/Partner States may support the establishment and operation of special economic zones for the purpose of accelerating development.

2. Products benefiting from special economic zones shall be subject to any regulations that may be made by the Tripartite Council of Ministers. Regulations under this paragraph shall be subject to paragraph 3 of this Article and in support of the Tripartite industrialisation programmes.

3. The trade of products manufactured in special economic zones within the Tripartite Member/Partner States shall be subject to the provisions of **Annex IV** on Rules of Origin.

Article 24
Infant industries

1. For purposes of this Article, an infant industry shall be understood to refer to a new industry of national strategic importance that has not been in existence for more than five years, and that is experiencing high start-up costs and difficulties competing with like imports.

2. For the purposes of protecting an infant industry, a Tripartite Member/Partner State may, provided that it has taken all reasonable steps to overcome the difficulties related to such infant industry, adopt appropriate measures on similar

goods originating from other Tripartite Member/Partner States, provided that the measures are applied on a non-discriminatory basis.

3. The Tripartite Council of Ministers shall determine the period and the nature of the measures that may be adopted under this Article.

4. The Tripartite Committee of Experts, established under Article 29 of this Agreement, shall keep under constant review the operation of any restrictions imposed under this Article and regularly report to the Tripartite Council of Ministers with recommendations.

Article 25
Balance of Payments

A Tripartite Member/Partner State facing severe balance of payments and external financial difficulties, and that has taken all reasonable steps to overcome the difficulties, may adopt appropriate measures in accordance with guidelines to be determined by the Tripartite Council of Ministers, provided that such measures shall be reviewed annually.

PART VII
OTHER AREAS OF COOPERATION

Article 26
Cooperation in Financial Areas

For the purposes of this Agreement, Tripartite Member/Partner States may cooperate and strengthen coordination in financial and payment systems, development of capital markets and commodity exchanges.

Article 27
Cooperation in Trade Policies and Negotiations

Tripartite Member/Partner States may:

a) cooperate with respect to their trade policies;
b) enhance their cooperation with bilateral and multilateral partners; and
c) enhance cooperation in international and multilateral negotiations.

Article 28
Cooperation in Research and Statistics

1. Tripartite Member/Partner States may cooperate in areas of research and statistics necessary for monitoring the performance and operation of the Tripartite Free Trade Area.

2. For purposes of this Article, cooperation shall include the following:

a) policy research and trade development;

b) establishment of a Tripartite statistical database;

c) joint capacity building including joint training;

d) harmonisation of statistical systems and data management; and

e) exchange of information.

PART VIII

IMPLEMENTATION OF THE TRIPARTITE FREE TRADE AREA

Article 29
Organs for the Implementation of the Tripartite Free Trade Area

1. The organs for the implementation of the Free Trade Area shall be:

   a) the Tripartite Summit consisting of the Heads of State and/or Governments of Tripartite Member/Partner States which shall give general direction and impetus for the Tripartite arrangement;

   b) the Tripartite Council of Ministers consisting of ministers as designated by Tripartite Member/Partner States for the purposes of the Tripartite Free Trade Area;

   c) the Tripartite Sectoral Ministerial Committee on Trade, Finance, Customs and Economic Matters and Home/Internal Affairs; and the Tripartite Sectoral Ministerial Committee on Legal Affairs each of which shall be responsible for policy direction and implementation in their respective sectors ;

   d) the Tripartite Task Force of the Secretariats of the three RECs which shall coordinate the implementation of the Tripartite work programme and shall provide secretariat services to the Tripartite arrangement;

   e) the Tripartite Committee of Senior Officials which shall be responsible for overseeing and guiding technical work; and

   f) the Tripartite Committee of Experts which shall carry out the technical work and report to the Tripartite Committee of Senior Officials.

2. The Tripartite Summit shall adopt its own rules of procedure.

3. The Tripartite Council of Ministers shall adopt its own rules of procedure.

4. Each Committee shall develop its rules of procedure which shall be approved by the Tripartite Council of Ministers.

PART IX

DISPUTE SETTLEMENT

Article 30
Dispute Settlement

1. A Dispute Settlement Body is hereby established to administer the rules and procedure, as well as the dispute settlement provisions under this Agreement.

2. The Dispute Settlement Body shall have the power to:

   a) establish panels and an Appellate Body;
   b) adopt Panel and Appellate Body reports;
   c) maintain surveillance of implementation of rulings and recommendations of panels and Appellate Body; and
   d) authorise suspension of concessions under the Agreement.

3. The Dispute Settlement Body shall inform the Tripartite Council of Ministers and relevant Committees of any development in disputes related to provisions of this Agreement.

4. Any dispute arising from the interpretation or application of this Agreement shall be resolved in accordance with the provisions of this Article and **Annex X** on Dispute Settlement Mechanism.

5. The settlement of any dispute between or among Tripartite Member/Partner States shall, whenever possible, imply removal of a measure not conforming with the provisions of this Agreement or causing nullification or impairment of a benefit under such provision.

6. No Tripartite Member/Partner State shall refer a dispute to the Dispute Settlement Body unless it has in good faith engaged in consultations and negotiations, with a view to resolve the dispute.

7. In the event of inconsistency or a conflict between this Agreement and the treaties and instruments of COMESA, EAC and SADC, this Agreement shall prevail to the extent of the inconsistency or conflict.

PART X

GENERAL AND SECURITY EXCEPTIONS

Article 31
General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed as preventing the adoption or enforcement of measures by any Tripartite Member/Partner State;

a) necessary to protect public morals or to maintain public order;

b) necessary to protect human, animal or plant life or health;

c) relating to the importation or exportation of precious and semi-precious stones, precious and strategic minerals and metals including but not limited to gold, silver, platinum, diamonds, coltan, oil, gas, tanzanite and uranium;

d) relating to the products of prison labour;

e) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the protection of patents, trademarks and copyrights, and the prevention of deceptive practices;

f) imposed for the protection of national treasures of artistic, historic or archaeological value;

g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

h) undertaken in pursuance of obligations under any intergovernmental commodity agreement approved by the Tripartite Council of Ministers;

i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilisation plan: provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination; and

j) essential to the acquisition or distribution of foodstuffs or any other products in general or local short supply, provided that any such measures shall be consistent with the principle that all Tripartite Member/Partner States are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

Article 32
Security Exceptions

Nothing in this Agreement shall be construed to:

a) require any Tripartite Member/Partner State to furnish any information the disclosure of which it considers contrary to its essential security interests; or

b) prevent any Tripartite Member/Partner State from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; and

(iii) taken in time of war or other emergency in international relations; or

c) prevent any Tripartite Member/Partner State from taking any action in pursuance of its obligations under the Charter of the United Nations.

Article 33
Notification of Prohibited and Restricted Goods

A Tripartite Member/Partner State taking measures pursuant to Articles 31 and 32 shall within twenty-one (21) days from the date the Tripartite Member/Partner State implements the measure notify such measures to the Tripartite Sectoral Ministerial Committee on Trade, Finance, Customs and Economic Matters and Home/Internal Affairs.

PART XI

FINANCIAL PROVISIONS

Article 34
Funding

Tripartite Member/Partner States shall institute appropriate modalities to fund their commitments in the implementation of this Agreement.

PART XII

GENERAL AND FINAL PROVISIONS

Article 35
Working Languages

The working languages under this Agreement shall be Arabic, English, French and Portuguese.

Article 36
Protocols and Annexes

1. Tripartite Member/Partner States shall from time to time conclude such Protocols and Annexes as are necessary for the implementation of this Agreement. Such Protocols and Annexes shall be adopted by the Tripartite Council of Ministers.

2. The Protocols and Annexes shall form an integral part of this Agreement.

Article 37
Amendment

1. This Agreement may be amended at any time by consensus.

2. Any Tripartite Member/Partner State may submit proposals for amendment of this Agreement to the Chairperson of the Tripartite Task Force in writing. The Chairperson of the Tripartite Task Force shall, within 30 days, submit the proposals to Tripartite Member/Partner States.

3. A Tripartite Member/Partner State that wishes to comment on the proposals may do so within 90days from the date of the dispatch of the proposal.

4. After the expiration of the period, the Chairperson of the Tripartite Task Force shall submit proposals and any comments to the Tripartite Council of Ministers for consideration and adoption.

5. Any amendment shall enter into force upon adoption by the Tripartite Summit by consensus.

Article 38
Sanctions

A Tripartite Member/Partner State which defaults in meeting its obligations under this Agreement shall be subject to such sanctions as the Tripartite Summit may, determine on the recommendation of the Tripartite Council of Ministers,.

Article 39
Signature, Ratification and Entry into Force

1. This Agreement shall be signed by the Tripartite Member/Partner States.

2. This Agreement shall be ratified by Tripartite Member/Partner States in accordance with their national laws.

3. This Agreement shall enter into force on the Thirtieth day after the deposit of the fourteenth instrument of ratification by Member/Partner States of COMESA, EAC and SADC.

Article 40
Obligation not to Defeat the Object and Purpose of this Agreement Prior to its Entry into Force

A Tripartite Member/Partner State shall refrain from acts which would defeat the object and purpose of this Agreement when it has:

a) signed the Agreement or has exchanged instruments constituting the Agreement subject to ratification until it shall have made its intention clear not to become a party to the Agreement; or
b) expressed its consent to be bound by the Agreement, pending the entry into force of the Agreement, provided that such entry into force is not unduly delayed.

Article 41
Accession

1. This Agreement shall remain open for accession by any Member/Partner State of COMESA, EAC or SADC.
2. The Agreement shall also remain open for accession to other member states of the African Union.
3. The Tripartite Council of Ministers shall adopt accession regulations.

Article 42
Withdrawal

A Tripartite Member/Partner State wishing to withdraw from this Agreement, shall notify the Tripartite Council of Ministers giving twelve (12) months' notice, of its intention to do so. Such a Tripartite Member/Partner State shall discharge its existing obligations before withdrawing from this Agreement.

Article 43
Depositary and Registration

1. This Agreement and all instruments of ratification, accession and notification of entry into force or withdrawal thereof shall be deposited with the Tripartite Task Force.

2. The Tripartite Task Force shall transmit certified copies of the Agreement to the Tripartite Member/Partner States.
3. The Tripartite Task Force shall notify the Tripartite Member/Partner States of the dates of deposit of instruments of ratification and accession.

4. The Tripartite Task Force shall notify this Agreement to the United Nations Secretary General and the WTO.

Article 44
Negotiations on Outstanding Issues on Phase I

Tripartite Member/Partner States undertake to conclude negotiations on outstanding issues under Phase I as set out in **Annex I** on Elimination of Customs Duties, **Annex II** on Trade Remedies and **Annex IV** on Rules of Origin after the launch of the Tripartite Free Trade Area.

Article 45
Phase II Negotiations

1. Recognising the need to conclude Phase II Negotiations, and to provide flexibility in the implementation of the Agreement, the Tripartite Member/Partner States agree to negotiate and endeavour to conclude the following protocols within 24 months upon entry into force of this Agreement:

    a) A protocol on trade in services; and
    b) Protocols on trade-related matters, including Competition policy, Cross-Border Investment, Trade and Development, and Intellectual Property Rights.

2. The Tripartite Member/Partner States may conclude protocols in any other trade-related matter agreed to by the Tripartite Member/Partner States.

IN WITNESS WHEREOF, WE the Heads of State and Government or duly Authorised Representatives of Tripartite Member/Partner States have signed and sealed this Agreement in four original texts in English, French, Arabic and Portuguese languages, all texts being equally authentic.

DONE at Sharm El Sheikh, in the Arab Republic of Egypt, on this 10th day of June in the year Two Thousand and Fifteen.

.....
Republic of Angola

.....
Republic of Botswana

.....
Republic of Burundi

.....
Union of the Comoros

.....
Democratic Republic of Congo

.....
Republic of Djibouti

.....
Federal Democratic Republic of Ethiopia

.....
State of Eritrea

.....
Arab Republic of Egypt

.....
Republic of Kenya

.....
Kingdom of Lesotho

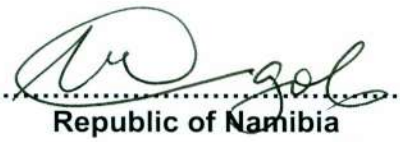
.....
State of Libya

Republic of Madagascar

Republic of Malawi

Republic of Mauritius

Republic of Mozambique



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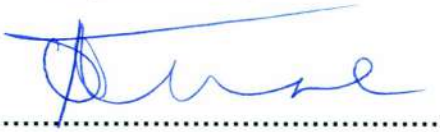
Republic of Rwanda



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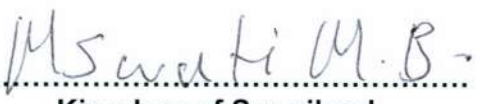
Republic of South Africa



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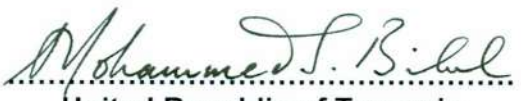
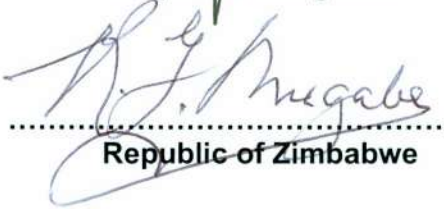
Republic of Sudan



United Republic of Tanzania

Republic of Uganda

Republic of Zambia



Republic of Zimbabwe

Bibonywe kugira ngo bishyirwe ku mugereka w'Itegeko nº 019/2019 ryo ku wa 16/08/2019 ryemeza burundu Amasezerano ashyiraho Agace k'Ubucuruzi n'Ubuhahirane Butagira Umupaka gahuriweho n'Isoko Rusange ry'Ibihugu by'Afurika y'Iburasirazuba n'Amajyepfo, Umuryango w'Ibihugu by'Afurika y'Iburasirazuba n'Umuryango w'Iterambere ry'Ibihugu by'Afurika y'Amajyepfo, yashyiriweho umukono i Sharm El Sheikh, muri Repubulika Nyarabu ya Misiri, ku wa 10 Kamena 2015

Kigali, ku wa 16/08/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Law nº 019/2019 of 16/08/2019 ratifying the Agreement establishing a Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa, the East African Community and the Southern African Development Community, signed at Sharm El Sheikh, in the Arab Republic of Egypt, on 10 June 2015

Kigali, on 16/08/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à la Loi nº 019/2019 du 16/08/2019 ratifiant l'Accord instituant la Zone de Libre Échange Tripartite entre le Marché Commun d'Afrique Orientale et Australe, la Communauté d'Afrique de l'Est et la Communauté de Développement d'Afrique Australe, signé à Sharm El Sheikh, en République Arabe d'Égypte, le 10 juin 2015

Kigali, le 16/08/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEGEKO N° 023/2019 RYO KU WA 04/09/2019 RYEMERA KWEMEZA BURUNDU AMASEZERANO Y'UBUFATANYE HAGATI YA GUVERINOMA YA REPUBULIKA Y'U RWANDA NA GUVERINOMA YA REPUBULIKA YUNZE UBUMWE IHARANIRA DEMOKARASI YA ETHIOPIA MU BYEREKEYE ITUMANAHO, AMAKURU N'ITANGAZAMAKURU, YASHYIRIWEHO UMUKONO I KIGALI KU WA 28 MATA 2017

LAW N° 023/2019 OF 04/09/2019 APPROVING THE RATIFICATION OF THE COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA IN THE FIELD OF COMMUNICATION, INFORMATION AND MEDIA, SIGNED AT KIGALI ON 28 APRIL 2017

LOI N° 023/2019 DU 04/09/2019 APPROUVANT LA RATIFICATION DE L'ACCORD DE COOPÉRATION ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE FÉDÉRALE DÉMOCRATIQUE D'ÉTHIOPIE, DANS LE DOMAINE DE LA COMMUNICATION, DE L'INFORMATION ET DES MÉDIA, SIGNÉ À KIGALI LE 28 AVRIL 2017

ISHAKIRO

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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

INTEKO ISHINGA AMATEGEKO YEMEJE, NONE NATWE DUHAMIJE, DUTANGAJE ITEGEKO RITEYE RITYA KANDI DUTEGETSE KO RYANDIKWA MU IGAZETI YA LETA YA REPUBULIKA Y'U RWANDA

THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING LAW AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA

LE PARLEMENT A ADOPTÉ ET NOUS SANCTIONNONS, PROMULGUONS LA LOI DONT LA TENEUR SUIT ET ORDONNONS QU'ELLE SOIT PUBLIÉE AU JOURNAL OFFICIEL DE LA RÉPUBLIQUE DU RWANDA

INTEKO ISHINGA AMATEGEKO:

THE PARLIAMENT:

LE PARLEMENT:

Umutwe w'Abadepite, mu nama yawo yo ku wa 24 Nyakanga 2019;

The Chamber of Deputies, in its session of 24 July 2019;

La Chambre des Députés, en sa séance du 24 juillet 2019;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 64, iya 69, iya 70, iya 88, iya 90, iya 91, iya 93, iya 94, iya 106, iya 120, iya 167, iya 168 n'iya 176;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 64, 69, 70, 88, 90, 91, 93, 94, 106, 120, 167, 168 and 176;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 64, 69, 70, 88, 90, 91, 93, 94, 106, 120, 167, 168 et 176;

Imaze gusuzuma Amasezerano y'Ubufatanye hagati ya Guverinoma ya Repubulika y'u Rwanda na Guverinoma ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Ethiopia mu byerekeye Itumanaho, Amakuru n'Itangazamakuru, yashyiriweho umukono i Kigali ku wa 28 Mata 2017;

After consideration of the Cooperation Agreement between the Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia in the field of Communication, Information and Media, signed at Kigali on 28 April 2017;

Après examen de l'Accord de Coopération entre le Gouvernement de la République du Rwanda et le Gouvernement de la République Fédérale Démocratique d'Éthiopie, dans le domaine de la Communication, de l'Information et des Média, signé à Kigali le 28 avril 2017;

YEMEJE:

ADOPTS:

ADOPTE:

Ingingo ya mbere: Kwemera kwemeza burundu

Article One: Approval for ratification

Article premier: Approbation pour ratification

Amasezerano y'Ubufatanye hagati ya Guverinoma ya Repubulika y'u Rwanda na Guverinoma ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Ethiopia mu byerekeye Itumanaho, Amakuru n'Itangazamakuru, yashyiriweho umukono i Kigali ku wa 28 Mata 2017, ari ku mugereka w'iri tegeko, yemerewe kwemezwa burundu.

The Cooperation Agreement between the Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia in the field of Communication, Information and Media, signed at Kigali on 28 April 2017, annexed to this Law, is approved for ratification.

L'Accord de Coopération entre le Gouvernement de la République du Rwanda et le Gouvernement de la République Fédérale Démocratique d'Éthiopie dans le domaine de la Communication, de l'Information et des Média, signé à Kigali le 28 avril 2017, annexé à la présente loi, est approuvé pour ratification.

Ingingo ya 2: Itegurwa, isuzumwa n'itorwa by'iri tegeko

Iri tegeko ryateguwe, risuzumwa kandi ritorwa mu rurimi rw'Ikinyarwanda.

Ingingo ya 3: Igihe iri tegeko ritangira gukurikizwa

Iri tegeko ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 04/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Article 2: Drafting, consideration and adoption of this Law

This Law was drafted, considered and adopted in Ikinyarwanda.

Article 3: Commencement

This Law comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 04/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Article 2: Initiation, examen et adoption de la présente loi

La présente loi a été initiée, examinée et adoptée en Ikinyarwanda.

Article 3: Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 04/09/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEGEKO N° 023/2019 RYO KU WA 04/09/2019 RYEMEZA BURUNDU AMASEZERANO Y'UBUFATANYE HAGATI YA GUVERINOMA YA REPUBULIKA Y'U RWANDA NA GUVERINOMA YA REPUBULIKA YUNZE UBUMWE IHARANIRA DEMOKARASI YA ETHIOPIA, MU BYEREKEYE ITUMANAHO, AMAKURU N'ITANGAZAMAKURU, YAKOREWE I KIGALI KU WA 28 MATA 2017

ANNEX TO THE LAW N° 023/2019 OF 04/09/2019 RATIFYING THE COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, IN THE FIELD OF COMMUNICATION, INFORMATION AND MEDIA, DONE AT KIGALI ON 28 APRIL 2017

ANNEXE À LA LOI N° 023/2019 DU 04/09/2019 RATIFIANT L'ACCORD DE COOPÉRATION ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE FÉDÉRALE DÉMOCRATIQUE D'ÉTHIOPIE, DANS LE DOMAINE DE LA COMMUNICATION, DE L'INFORMATION ET DES MÉDIA, FAIT À KIGALI LE 28 AVRIL 2017

COOPERATION AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF RWANDA

AND

THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

IN THE FIELD OF COMMUNICATION, INFORMATION AND MEDIA

The Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia (hereafter jointly referred to as "the Parties" and separately as "the Party")

Realizing the significance promotion of Communication, Information and Media cooperation would be of mutual benefit to the Parties;

Desiring to further strengthen the friendly ties between the Parties;

Guided by the principles of mutual respect for each other's National Sovereignty and Independence;

Have agreed as follows:

Article 1

Definition

a. Communication" means the activity or process of expressing ideas and feelings or of giving people information;
b. "Information" means "facts or details about somebody or something" without compromising national security;
c. "Media" means "the main ways that large numbers of people receive information and entertainment, that is television, radio, newspapers and the internet

Article 2

Objective

The objective of this Agreement is to promote the development of co-operation in the field of Communication, Information and Media between the two Parties in accordance with the provisions of this Agreement and the laws of each country on the basis of equality and mutual benefit.

Article 3

Areas of Cooperation

The Parties shall encourage and promote bilateral co-operation through:

a. Mutual exchange of visits of delegations and personnel in the field of Communication, Information, and Media of both countries;
b. Exchange of experience on branding, event creation and national image building practice;
c. Mutual collaboration between the Ethiopia Broadcasting Corporations /EBC/, Ethiopian News Agency /ENA/, Ethiopian Press Agency/EPA/, Ethiopian Broadcast Authority /EBA/and Rwanda Broadcasting Agency /RBA, Mutual cooperation in the field of media

management and capacity building programs in communication, information and media for practitioners from both Countries;

d. Exchange of documentaries and information materials;
e. Co-production of special features and documentaries within the framework of themes relevant to the development policies of both Parties.

Article 4

Exchange of Experience and Success

The Parties shall share the successes and experiences gained in the field of Communication, Information, and Media and make every effort to further expand and strengthen the co-operation in this field in particular to:

a. Exchanging research documents between both sides in the field of communication, information and media sector;
b. Exchange expertise between the Parties in the audiovisual, new media, community media and related fields
c. Allowing professionals in this field to benefit from the trainings that will be organized in the higher institutes for Journalism, Media development, public relations, and audiovisual professions in both Parties;

Article 5

Cooperation of Media Organs

The Parties to this Agreement shall assist the mass media organs such as Broadcasting, print, social media, news Agencies and Broadcast authority of the two countries to strengthen co-operation.

Article 6

Exchange of Public Information Materials

In accordance with their respective domestic laws and regulations in force, the Parties shall endeavor to exchange public information materials for broadcast in form of records, tapes, films, recorded cassettes, and other forms, covering different aspects of lives of the peoples of both countries.

Article 7

Cooperation between News Agencies

1. The Parties shall promote cooperation between the News Agencies of the two countries.
2. The News Agencies of the two countries shall endeavor to exchange news, pictures and features of common interest and news related documents.

Article 8

Cooperation between Press Agencies

The Ethiopian Press Agency /EPA/ and the Rwandan Broadcasting Agency shall cooperate to identify modalities for exchanging publications for news papers, magazines and other publications of common national interest to both countries.

Article 9

Cooperation between Broadcasting Corporations

The parties in order to establish new professional relation between Ethiopian Broadcasting Corporation/EBC/ and Rwandan broadcasting Agency agree to:

1. exchange, economic, social, cultural and technological programs in the English language
2. Cooperate in the exchange of audio and video news and news items in the English language.

Article 10

Cooperation between Broadcasting Authority

The broadcasting authority of the two countries shall in a bid to foster better mutual cooperation, liaise with the intent to share and exchange experiences as they concern general broadcast, policy making, laws and regulations in tandem with the global practices.

Article 11

Competent Authorities

The Competent Authorities responsible for the implementation of this Agreement shall be the Government Communication Affairs Office of the Federal Democratic Republic of Ethiopia and the Ministry of Local Government of the Republic of Rwanda.

Article 12

Establishment of Joint Technical Committee

1. The Parties will establish a Joint Technical Committee in order to coordinate and follow up the implementation of this Agreement.
2. The composition of the Joint Technical Committee will be determined by mutual agreement of the Parties through diplomatic channels.
3. The Joint Technical Committee will meet alternately in the Federal Democratic Republic of Ethiopia and in the Republic of Rwanda, at the request of one of the Parties.
4. The Joint Technical Committee will have the role of following and evaluating the current programs of cooperation and preparing new programs being able to include other fields of common interest.

Article 13

Validity of other Agreements

This Agreement shall not affect the validity of any obligation arising from other International Agreements, Conventions, Treaties or Protocols concluded by either of the Parties.

Article 14

Financial Arrangements

The financial arrangement of the activities made under this Agreement shall be determined by the Parties on case by case basis.

Article 15

Amendments

1. This Agreement may be amended by mutual consent of the Parties in writing by exchange of notes through diplomatic channels or by signing of a separate amendment agreements.
2. The amendment(s) agreed by the Parties shall enter into force in accordance with Article 16(1) of this Agreement.
3. The effective date of any such amendment(s) shall be the date of receipt of the last notification in accordance with article 16(1) of this Agreement.
4. The amendments made pursuant to sub article 1 and 2 of this article shall form an integral part of this Agreement.

Article 16

Dispute resolution

The Parties shall settle all issues concerning the interpretation and application of the provisions of this Agreement amicably by consultation or negotiations through diplomatic channels.

Article 17

Entry into Force, Duration and Termination

1. This Agreement shall enter into force on the date on which the Parties have notified each other in writing through the diplomatic channels that their respective internal procedures for entry into force of this Agreement have been fulfilled. The date of entry shall be the date of the receipt of the last written notification.
2. This Agreement shall remain valid for a period of five years and shall be automatically extended for additional period of one year unless terminated by either of the Parties giving six months prior notice of its intention to terminate to the other party, through diplomatic channels.

Article 18

Unexpired and Existing Obligations

Unless the Parties agree otherwise, at the expiration or termination of this Agreement, its provisions and the provision of any protocol or contract, made in this respect shall continue to govern whatever unexpired and existing obligations or projects commenced there under. Any such obligations or projects shall be carried on to conclusion.

IN WITNESS WHEREOF, the undersigned being duly authorized by their respective governments, have signed this Agreement in Duplicate in the English language, both texts being equally authentic.

Done at Kigali on this 28th day of the month of April in the year 2017.

FOR THE GOVERNMENT OF THE REPUBLIC OF RWANDA	FOR THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA
Hon. Francis KABONEKA	H.E. Dr. Negeri Lencho, Minister, Government
Minister of Local Government	Communications Affairs Office of FDRE

Bibonywe kugira ngo bishyirwe ku mugereka w'Itegeko nº 023/2019 ryo ku wa 04/09/2019 ryemeza burundu Amasezerano y'Ubufatanye hagati ya Guverinoma ya Repubulika y'u Rwanda na Guverinoma ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Ethiopia, mu byerekeye Itumanaho, Amakuru n'Itangazamakuru yakorewe i Kigali ku wa 28 Mata 2017

Kigali, ku wa 04/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Law nº 023/2019 of 04/09/2019 ratifying the Cooperation Agreement between the Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia, in the field of Communication, Information and Media, done at Kigali on 28 April 2017

Kigali, on 04/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à la Loi nº 023/2019 du 04/09/2019 ratifiant l'Accord de Coopération entre le Gouvernement de la République du Rwanda et le Gouvernement de la République Fédérale Démocratique d'Éthiopie, dans le domaine de la Communication, de l'Information et des Média, fait à Kigali le 28 avril 2017

Kigali, le 04/09/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEGEKO N° 024/2019 RYO KU WA 04/09/2019 RYEMERA KWEMEZA BURUNDU AMASEZERANO Y'AFURIKA YUNZE UBUMWE YEREKEYE GUCUNGA UMUTEKANO W'IBIJYANYE N'IKORANABUHANGA N'AMAKURU Y'UMUNTU BWITE ABIKWA MURI MUDASOBWA YEMEREJWE I MALABO MURI GINEYA EKWATORIYALE, KU WA 27 KAMENA 2014

LAW N° 024/2019 OF 04/09/2019 APPROVING THE RATIFICATION OF THE AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION ADOPTED AT MALABO, EQUATORIAL GUINEA ON 27TH JUNE 2014

LOI N° 024/2019 DU 04/09/2019 APPROUVANT LA RATIFICATION DE LA CONVENTION DE L'UNION AFRICAINE SUR LA CYBER SÉCURITÉ ET LA PROTECTION DES DONNÉES À CARACTÉRE PERSONNEL ADOPTÉE À MALABO, GUINÉE ÉQUATORIALE LE 27 JUIN 2014

ISHAKIRO

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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

INTEKO ISHINGA AMATEGEKO YEMEJE, NONE NATWE DUHAMIJE, DUTANGAJE ITEGEKO RITEYE RITYA KANDI DUTEGETSE KO RYANDIKWA MU IGAZETI YA LETA YA REPUBULIKA Y'U RWANDA

INTEKO ISHINGA AMATEGEKO:

Umutwe w'Abadepite, mu nama yawo yo ku wa 24 Nyakanga 2019;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu

LAW N° 024/2019 OF 04/09/2019 APPROVING THE RATIFICATION OF THE AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION ADOPTED AT MALABO, EQUATORIAL GUINEA ON 27TH JUNE 2014

We, KAGAME Paul,
President of the Republic;

THE PARLIAMENT HAS ADOPTED AND WE SANCTION, PROMULGATE THE FOLLOWING LAW AND ORDER IT BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA

THE PARLIAMENT:

The Chamber of Deputies, in its session of 24 July 2019;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 64, 69, 70, 85,

LOI N° 024/2019 DU 04/09/2019 APPROUVANT LA RATIFICATION DE LA CONVENTION DE L'UNION AFRICAINE SUR LA CYBER SÉCURITÉ ET LA PROTECTION DES DONNÉES À CARACTÉRE PERSONNEL ADOPTÉE À MALABO, GUINÉE ÉQUATORIALE LE 27 JUIN 2014

Nous, KAGAME Paul,
Président de la République;

LE PARLEMENT A ADOPTÉ ET NOUS SANCTIONNONS, PROMULGUONS LA LOI DONT LA TENEUR SUIT ET ORDONNONS QU'ELLE SOIT PUBLIÉE AU JOURNAL OFFICIEL DE LA RÉPUBLIQUE DU RWANDA

LE PARLEMENT:

La Chambre des Députés, en sa séance du 24 juillet 2019;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 64, 69, 70, 85,

ngingo zaryo, iya 64, iya 69, iya 70, iya 85, iya 87, iya 88, iya 90, iya 91, iya 93, iya 94, iya 95, iya 106, iya 120, iya 167, iya 168 n'iya 176;

87, 88, 90, 91, 93,94, 95, 106, 120, 167, 168 and 176;

87, 88, 90, 91,93, 94, 95, 106, 120, 167, 168 et 176;

Imaze gusuzuma Amasezerano y'Afurika Yunze Ubumwe yerekeye gucunga umutekano w'ibijyanye n'ikoranabuhanga n'amakuru y'umuntu bwite abikwa muri mudasobwa yamerejwe i Malabo, muri Gineya Ekwatoriyale ku wa 27 Kamena 2014;

After consideration of the African Union Convention on Cyber Security and Personal Data Protection adopted at Malabo, Equatorial Guinea on 27th June 2014;

Après examen de la Convention de l'Union Africaine sur la cyber sécurité et la protection des données à caractère personnel adoptée à Malabo, en Guinée Équatoriale le 27 Juin 2014;

YEMEJE:

ADOPTS:

ADOPTE:

Ingingo ya mbere: Kwemera kwemeza burundu

Article One: Approval for ratification

Article premier: Approbation pour ratification

Amasezerano y'Africa Yunze Ubumwe yerekeye gucunga umutekano w'ibijyanye n'ikoranabuhanga n'amakuru y'umuntu bwite abikwa muri mudasobwa yemerejwe i Malabo, muri Gineya Ekwatoriyale ku wa 27 Kamena 2014, ari kumugereka, yemerewe kwemezwa burundu.

The African Union Convention on Cyber Security and Personal Data Protection adopted at Malabo, Equatorial Guinea on 27th June 2014, in annex, is approved for ratification.

La Convention de l'Union Africaine sur la cyber sécurité et la protection des données à caractère personnel adoptée à Malabo, en Guinée Équatoriale le 27 Juin 2014, annexé à la présente loi, est approuvé pour ratification.

Ingingo ya 2: Itegurwa, isuzumwa n'itorwa by'iri tegeko

Article 2: Drafting, consideration and adoption of this Law

Article 2: Initiation, examen et adoption de la présente loi

Iri tegeko ryateguwe, risuzumwa kandi ritorwa mu rurimi rw'Ikinyarwanda.

This Law was drafted, considered and adopted in Ikinyarwanda.

La présente loi a été initiée, examinée et adoptée en Ikinyarwanda.

Ingingo ya 3: Igihe iri tegeko ritangira gukurikizwa

Iri tegeko ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 04/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Article 3: Commencement

This Law comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 04/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Article 3: Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 04/09/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W' ITEGEKO N° 024/2019 RYO KU WA 04/09/2019 RYEMERA KWEMEZA BURUNDU AMASEZERANO Y'AFURIKA YUNZE UBUMWE YEREKEYE GUCUNGA UMUTEKANO W'IBIJYANYE N'IKORANABUHANGA N'AMAKURU Y'UMUNTU BWITE ABIKWA MURI MUDASOBWA YEMEREJWE I MALABO MURI GINEYA EKWATORIYALE, KU WA 27 KAMENA 2014

ANNEX TO THE LAW N° 024/2019 OF 04/09/2019 APPROVING THE RATIFICATION OF THE AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION ADOPTED AT MALABO, EQUATORIAL GUINEA ON 27TH JUNE 2014

ANNEXE À LA LOI N° 024/2019 DU 04/09/2019 APPROUVANT LA RATIFICATION DE LA CONVENTION DE L'UNION AFRICAINE SUR LA CYBER SÉCURITÉ ET LA PROTECTION DES DONNÉES À CARACTÉRE PERSONNEL ADOPTÉE À MALABO, GUINÉE ÉQUATORIALE, LE 27 JUIN 2014

AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION

PREAMBLE

The Member States of the African Union:

Guided by the Constitutive Act of the African Union adopted in 2000;

Considering that this Convention on the Establishment of a Legal Framework for **Cyber-security and Personal Data Protection** embodies the existing commitments of African Union Member States at sub-regional, regional and international levels to build the Information Society,

Recalling that it aims at defining the objectives and broad orientations of the Information Society in Africa and strengthening existing legislations on Information and Communication Technologies (ICTs) of Member States and the Regional Economic Communities (RECs);

Reaffirming the commitment of Member States to fundamental freedoms and human and peoples' rights contained in the declarations, conventions and other instruments adopted within the framework of the African Union and the United Nations;

Considering that the establishment of a regulatory framework on cyber-security and personal data protection takes into account the requirements of respect for the rights of citizens, guaranteed under the fundamental texts of domestic law and protected by international human rights Conventions and Treaties, particularly the African Charter on Human and Peoples' Rights;

Mindful of the need to mobilize all public and private actors (States, local communities, private sector enterprises, civil society organizations, the media, training and research institutions, etc.) for the promotion of cyber security;

Reiterating the principles of the African Information Society Initiative (AISI) and the Regional Action Plan on the Knowledge Economy (ARAPKE);

Aware that it is meant to regulate a particularly evolving technological domain, and with a view to meeting the high expectations of many actors with often divergent interests, **this convention** sets forth the security rules essential for establishing a credible digital space for electronic transactions, personal data protection and combating cybercrime;

Bearing in mind that the major **obstacles** to the development of electronic commerce in Africa are linked to security issues, particularly:

a) The gaps affecting the regulation of legal recognition of data communications and electronic signature;

b) The absence of specific legal rules that protect consumers, intellectual property rights, personal data and information systems;

c) The absence of e-services and telecommuting legislations;

d) The application of electronic techniques to commercial and administrative acts;

e) The probative elements introduced by digital techniques (time stamping, certification, etc.);

f) The rules applicable to cryptology devices and services;

g) The oversight of on-line advertising;

h) The absence of appropriate fiscal and customs legislations for electronic commerce;

Convinced that the afore-listed observations justify the call for the establishment of an appropriate normative framework consistent with the African legal, cultural, economic and social environment; and that the objective of this Convention is therefore to provide the necessary security and legal framework for the emergence of the knowledge economy in Africa;

Stressing that at another level, the protection of personal data and private life constitutes a major challenge to the Information Society for governments as well as other stakeholders; and that such protection requires a balance between the use of information and communication technologies and the protection of the privacy of citizens in their daily or professional lives, while guaranteeing the free flow of information;

Concerned by the urgent need to establish a mechanism to address the dangers and risks deriving from the use of electronic data and individual records, with a view to respecting privacy and freedoms while enhancing the promotion and development of ICTs in Member States of the African Union;

Considering that the goal of this Convention is to address the need for harmonized legislation in the area of cyber security in Member States of the African Union, and to establish in each State party a mechanism capable of combating violations of privacy that may be generated by personal data collection, processing, transmission, storage and use; that by proposing a type of institutional basis, the Convention guarantees that whatever form of processing is used shall respect the basic freedoms and rights of individuals while also taking into account the prerogatives of States, the rights of local communities and the interests of businesses; and take on board internationally recognized best practices;

Considering that the protection under criminal law of the system of values of the information society is a necessity prompted by security considerations; that is

reflected primarily by the need for appropriate criminal legislation in the fight against cybercrime in general, and money laundering in particular;

Aware of the need, given the current state of cybercrime which constitutes a real threat to the security of computer networks and the development of the Information Society in Africa, to define broad guidelines of the strategy for the repression of cybercrime in Member States of the African Union, taking into account their existing commitments at sub-regional, regional and international levels;

Considering that this Convention seeks, in terms of substantive criminal law, to modernize instruments for the repression of cybercrime by formulating a policy for the adoption of new offences specific to ICTs, and aligning certain offences, sanctions and criminal liability systems in force in Member States with the ICT environment;

Considering further that in terms of criminal procedural law, the Convention defines the framework for the adaptation of standard proceedings concerning information and telecommunication technologies and spells out the conditions for instituting proceedings specific to cybercrime;

Recalling Decision Assembly/AU/Decl.1(XIV) of the Fourteenth Ordinary Session of the Assembly of Heads of State and Government of the African Union on Information and Communication Technologies in Africa: Challenges and Prospects for Development, held in Addis Ababa, Ethiopia from 31 January to 2 February 2010;

Taking into account the Oliver Tambo Declaration adopted by the Conference of African Ministers in charge of Information and Communication Technologies held in Johannesburg, South Africa on 5 November 2009;

Recalling the provisions of the Abidjan Declaration adopted on 22 February 2012 and the Addis Ababa Declaration adopted on 22 June 2012 on the Harmonization of Cyber Legislation in Africa.

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Convention:

AU means the African Union;

Child pornography means any visual depiction, including any photograph, film, video, image, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

a) the production of such visual depiction involves a minor;

b) such visual depiction is a digital image, computer image, or computer-generated image where a minor is engaging in sexually explicit conduct or when images of their sexual organs are produced or used for primarily sexual purposes and exploited with or without the child's knowledge;

c) such visual depiction has been created, adapted, or modified to appear that a minor is engaging in sexually explicit conduct.

Code of conduct means set of rules formulated by the processing official with a view to establishing the correct use of computer resources, networks and the electronic communication of the structure concerned, and approved by the protection authority;

Commission means the African Union Commission;

Communication with the public by electronic means refers to any provision to the public or segments of the public, of signs, signals, written material, image, audio or any messages of any type, through an electronic or magnetic communication process;

Computer system means an electronic, magnetic, optical, electrochemical, or other high speed data processing device or a group of interconnected or related devices performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device or devices;

Computerized data means any representation of facts, information or concepts in a form suitable for processing in a computer system;

Consent of data subject means any manifestation of express, unequivocal, free, specific and informed will by which the data subject or his/her legal, judicial or treaty representative accepts that his/her personal data be subjected to manual or electronic processing;

The (or this) Convention means the African Union Convention on Cyber-security and Personal Data Protection;

Critical Cyber/ICT Infrastructure means the cyber infrastructure that is essential to vital services for public safety, economic stability, national security, international stability and for the sustainability and restoration of critical cyberspace;

Cryptology activity means all such activity that seeks to produce, use, import, export or market cryptology tools;

Cryptology means the science of protecting and securing information particularly for the purpose of ensuring confidentiality, authentication, integrity and non-repudiation;

Cryptology tools means the range of scientific and technical tools (equipment or software) which allows for enciphering and/or deciphering;

Cryptology service refers to any operation that seeks to implement cryptology facilities on behalf of oneself or another person;

Cryptology services provider means any natural or legal person who provides cryptology services;

Damage any impairment to the integrity or availability of data, a program, a system, or information;

Data controller means any natural or legal person, public or private, any other organization or association which alone or jointly with others, decides to collect and process personal data and determines the purposes;

Data subject means any natural person that is the subject of personal data processing;

Direct marketing means the dispatch of any message that seeks to directly or indirectly promote the goods and services or the image of a person selling such goods or providing such services; it also refers to any solicitation carried out through message dispatch, regardless of the message base or nature, especially messages of a commercial, political or charitable nature, designed to promote, directly or indirectly, goods and services or the image of a person selling the goods or providing the services;

Double criminality (dual criminality) means a crime punished in both the country where a suspect is being held and the country asking for the suspect to be handed over or transferred to;

Electronic communication means any transmission of signs, signals, written material, pictures, sounds or messages of whatsoever nature, to the public or a section of the public by electronic or magnetic means of communication;

Electronic Commerce (e-commerce): means the act of offering, buying, or providing goods and services via computer systems and telecommunications networks such as the Internet or any other network using electronic, optical or similar media for distance information exchange;

Electronic mail means any message in the form of text, voice, sound or image sent by a public communication network, and stored in a server of the network or in a terminal facility belonging to the addressee until it is retrieved;

Electronic signature means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication;

Electronic signature verification device means a set of software or hardware components allowing the verification of electronic signature;

Electronic signature creation device means a set of software or hardware elements allowing for the creation of an electronic signature(s);

Encryption means all techniques consisting in the processing of digital data in an unintelligible format using cryptology tools;

Exceeds authorized access means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter;

Health data means all information relating to the physical or mental state of the data subject, including the aforementioned genetic data;

Indirect electronic communication means any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient's terminal equipment until it is collected by the recipient;

Information means any element of knowledge likely to be represented with the aid of devices and to be used, conserved, processed or communicated. Information may be expressed in written, visual, audio, digital and other forms;

Interconnection of personal data means any connection mechanism that harmonizes processed data designed for a set goal with other data processed for goals that are identical or otherwise, or interlinked by one or several processing official(s);

Means of electronic payment refers to means by which the holder is able to make electronic payment transactions online;

Member State or Member States means Member State(s) of the African Union;
Child or Minor means every human being below the age of eighteen (18) years in terms of the African Charter on the Rights and Welfare of the Child and the United Nations Convention on the Rights of the Child respectively;

Personal data means any information relating to an identified or identifiable natural person by which this person can be identified, directly or indirectly in particular by reference to an identification number or to one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity;

Personal data file means all structured package of data accessible in accordance with set criteria, regardless of whether or not such data are centralized, decentralized or distributed functionally or geographically;

Processing of Personal Data means any operation or set of operations which is performed upon personal data, whether or not by automatic means such as the collection, recording, organization, storage, adaptation, alteration, retrieval, backup, copy, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination and locking, encryption, erasure or destruction of personal data;

Racism and xenophobia in information and telecommunication technologies means any written material, picture or any other representation of ideas or theories which advocates or encourages or incites hatred, discrimination or violence against any person or group of persons for reasons based on race, colour, ancestry, national or ethnic origin or religion;

Recipient of processed personal data means any person entitled to receive communication of such data other than the data subject, the data controller, the sub-contractor and persons who, for reasons of their functions, have the responsibility to process the data;

Secret conventions means unpublished codes required to implement a cryptology facility or service for the purpose of enciphering or deciphering operations;

Sensitive data means all personal data relating to religious, philosophical, political and trade-union opinions and activities, as well as to sex life or race, health, social measures, legal proceedings and penal or administrative sanctions;

State Party or State Parties means Member State(s), which has (have) ratified or acceded to the present Convention;

Sub-contractor means any natural or legal person, public or private, any other organization or association that processes data on behalf of the data controller;

Third Party means a natural or legal person, public authority, agency or body, other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor are authorized to process the data.

CHAPTER I
ELECTRONIC TRANSACTIONS

Section I: Electronic Commerce

Article 2
Scope of application of electronic commerce

1. States Parties shall ensure that e-commerce activities are exercised freely in *their territories except* :

   a) Gambling, even in the form of legally authorized betting and lotteries;

   b) Legal representation and assistance activities;

   c) Activities exercised by notaries or equivalent authorities in application of extant texts.

2. Without prejudice to other information obligations defined by extant legislative and regulatory texts in African Union Member States, State Parties shall ensure that any person exercising e-commerce activities shall provide to those for whom the goods and services are meant, easy, direct and uninterrupted access using non-proprietary standards with regard to the following information:

   a) Where a physical person is involved, the provider shall indicate his/her name and where it is a legal person, its corporate name; its capital, its registration number in the register of companies or associations;

   b) Full address of the place of establishment, electronic mail address and telephone number;

   c) Where the person is subject to business registration formalities or registration in the national directory of businesses and associations, the registration number, the share capital and corporate headquarters;

   d) Where the person is subject to taxes, the tax identification number;

   e) Where his/her activity is subject to a licensing regime, the name and address of the issuing authority, and the reference of the authorization;

   f) Where the person is member of a regulated profession, the applicable professional rules, his/her professional title, the African Union State Party in which he/she was granted such authorization, as well as the name of the order or professional body with which he/she is registered.

3. Any natural or legal person involved in e-commerce activities, even in the absence of contractual offers, provided the person has posted a price for the said activities, shall clearly and unambiguously indicate such a price, particularly where it includes taxes, delivery and other charges.

Article 3
Contractual liability of the provider of goods and services by electronic means

E-commerce activities are subject to the law of the State Party in whose territory the person exercising such activity is established, subject to the intention expressed in common by the said person and the recipient of the goods or services.

Article 4
Advertising by electronic means

1. Without prejudice to Article 3 any advertising action, irrespective of its form, accessible through an online communication service, shall be clearly identified as such. It shall clearly identify the individual or corporate body on behalf of whom it is undertaken.

2. The conditions governing the possibility of promotional offers as well as the conditions for participating in promotional competitions or games where such offers, competitions or games are electronically disseminated, shall be clearly spelt out and easily accessible.

3. State Parties shall prohibit direct marketing through any kind of indirect communication using, in any form, the particulars of an individual who has not given prior consent to receiving the said direct marketing through such means.

4. The provisions of Article 4.2. above notwithstanding, direct marketing by electronic mail shall be permissible where:

   a) The particulars of the addressee have been obtained directly from him/her;
   b) The recipient has given consent to be contacted by the marketing partners;
   c) The direct marketing concerns similar products or services provided by the same individual or corporate body

5. State Parties shall prohibit the transmission, for the purposes of direct marketing, of messages by means of any form of indirect electronic communication without indicating valid particulars to which the addressee may send a request to stop such communications without incurring charges other than those arising from the transmission of such a request.

6. State Parties undertake to prohibit concealment of the identity of the person on whose behalf the advertisement accessed by an online communication service is issued.

Section II: Contractual Obligations in Electronic Form

Article 5
Electronic contracts

1. The information requested for the purpose of concluding a contract or information available during contract execution may be transmitted by electronic means if the recipients have agreed to the use of that means. The use of electronic communications is presumed to be acceptable unless the recipient has previously expressly stated a preference for an alternative means of communication.

2. A service provider or supplier, who offers goods and services in a professional capacity by electronic means, shall make available the applicable contractual conditions directly or indirectly, in a way that facilitates the conservation and reproduction of such conditions according to national legislations.

3. For the contract to be validly concluded, the offeree shall have had the opportunity to verify details of his/her order, particularly the price thereof, prior to confirming the said order and signifying his/her acceptance.

4. The person offering his/her goods and services shall acknowledge receipt of the order so addressed to him/her without unjustified delay and by electronic means.

   The order, the confirmation of acceptance of an offer and the acknowledgment of receipt are deemed to be received when the parties to whom they are addressed are able to access to them.

5. Exemptions may be made to the provisions of Articles 5.3 and 5.4 of this Convention for agreements concluded between businesses or professionals (B2B).

6. a) Any natural or legal person engaged in the activity defined in the first paragraph of Article 2.1 of this Convention shall, *ipso facto*, be accountable to his/her contractual partner for the proper performance of the obligations arising from the contract, irrespective of whether such obligations are to be carried out by himself/herself or by other service providers, without prejudice to his/her right to claim against the said service providers.

   b) However, the natural or legal person may be released from all or part of the liability by proving that the non-fulfilment or poor performance of the contract is due either to the contractual partner or a case of *force majeure*.

Article 6
Writing in electronic form

1. Without prejudice to existing domestic legislative provisions in the State Party, no person shall be compelled to take legal action by electronic means.

   a) Where a written document shall be required for the validity of a legal act each State Party shall establish the legal conditions for functional equivalence between electronic communications and paper-based documents, when the internal regulations require a written document for the validity of a legal act.

   b) Where a paper document has been subject to specific conditions as to legibility or presentation, the written document in electronic form shall be subject to the same conditions.

   c) The requirement to transmit several copies of a written document shall be deemed to have been met in electronic form, where the said written document can be reproduced in material form by the addressee.

2. The provisions of Article 6.2 of this Convention do not apply to the following:

   a) Signed private deeds relating to family law and law of succession; and

   b) Acts under private signature relating to personal or real guarantees in accordance with domestic legislations, whether made under civil or commercial law, unless they are entered into by a person for the purposes of his/her profession.

3. The delivery of a written document in electronic form shall be effective when the addressee takes due note and acknowledges receipt thereof.

4. Given their tax functions, invoices must be in writing to ensure the readability, integrity and sustainability of the content. The authenticity of the origin must also be guaranteed.

   Among the methods that may be implemented to fulfil the tax purposes of the invoice and to ensure that its functions have been met is the establishment of management controls which create a reliable audit trail between an invoice and a supply of goods or services.

   In addition to the type of controls described in § 1, the following methods are examples of technologies that ensure the authenticity of origin and integrity of content of an electronic invoice:

   a) a qualified electronic signature as defined in Article 1;

   b) electronic data interchange (EDI), understood as the electronic transfer, from computer to computer, of commercial and administrative data in the

form of an EDI message structured according to an agreed standard, provided that the agreement to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and data integrity.

5. A written document in electronic form is admissible in evidence in the same way as a paper-based document, and shall have the same force of law, provided that the person from whom it originates can be duly identified and that it has been made out and retained in a manner that guarantees its integrity.

Section III: Security of Electronic Transactions

Article 7
Ensuring the Security of Electronic Transactions

1. a) The supplier of goods shall allow his/her clients to make payments using electronic payment methods approved by the State according to the regulations in force in each State Party.

   b) The supplier of goods or provider of services by electronic means who claims the discharge of an obligation must prove its existence or otherwise prove that the obligation was discharged or did not exist.

2. Where the legislative provisions of State Parties have not laid down other principles, and where there is no valid agreement between the parties, the judge shall resolve proof related conflicts by determining by all possible means the most plausible claim regardless of the message base employed.

3. a) A copy or any other reproduction of contracts signed by electronic means shall have the same probative value as the contract itself, where the said copy has been certified as a true copy of the said act by bodies duly accredited by an authority of the State Party.

   b) Certification will result in the issuance, where necessary, of a certificate of conformity.

4. a) An electronic signature created by a secure device which the signatory is able to keep under his exclusive control and is appended to a digital certificate shall be admissible as signature on the same terms as a handwritten signature.

   b) The reliability of the procedure is presumed, unless otherwise proven, if the electronic signature is generated by a secure signature creation device, the integrity of the act is guaranteed and the identification of the signatory is ensured.

CHAPTER II
PERSONAL DATA PROTECTION

Section I: Personal data protection

Article 8
Objective of this Convention with respect to personal data

1. Each State Party shall commit itself to establishing a legal framework aimed at strengthening fundamental rights and public freedoms, particularly the protection of physical data, and punish any violation of privacy without prejudice to the principle of free flow of personal data.

2. The mechanism so established shall ensure that any form of data processing respects the fundamental freedoms and rights of natural persons while recognizing the prerogatives of the State, the rights of local communities and the purposes for which the businesses were established.

Article 9
Scope of application of the Convention

1. The following actions shall be subject to this Convention:

   a) Any collection, processing, transmission, storage or use of personal data by a natural person, the State, local communities, and public or private corporate bodies;

   b) Any automated or non-automated processing of data contained in or meant to be part of a file, with the exception of the processing defined in Article 9.2 of this Convention;

   c) Any processing of data undertaken in the territory of a State Party;

   d) Any processing of data relating to public security, defence, research, criminal prosecution or State security, subject to the exceptions defined by specific provisions of other extant laws.

2. This Convention shall not be applicable to:

   a) Data processing undertaken by a natural person within the exclusive context of his/her personal or household activities, provided however that such data are not for systematic communication to third parties or for dissemination;

   b) Temporary copies produced within the context of technical activities for transmission and access to a digital network with a view to automatic, intermediate and temporary storage of data and for the sole purpose of

offering other beneficiaries of the service the best possible access to the information so transmitted.

Article 10
Preliminary personal data processing formalities

1. The following actions shall be exempted from the preliminary formalities:

   a) The processing mentioned in Article 9.2 of this Convention;

   b) Processing undertaken with the sole objective of maintaining a register meant exclusively for private use;

   c) Processing undertaken by a non-profit making association or body, with a religious, philosophical, political or trade union aim, provided that the data are consistent with the objective of the said association or body structure, and relate solely to its members, and that the data are not disclosed to a third party.

2. With the exception of the cases defined in Article 10.1 above and in Article 10.4 and 10.5 of this Convention, personal data processing shall be subject to a declaration before the protection authority.

3. With regard to the most common categories of personal data processing which are not likely to constitute a breach of privacy or individual freedoms, the protection authority may establish and publish standards with a view to simplifying or introducing exemptions from the obligation to make a declaration.

4. The following actions shall be undertaken after authorization by the national protection authority:

   a) Processing of personal data involving genetic information and health research;

   b) Processing of personal data involving information on offenses, convictions or security measures;

   c) Processing of personal data for the purpose of interconnection of files as defined in Article 15 of this Convention, data processing involving national identification number or any other identifier of the same type;

   d) Processing of personal data involving biometric data;

   e) Processing of personal data of public interest, particularly for historical, statistical or scientific purposes.

5. Personal data processing undertaken on behalf of the Government, a public institution, a local community, a private corporate body operating a public

service, shall be in accordance with a legislative or regulatory act enacted after an informed advice of the protection authority.

Such data processing is related to:

a) State security, defence or public security;

b) Prevention, investigation, detection or prosecution of criminal offences, or execution of criminal convictions or security measures;

c) Population survey;

d) Personal data directly or indirectly revealing racial, ethnic or regional origin, affiliation, political, philosophical or religious beliefs or trade union membership of persons, or data concerning health or sex life.

6. Requests for opinion, declarations and applications for authorization shall indicate:

a) The identity and address of the data controller or, where he/she is not established in the territory of a State Party of the African Union, the identity and address of his/her duly mandated representative;

b) The purpose(s) of the processing and a general description of its functions;

c) The interconnections envisaged or all other forms of harmonization with other processing activities;

d) The personal data processed, their origin and the category of persons involved in the processing;

e) Period of conservation of the processed data;

f) The service or services responsible for carrying out the processing as well as the category of persons who, due to their functions or service requirements, have direct access to registered data;

g) The recipients authorized to receive data communication;

h) The function of the person or the service before which the right of access is to be exercised;

i) Measures taken to ensure the security of processing actions and of data;

j) Indication regarding use of a sub-contractor;

k) Envisaged transfer of personal data to a third country that is not a member of the African Union, subject to reciprocity.

7. The national protection authority shall take a decision within a set timeframe starting from the date of receipt of the request for opinion or authorization.

Such timeframe may however be extended or not on the basis of an informed decision of the national protection authority.

8. The notification, the declaration or request for authorization may be addressed to the national protection authority by electronic means or by post.

9. The national protection authority may be approached by any person acting on his/her own, or through a lawyer or any other duly mandated natural or legal person.

Section II: Institutional framework for the protection of personal data

Article 11
Status, composition and organization of National Personal Data Protection Authorities

1. a) Each State Party shall establish an authority in charge of protecting personal data.

   b) The national protection authority shall be an independent administrative authority with the task of ensuring that the processing of personal data is conducted in accordance with the provisions of this Convention.

2. The national protection authority shall inform the concerned persons and the processing officials of their rights and obligations.

3. Without prejudice to Article 11.6, each State Party shall determine the composition of the national personal data protection authority.

4. Sworn officials may be invited to participate in audit missions in accordance with extant provisions in States Parties.

5. a) Members of the national protection authority shall be subject to the obligation of professional secrecy in accordance with the extant texts of each State Party.

   b) Each national protection authority shall formulate rules of procedure containing, *inter alia*, rules governing deliberations, processing and presentation of cases.

6. Membership of the national protection authority shall be incompatible with membership of Government, carrying out the functions of business executive and ownership of shares in businesses in the information and communication technologies sector.

7. a) Without prejudice to national legislations, members of the national protection authority shall enjoy full immunity for opinions expressed in the pursuit, or in connection with the pursuit of their duties.

   b) Members of the national protection authority shall not receive instructions from any other authority in the performance of their duties.

8. State Parties shall undertake to provide the national protection authority with the human, technical and financial resources necessary to accomplish their mission.

Article 12
Duties and Powers of National Protection Authorities

1. The national protection authority shall ensure that the processing of personal data is consistent with the provisions of this Convention within State Parties of the African Union.

2. The national protection authorities shall ensure that Information and Communication Technologies do not constitute a threat to public freedoms and the private life of citizens. To this end, they are responsible for:

   a) Responding to every request for an opinion regarding personal data processing;

   b) Informing the persons concerned and data controllers of their rights and obligations;

   c) In a number of cases, authorize the processing of data files, particularly sensitive files;

   d) Receiving the preliminary formalities for personal data processing;

   e) Entertaining claims, petitions and complaints regarding the processing of personal data and informing the authors of the results thereof;

   f) Speedily informing the judicial authority of certain types of offences that have come to their attention;

   g) Undertaking the audit of all processed personal data, through its officials or sworn officials;

   h) Imposing administrative and monetary sanctions on data controllers;

   i) Updating a processed personal data directory that is accessible to the public;

   j) Advising persons and bodies engaged in personal data processing or in carrying out tests and experiments likely to result in data processing;

k) Authorizing trans-border transfer of personal data;

l) Making suggestions that could simplify and improve legislative and regulatory frameworks for data processing;

m) Establishing mechanisms for cooperation with the personal data protection authorities of third countries;

n) Participating in international negotiations on personal data protection;

o) Preparing an activity report in accordance with a well-defined periodicity, for submission to the appropriate authorities of the State Party.

3. The national protection authorities may decide on the following measures:

a) Issuance of warning to any data controller that fails to comply with the obligations resulting from this Convention;

b) An official warning letter to stop such breaches within a timeframe set by the authority.

4. Where the data controller fails to comply with the official warning letter addressed to him/her, the national protection authority may impose the following sanctions after adversary proceedings:

a) Temporary withdrawal of the authorization granted;

b) Permanent withdrawal of the authorization;

c) Monetary fine.

5. In cases of emergency, where the processing or use of personal data results in violation of fundamental rights and freedoms, the national protection authority may, after adversary proceedings, decide as follows:

a) Discontinuation of data processing;

b) Blocking of some of the personal data processed;

c) Temporary or permanent prohibition of any processing at variance with the provisions of this Convention.

6. The sanctions imposed and decisions taken by national protection authorities are subject to appeal.

Section III: Obligations relating to conditions governing personal data processing

Article 13
Basic principles governing the processing of personal data

Principle 1: Principle of consent and legitimacy of personal data processing

Processing of personal data shall be deemed to be legitimate where the data subject has given his/her consent. This requirement of consent may however be waived where the processing is necessary for:

a) Compliance with a legal obligation to which the controller is subject;

b) Performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed;

c) Performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

d) Protect the vital interests or fundamental rights and freedoms of the data subject.

Principle 2: Principle of lawfulness and fairness of personal data processing

The collection, recording, processing, storage and transmission of personal data shall be undertaken lawfully, fairly and non-fraudulently.

Principle 3: Principle of purpose, relevance and storage of processed personal data

a) Data collection shall be undertaken for specific, explicit and legitimate purposes, and not further processed in a way incompatible with those purposes;

b) Data collection shall be adequate, relevant and not excessive in relation to the purposes for which they are collected and further processed;

c) Data shall be kept for no longer than is necessary for the purposes for which the data were collected or further processed;

d) Beyond the required period, data may be stored only for the specific needs of data processing undertaken for historical, statistical or research purposes under the law.

Principle 4: Principle of accuracy of personal data

Data collected shall be accurate and, where necessary, kept up to date. Every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified

Principle 5: Principle of transparency of personal data processing

The principle of transparency requires mandatory disclosure of information on personal data by the data controller.

Principle 6: Principle of confidentiality and security of personal data processing

a) Personal data shall be processed confidentially and protected, in particular where the processing involves transmission of the data over a network;

b) Where processing is undertaken on behalf of a controller, the latter shall choose a processor providing sufficient guarantees. It is incumbent on the controller and processor to ensure compliance with the security measures defined in this Convention.

Article 14
Specific principles for the processing of sensitive data

1. State Parties shall undertake to prohibit any data collection and processing revealing racial, ethnic and regional origin, parental filiation, political opinions, religious or philosophical beliefs, trade union membership, sex life and genetic information or, more generally, data on the state of health of the data subject.

2. The prohibitions set forth in Article 14.1 shall not apply to the following categories where:

a) Processing relates to data which are manifestly made public by the data subject;

b) The data subject has given his/her written consent, by any means, to the processing and in conformity with extant texts;

c) Processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving his/her consent;

d) Processing, particularly of genetic data, is required for the establishment, exercise or defence of legal claims;

e) A judicial procedure or criminal investigation has been instituted;

f) Processing is necessary in the public interest, especially for historical, statistical or scientific purposes;

g) Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

h) Processing is necessary for compliance with a legal or regulatory obligation to which the controller is subject;

i) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority or assigned by a public authority vested in the controller or in a third party to whom data are disclosed;

j) Processing is carried out in the course of the legitimate activities of a foundation, association or any other non-profit making body with a political, philosophical, religious, cooperative or trade union aim, and on condition that the processing relates solely to the members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed to a third party without the consent of the data subjects.

3. Personal data processing for journalistic purposes or for the purpose of research or artistic or literary expression shall be acceptable where the processing is solely for literary and artistic expression or for professional exercise of journalistic or research activity, in accordance with the code of conduct of these professions.

4. The provisions of this Convention shall not preclude the application of national legislations with regard to the print media or the audio-visual sector, as well as the provisions of the criminal code which provide for the conditions for exercise of the right of reply, and which prevent, limit, compensate for and, where necessary, repress breaches of privacy and damage to personal reputation.

5. A person shall not be subject to a decision which produces legal effects concerning him/her or significantly affects him/her to a substantial degree, and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to him/her.

6. a) The data controller shall not transfer personal data to a non-Member State of the African Union unless such a State ensures an adequate

level of protection of the privacy, freedoms and fundamental rights of persons whose data are being or are likely to be processed.

b) The previous prohibition is not applicable where, before any personal data is transferred to the third country, the data controller shall request authorization for such transfer from the national protection authority.

Article 15
Interconnection of personal data files

The interconnection of files laid down in Article 10.4 of this Convention should help to achieve the legal or statutory objectives which are of legitimate interest to data controllers. This should not lead to discrimination or limit data subjects' rights, freedoms and guarantees, should be subject to appropriate security measures, and also take into account the principle of relevance of the data which are to be interconnected.

Section IV: The Data Subjects' Rights

Article 16
Right to information

The data controller shall provide the natural person whose data are to be processed with the following information, no later than the time when the data are collected, and regardless of the means and facilities used, with the following information:

a) His/her identity and of his/her representative, if any;
b) The purposes of the processing for which the data are intended;
c) Categories of data involved;
d) Recipient(s) to which the data might be disclosed;
e) The capacity to request to be removed from the file;
f) Existence of the right of access to and the right to rectify the data concerning him/her;
g) Period for which data are stored;
h) Proposed transfers of data to third countries.

Article 17
Right of access

Any natural person whose personal data are to be processed may request from the controller, in the form of questions, the following:

a) Such information as would enable him/her to evaluate and object to the processing;

b) Confirmation as to whether or not data relating to him/her are being processed;

c) Communication to him/her of the personal data undergoing processing and any available information as to their source;

d) Information as to the purpose of the processing, the categories of personal data concerned, and the recipients or categories of recipients to whom the data are disclosed.

Article 18
Right to object

Any natural person has the right to object, on legitimate grounds, to the processing of the data relating to him/her.

He/she shall have the right to be informed before personal data relating to him/her are disclosed for the first time to third parties or used on their behalf for the purposes of marketing, and to be expressly offered the right to object, free of charge, to such disclosures or uses.

Article 19
Right of rectification or erasure

Any natural person may demand that the data controller rectify, complete, update, block or erase, as the case may be, the personal data concerning him/her where such data are inaccurate, incomplete, equivocal or out of date, or whose collection, use, disclosure or storage are prohibited.

Section V: Obligations of the Personal Data Controller

Article 20
Confidentiality obligations

Processing of personal data shall be confidential. Such processing shall be undertaken solely by persons operating under the authority of a data controller and only on instructions from the controller.

Article 21
Security obligations

The data controller must take all appropriate precautions, according to the nature of the data, and in particular, to prevent such data from being altered or destroyed, or accessed by unauthorized third parties.

Article 22
Storage obligations

Personal data shall be kept for no longer than is necessary for the purposes for which the data were collected or processed.

Article 23
Sustainability obligations

a) The data controller shall take all appropriate measures to ensure that processed personal data can be utilized regardless of the technical device employed in the process.

b) The processing official shall, in particular, ensure that technological changes do not constitute an obstacle to the said utilization.

CHAPTER III
PROMOTING CYBER SECURITY AND COMBATING CYBERCRIME

Section I: Cyber Security Measures to be taken at National Level

Article 24
National cyber security framework

1. National policy

Each State Party shall undertake to develop, in collaboration with stakeholders, a national cyber security policy which recognizes the importance of Critical Information Infrastructure (CII) for the nation identifies the risks facing the nation in using the all-hazards approach and outlines how the objectives of such policy are to be achieved.

2. National strategy

State Parties shall adopt the strategies they deem appropriate and adequate to implement the national cyber security policy, particularly in the area of legislative reform and development, sensitization and capacity-building, public-private partnership, and international cooperation, among other things. Such strategies shall define organizational structures, set objectives and timeframes for successful implementation of the cyber security policy and lay the foundation for effective management of cyber security incidents and international cooperation.

Article 25
Legal measures

1. Legislation against cybercrime

Each State Party shall adopt such legislative and/or regulatory measures as it deems effective by considering as substantive criminal offences acts which affect the confidentiality, integrity, availability and survival of information and communication technology systems, the data they process and the underlying network infrastructure, as well as effective procedural measures to pursue and prosecute offenders. State Parties shall take into consideration the choice of language that is used in international best practices.

2. National Regulatory Authorities

Each State Party shall adopt such legislative and/or regulatory measures as it deems necessary to confer specific responsibility on institutions, either newly established or pre-existing, as well as on the designated officials of the said institutions, with a view to conferring on them a statutory authority and legal capacity to act in all aspects of cyber security application, including but not limited to response to cyber security incidents, and coordination and cooperation in the field of restorative justice, forensic investigations, prosecution, etc.

3. Rights of citizens

In adopting legal measures in the area of cyber security and establishing the framework for implementation thereof, each State Party shall ensure that the measures so adopted will not infringe on the rights of citizens guaranteed under the national constitution and internal laws, and protected by international conventions, particularly the African Charter on Human and Peoples' Rights, and other basic rights such as freedom of expression, the right to privacy and the right to a fair hearing, among others.

4. Protection of critical infrastructure

Each State Party shall adopt such legislative and/or regulatory measures as they deem necessary to identify the sectors regarded as sensitive for their national security and well-being of the economy, as well as the information and communication technologies systems designed to function in these sectors as elements of critical information infrastructure; and, in this regard, proposing more severe sanctions for criminal activities on ICT systems in these sectors, as well as measures to improve vigilance, security and management.

Article 26
National cyber security system

1. Culture of Cyber Security

a) Each State Party undertakes to promote the culture of cyber security among all stakeholders, namely, governments, enterprises and the civil society, which develop, own, manage, operationalize and use information systems and networks. The culture of cyber security should lay emphasis on security in the development of information systems and networks, and on the adoption of new ways of thinking and behaving when using information systems as well as during communication or transactions across networks.

b) As part of the promotion of the culture of cyber security, State Parties may adopt the following measures: establish a cyber-security plan for the systems run by their governments; elaborate and implement programmes and initiatives for sensitization on security for systems and networks users; encourage the development of a cyber-security culture in enterprises; foster the involvement of the civil society; launch a comprehensive and detailed national sensitization programme for Internet users, small business, schools and children.

2. Role of Governments

Each State Party shall undertake to provide leadership for the development of the cyber security culture within its borders. Member States undertake to sensitize, provide education and training, and disseminate information to the public.

3. Public-Private Partnership

Each State Party shall develop public-private partnership as a model to engage industry, the civil society, and academia in the promotion and enhancement of a culture of cyber security.

4. Education and training

Each State Party shall adopt measures to develop capacity building with a view to offering training which covers all areas of cyber security to different stakeholders, and setting standards for the private sector.

States Parties undertake to promote technical education for information and communication technology professionals, within and outside government bodies, through certification and standardization of training; categorization of professional qualifications as well as development and needs-based distribution of educational material.

Article 27
National cyber security monitoring structures

1. Cyber security governance

a) Each State Party shall adopt the necessary measures to establish an appropriate institutional mechanism responsible for cyber security governance;

b) The measures adopted as per paragraph 1 of this Article shall establish strong leadership and commitment in the different aspects of cyber security institutions and relevant professional bodies of the State Party. To this end, State Parties shall take the necessary measures to:

i) Establish clear accountability in matters of cyber security at all levels of Government by defining the roles and responsibilities in precise terms;

ii) Express a clear, public and transparent commitment to cyber security;

iii) Encourage the private sector and solicit its commitment and participation in government-led initiatives to promote cyber security.

c) Cyber security governance should be established within a national framework that can respond to the perceived challenges and to all issues relating to information security at national level in as many areas of cyber security as possible.

2. Institutional framework

Each State Party shall adopt such measures as it deems necessary in order to establish appropriate institutions to combat cyber-crime, ensure monitoring and a response to incidents and alerts, national and cross-border coordination of cyber security problems, as well as global cooperation.

Article 28
International cooperation

1. Harmonization

State Parties shall ensure that the legislative measures and/or regulations adopted to fight against cyber-crime will strengthen the possibility of regional harmonization of these measures and respect the principle of double criminal liability.

2. Mutual legal assistance

State Parties that do not have agreements on mutual assistance in cyber-crime shall undertake to encourage the signing of agreements on mutual legal assistance in conformity with the principle of double criminal liability, while promoting the exchange of information as well as the efficient sharing of data between the organizations of State Parties on a bilateral and multilateral basis.

3. Exchange of information

State Parties shall encourage the establishment of institutions that exchange information on cyber threats and vulnerability assessment such as the Computer Emergency Response Team (CERT) or the Computer Security Incident Response Teams (CSIRTs).

4. Means of cooperation

State Parties shall make use of existing means for international cooperation with a view to responding to cyber threats, improving cyber security and stimulating dialogue between stakeholders. These means may be international, intergovernmental or regional, or based on private and public partnerships.

Section II : Criminal Provisions

Article 29
Offences specific to Information and Communication Technologies

1. Attacks on computer systems

State Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

a) Gain or attempt to gain unauthorized access to part or all of a computer system or exceed authorized access;

b) Gain or attempt to gain unauthorized access to part or all of a computer system or exceed authorized access with intent to commit another offence or facilitate the commission of such an offence;

c) Remain or attempt to remain fraudulently in part or all of a computer system;

d) Hinder, distort or attempt to hinder or distort the functioning of a computer system;

e) Enter or attempt to enter data fraudulently in a computer system;

f) Damage or attempt to damage, delete or attempt to delete, deteriorate or attempt to deteriorate, alter or attempt to alter, change or attempt to change computer data fraudulently.

State Parties further undertake to:

g) Adopt regulations compelling vendors of information and communication technology products to have vulnerability and safety guarantee assessments carried out on their products by independent experts and researchers, and disclose any vulnerabilities detected and the solutions recommended to correct them to consumers;

h) Take the necessary legislative and/or regulatory measures to make it a criminal offence to unlawfully produce, sell, import, possess, disseminate, offer, cede or make available computer equipment, program, or any device or data designed or specially adapted to commit offences, or unlawfully generate or produce a password, an access code or similar computerized data allowing access to part or all of a computer system.

2. Computerized Data Breaches

State Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

a) Intercept or attempt to intercept computerized data fraudulently by technical means during non-public transmission to, from or within a computer system;

b) Intentionally input, alter, delete, or suppress computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless of whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches;

c) Knowingly use data obtained fraudulently from a computer system;

d) Fraudulently procure, for oneself or for another person, any benefit by inputting, altering, deleting or suppressing computerized data or any other form of interference with the functioning of a computer system;

e) Even through negligence, process or have personal data processed without complying with the preliminary formalities for the processing;

f) Participate in an association formed or in an agreement established with a view to preparing or committing one or several of the offences provided for under this Convention.

3. Content related offences

1. State Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

   a) Produce, register, offer, manufacture, make available, disseminate and transmit an image or a representation of child pornography through a computer system;

   b) Procure for oneself or for another person, import or have imported, and export or have exported an image or representation of child pornography through a computer system;

   c) Possess an image or representation of child pornography in a computer system or on a computer data storage medium;

   d) Facilitate or provide access to images, documents, sound or representation of a pornographic nature to a minor;

   e) Create, download, disseminate or make available in any form writings, messages, photographs, drawings or any other presentation of ideas or theories of racist or xenophobic nature through a computer system;

   f) Threaten, through a computer system, to commit a criminal offence against a person for the reason that they belong to a group distinguished by race, colour, descent, national or ethnic origin or religion where such membership serves as a pretext for any of these factors, or against a group of persons which is distinguished by any of these characteristics;

   g) Insult, through a computer system, persons for the reason that they belong to a group distinguished by race, colour, descent, national or ethnic origin, or religion or political opinion, if used as a pretext for any of these factors, or against a group of persons distinguished by any of these characteristics;

   h) Deliberately deny, approve or justify acts constituting genocide or crimes against humanity through a computer system.

2. State Parties shall take the necessary legislative and/or regulatory measures to make the offences provided for under this Convention criminal offences.

   When such offences are committed under the aegis of a criminal organization, they will be punishable by the maximum penalty prescribed for the offense.

3. State Parties shall take the necessary legislative and/or regulatory measures to ensure that, in case of conviction, national courts will give a ruling for confiscation of the materials, equipment, instruments, computer program, and all other devices or data belonging to the convicted person and used to commit any of the offences mentioned in this Convention.

4. Offences relating to electronic message security measures

State Parties shall take the necessary legislative and/or regulatory measures to ensure that digital evidence in criminal cases is admissible to establish offenses under national criminal law, provided such evidence has been presented during proceedings and discussed before the judge, that the person from whom it originates can be duly identified, and that it has been made out and retained in a manner capable of assuring its integrity.

Article 30
Adapting certain offences to Information and Communication Technologies

1. Property Offences

a) State Parties shall take the necessary legislative and/or regulatory measures to criminalize the violation of property such as theft, fraud, handling of stolen property, abuse of trust, extortion of funds and blackmail involving computer data;

b) State Parties shall take the necessary legislative and/or regulatory measures to consider as aggravating circumstances the use of information and communication technologies to commit offences such as theft, fraud, handling of stolen property, abuse of trust, extortion of funds, terrorism and money laundering;

c) State Parties shall take the necessary legislative and/or regulatory measures to specifically include "by means of digital electronic communication" such as the Internet in listing the means of public dissemination provided for under the criminal law of State Parties;

d) State Parties shall take the necessary criminal legislative measures to restrict access to protected systems which have been classified as critical national defence infrastructure due to the critical national security data they contain.

2. Criminal liability for legal persons

State Parties shall take the necessary legislative measures to ensure that legal persons other than the State, local communities and public institutions can be held responsible for the offences provided for by this Convention, committed on their behalf by their organs or representatives. The liability of legal persons does not exclude that of the natural persons who are the perpetrators of or accomplices in the same offences.

Article 31
Adapting certain sanctions to Information and Communication Technologies

1. **Criminal Sanctions**

a) State Parties shall take the necessary legislative measures to ensure that the offences provided for under this Convention are punishable by effective, proportionate and dissuasive criminal penalties;

b) State Parties shall take the necessary legislative measures to ensure that the offences provided for under this Convention are punishable by appropriate penalties under their national legislations;

c) State Parties shall take the necessary legislative measures to ensure that a legal person held liable pursuant to the terms of this Convention is punishable by effective, proportionate and dissuasive sanctions, including criminal fines.

2. **Other criminal sanctions**

a) State Parties shall take the necessary legislative measures to ensure that in the case of conviction for an offense committed through a digital communication medium, the competent court may hand down additional sanctions;

b) State Parties shall take the necessary legislative measures to ensure that in the case of conviction for an offence committed through a digital communication medium, the judge may in addition order the mandatory dissemination, at the expense of the convicted person, of an extract of the decision, through the same medium, and according to modalities prescribed by the law of Member States;

c) State Parties shall take the necessary legislative measures to ensure that a breach of the confidentiality of data stored in a computer system is punishable by the same penalties as those applicable for breaches of professional secrecy.

3. **Procedural law**

a) State Parties shall take the necessary legislative measures to ensure that where the data stored in a computer system or in medium where computerized data can be stored in the territory of a State Party, are useful in establishing the truth, the court applied to may carry out a search to access all or part of a computer system through another computer system, where the said data are accessible from or available to the initial system;

b) State Parties shall take the necessary legislative measures to ensure that where the judicial authority in charge of investigation discovers data stored in a computer system that are useful for establishing the truth, but the seizure of the support does not seem to be appropriate, the data as well as all such data as are required to understand them, shall be copied into a computer storage medium that can be seized and sealed, in accordance with the modalities provided for under the legislations of State Parties;

c) State Parties shall take the necessary legislative measures to ensure that judicial authorities can, for the purposes of investigation or execution of a judicial delegation, carry out the operations provided for under this Convention;

d) State Parties shall take the necessary legislative measures to ensure that if information needs so require, particularly where there are reasons to believe that the information stored in a computer system are particularly likely to be lost or modified, the investigating judge may impose an injunction on any person to preserve and protect the integrity of the data in his/her possession or under his/her control, for a maximum period of two years, in order to ensure the smooth conduct of the investigation. The custodian of the data or any other person responsible for preserving the data shall be expected to maintain secrecy with regard to the data;

e) State Parties shall take the necessary legislative measures to ensure that where information needs so require, the investigating judge can use appropriate technical means to collect or record in real time, data in respect of the contents of specific communications in its territory, transmitted by means of a computer system or compel a service provider, within the framework of his/her technical capacities, to collect and record, using the existing technical facilities in its territory or that of State Parties, or provide support and assistance to the competent authorities towards the collection and recording of the said computerized data.

CHAPTER IV
FINAL PROVISIONS

Article 32
Measures to be taken at the level of the African Union

The Chairperson of the Commission shall report to the Assembly on the establishment and monitoring of the operational mechanism for this Convention.

The monitoring mechanism to be established shall ensure the following:

a) Promote and encourage the Continent to adopt and implement measures to strengthen cyber security in electronic services and in combatting cybercrime and human rights violations in cyberspace;

b) Gather documents and information on cyber security needs as well as on the nature and magnitude of cybercrime and human rights violations in cyberspace;

c) Work out methods for analysing cyber security needs, as well as the nature and magnitude of cybercrime and human rights violations in cyberspace, disseminate information and sensitize the public on the negative effects of these phenomena;

d) Advise African governments on the way to promote cyber security and combat the scourge of cybercrime and human rights violations in cyberspace at national level;

e) Garner information and carry out analyses of the criminal behaviour of the users of information networks and computer systems operating in Africa, and transmit such information to competent national authorities;

f) Formulate and promote the adoption of harmonized codes of conduct for the use of public officials in the area of cyber security;

g) Establish partnerships with the Commission and the African Court on Human and Peoples' Rights, the African civil society, and governmental, intergovernmental and non-governmental organizations with a view to facilitating dialogue on combating cybercrime and human rights violations in cyberspace;

h) Submit regular reports to the Executive Council of the African Union on the progress made by each State Party in the implementation of the provisions of this Convention;

i) Carry out any other tasks relating to cybercrime and breaches of the rights of individuals in cyberspace as may be assigned to it by the policy organs of the African Union.

Article 33
Safeguard Provisions

The provisions of this Convention shall not be interpreted in a manner that is inconsistent with the relevant principles of international law, including international customary law.

Article 34
Settlement of Disputes

1. Any dispute arising from this Convention shall be settled amicably through direct negotiations between the State Parties concerned.

2. Where the dispute cannot be resolved through direct negotiation, the State Parties shall endeavour to resolve the dispute through other peaceful means, including good offices, mediation and conciliation, or any other peaceful means agreed upon by the State Parties. In this regard, the State Parties shall be encouraged to make use of the procedures and mechanisms for resolution of disputes established within the framework of the Union.

Article 35
Signature, Ratification or Accession

This Convention shall be open to all Member States of the Union, for signature, ratification or accession, in conformity with their respective constitutional procedures.

Article 36
Entry into Force

This Convention shall enter into force thirty (30) days after the date of the receipt by the Chairperson of the Commission of the African Union of the fifteenth (15th) instrument of ratification.

Article 37
Amendment

1. Any State Party may submit proposals for the amendment or revision of this Convention;

2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission of the African Union, who shall transmit same to State Parties within thirty (30) days of receipt thereof;

3. The Assembly of the Union, upon recommendation of the Executive Council of the Union, shall consider these proposals at its next session, provided all State Parties have been notified at least three (3) months before the beginning of the session;

4. The Assembly of the Union shall adopt the amendments in accordance with its Rules of Procedure;

5. The amendments or revisions shall enter into force in accordance with the provisions of Article 36 above.

Article 38
Depository

1. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the African Union;

2. Any State Party may withdraw from this Convention by giving a written notice one (1) year in advance to the Chairperson of the Commission of the African Union;

3. The Chairperson of the Commission of the African Union shall inform all Member States of any signature, depositing of instrument of ratification or accession to this Convention, as well as its entry into force;

4. The Chairperson of the Commission shall also inform the State Parties of requests for amendments or withdrawal from the Convention, as well as reservations thereon.

5. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretary General of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

6. This Convention, drawn up in four (4) original texts in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified true copies of the same to all Member States of the African Union in its official language.

ADOPTED BY THE TWENTY-THIRD ORDINARY SESSION OF THE ASSEMBLY, HELD IN MALABO, EQUATORIAL GUINEA

27TH JUNE 2014

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Bibonywe kugira ngo bishyirwe ku mugereka w'Itegeko nº 024/2019 ryo ku wa 04/09/2019 ryemera kwemeza burundu Amasezerano y'Afurika Yunze Ubumwe yerekeye gucunga umutekano w'ibijyanye n'ikoranabuhanga n'amakuru y'umuntu bwite abikwa muri mudasobwa, yemerejwe i Malabo, Gineya Ekwatoriyale, ku wa 27 Kamena 2014

Kigali, ku wa 04/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Law nº 024/2019 of 04/09/2019 approving the ratification of the African Union Convention on Cyber Security and Personal Data Protection, adopted in Malabo, Equatorial Guinea on 27 June 2014

Kigali, on 04/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à la Loi nº 024/2019 du 04/09/2019 approuvant la ratification de la Convention de l'Union Africaine sur la cyber sécurité et la protection des données à caractère personnel, adoptée à Malabo, en Guinée Èquatoriale le 27 juin 2014

Kigali, le 04/09/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEKA RYA PEREZIDA N° 101/01 RYO KU WA 18/09/2019 RYEMEZA BURUNDU AMASEZERANO HAGATI YA LETA YA REPUBULIKA Y'U RWANDA NA LETA YA REPUBULIKA YA SINGAPURU YEREKEYE GUTEZA IMBERE NO KURINDA ISHORAMARI, YASHYIRIWEHO UMUKONO I KIGALI MU RWANDA, KU WA 14 KAMENA 2018

PRESIDENTIAL ORDER N° 101/01 OF 18/09/2019 RATIFYING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE ON THE PROMOTION AND PROTECTION OF INVESTMENTS, SIGNED AT KIGALI, RWANDA, ON 14 JUNE 2018

ARRÊTÉ PRÉSIDENTIEL N° 101/01 DU 18/09/2019 RATIFIANT L'ACCORD ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE DE SINGAPOUR RELATIF À LA PROMOTION ET LA PROTECTION DES INVESTISSEMENTS, SIGNÉ À KIGALI, RWANDA, LE 14 JUIN 2018

ISHAKIRO

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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 167, iya 168 n'iya 176;

Dushingiye ku Itegeko n° 018/2019 ryo ku wa 16/08/2019 ryemera kwemeza burundu Amasezerano hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Singapuru yerekeye guteza imbere no kurinda ishoramari, yashyiriweho umukono i Kigali mu Rwanda, ku wa 14 Kamena 2018;

Tumaze kubona Amasezerano hagati ya Leta ya Repubulika y'u Rwanda na Leta ya

PRESIDENTIAL ORDER N° 101/01 OF 18/09/2019 RATIFYING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE ON THE PROMOTION AND PROTECTION OF INVESTMENTS, SIGNED AT KIGALI, RWANDA, ON 14 JUNE 2018

We, KAGAME Paul,
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 167, 168 and 176;

Pursuant to Law n° 018/2019 of 16/08/2019 approving ratification of the Agreement between the Government of the Republic of Rwanda and the Government of the Republic of Singapore on the promotion and protection of investments, signed at Kigali, Rwanda, on 14 June 2018;

Considering the Agreement between the Government of the Republic of Rwanda

ARRÊTÉ PRÉSIDENTIEL N° 101/01 DU 18/09/2019 RATIFIANT L'ACCORD ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE DE SINGAPOUR RELATIF À LA PROMOTION ET LA PROTECTION DES INVESTISSEMENTS, SIGNÉ À KIGALI, RWANDA, LE 14 JUIN 2018

Nous, KAGAME Paul,
Président de la République;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 167, 168 et 176;

Vu la Loi n° 018/2019 du 16/08/2019. approuvant la ratification de l'Accord entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Singapour relatif à la promotion et la protection des investissements, signé à Kigali, Rwanda, le 14 juin 2018;

Considérant l'Accord entre le Gouvernement de la République du

Repubulika ya Singapuru yerekeye guteza imbere no kurinda ishoramari, yashyiriweho umukono i Kigali mu Rwanda, ku wa 14 Kamena 2018;

and the Government of the Republic of Singapore on the promotion and protection of investments, signed at Kigali, Rwanda, on 14 June 2018;

Rwanda et le Gouvernement de la République de Singapour relatif à la promotion et la protection des investissements, signé à Kigali, Rwanda, le 14 juin 2018;

Bisabwe na Minisitiri w'Ubucuruzi n'Inganda;

On proposal by the Minister of Trade and Industry;

Sur proposition du Ministre du Commerce et de l'Industrie;

Inama y'Abaminisitiri imaze kubisuzuma no kubyemeza;

After consideration and approval by the Cabinet;

Apres examen et adoption par le Conseil des Ministres;

TWATEGETSE KANDI DUTEGETSE:

HAVE ORDERED AND ORDER:

AVONS ARRÊTÉ ET ARRÊTONS:

Ingingo ya mbere: Kwemeza burundu

Article One: Ratification

Article premier: Ratification

Amasezerano hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Singapuru yerekeye guteza imbere no kurinda ishoramari, yashyiriweho umukono i Kigali mu Rwanda, ku wa 14 Kamena 2018, ari ku mugereka w'iri teka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

The Agreement between the Government of the Republic of Rwanda and the Government of the Republic of Singapore on the promotion and protection of investments, signed at Kigali, Rwanda, on 14 June 2018, annexed to this Order, is ratified and becomes fully effective.

L'Accord entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Singapour relatif à la promotion et la protection des investissements, signé à Kigali, Rwanda, le 14 juin 2018, annexé au présent arrêté, est ratifié et sort son plein et entier effet.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Article 2: Authorities responsible for the implementation of this Order

Article 2: Autorités chargées de l'exécution du présent arrêté

Minisitiri w'Intebe, Minisitiri w'Ubucuruzi n'Inganda, Minisitiri w'Ububanyi n'Amahanga n'Ubutwererane

The Prime Minister, the Minister of Trade and Industry, the Minister of Foreign Affairs and International Cooperation and

Le Premier Ministre, le Ministre du Commerce et de l'Industrie, le Ministre des Affaires Etrangères et de la Coopération

na Minisitiri w'Imari n'Igenamigambi bashinzwe gushyira mu bikorwa iri teka.

Ingingo ya 3: Igihe iri teka ritangirira gukurikizwa

Iri teka ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 18/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

the Minister of Finance and Economic Planning are entrusted with the implementation of this Order.

Article 3: Commencement

This Order comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 18/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Internationale et le Ministre des Finances et de la Planification Économique sont chargés de l'exécution du présent arrêté.

Article 3: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 18/09/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEKA RYA PEREZIDA N° 101/01 RYO KU WA 18/09/2019 RYEMEZA BURUNDU AMASEZERANO HAGATI YA LETA YA REPUBULIKA Y'U RWANDA NA LETA YA REPUBULIKA YA SINGAPURU YEREKEYE GUTEZA IMBERE NO KURINDA ISHORAMARI, YASHYIRIWEHO UMUKONO I KIGALI MU RWANDA, KU WA 14 KAMENA 2018

ANNEX TO THE PRESIDENTIAL ORDER N° 101/01 OF 18/09/2019 RATIFYING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE ON THE PROMOTION AND PROTECTION OF INVESTMENTS, SIGNED AT KIGALI, RWANDA, ON 14 JUNE 2018

ANNEXE À L'ARRÊTÉ PRÉSIDENTIEL N° 101/01 DU 18/09/2019 RATIFIANT L'ACCORD ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE DE SINGAPOUR RELATIF À LA PROMOTION ET LA PROTECTION DES INVESTISSEMENTS, SIGNÉ À KIGALI, RWANDA, LE 14 JUIN 2018

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

AND

THE GOVERNMENT OF THE REPUBLIC OF RWANDA

ON

THE PROMOTION AND PROTECTION OF INVESTMENTS

PREAMBLE

The Government of the Republic of Singapore and the Government of the Republic of Rwanda (hereinafter referred to individually as a "Party", and collectively as the "Parties");

DESIRING to create favourable conditions for greater economic co-operation between them and in particular for investments by investors of one State in the territory of the other State based on the principles of equality and mutual benefit;

RECOGNISING that the encouragement and reciprocal protection of such investments will be conducive to stimulating business initiative(s) and increasing prosperity in both States;

HAVE AGREED AS FOLLOWS:

CHAPTER I: GENERAL PROVISIONS

ARTICLE 1
DEFINITIONS

For the purposes of this Agreement:

enterprise means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organisation; and a branch of an enterprise;

freely usable currency means "freely usable currency" as determined by the International Monetary Fund under the *Articles of Agreement* of the International Monetary Fund and any amendments thereto;

ICSID means the International Centre for Settlement of Investment Disputes;

ICSID Additional Facility Rules means the *Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes*, as amended and in effect on 10 April 2006;

ICSID Arbitration Rules means the *Rules of Procedure for Arbitration Proceedings (Arbitration Rules)*, as amended and in effect on 10 April 2006;

ICSID Convention means the *Convention on the Settlement of Investment Disputes between States and Nationals of other States*, done at Washington on 18 March 1965;

investment means every kind of asset, owned or controlled, directly or indirectly, by an investor, that has the characteristics of an investment[1]. Forms that an investment may take include but are not limited to:[2]

(a) an enterprise;

(b) shares, stock, and other forms of equity participation in an enterprise, including rights derived therefrom;

(c) bonds, debentures, and loans and other debt instruments,[3] including rights derived therefrom;

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[1] Where an asset lacks the characteristics of an investment, that asset is not an investment regardless of the form it may take. The characteristics of an investment include the commitment of capital, the expectation of gain or profit, or the assumption of risk.

[2] The term "investment" does not include an order or judgment entered in a judicial or administrative action.

[3] For the purpose of this Agreement, "loans and other debt instruments" described in (c) and "claims to money or to any contractual performance" described in (f) of this Article refer to assets which relate to a business activity and do not refer to assets which are of a personal nature, unrelated to any business activity.

(d) futures, options, and other derivatives;

(e) turnkey, construction, management, production, concession, revenue-sharing, and other similar contracts;

(f) claims to money or to any contractual performance related to a business and having an economic value;

(g) intellectual property rights and goodwill;

(h) licences, authorisations, permits, and similar rights conferred pursuant to applicable domestic law, including any concession to search for, cultivate, extract or exploit natural resources; and

(i) other tangible or intangible, movable or immovable property, and related property rights, such as leases, mortgages, liens, and pledges;

investor means:

(a) a Party;

(b) an enterprise of a Party; or

(c) a natural person who resides in the territory of a Party or elsewhere and who under the law of that Party is a citizen of that Party;

that has made an investment;

measure means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form, and includes measures taken by:

(a) central, regional or local governments and authorities; and

(b) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

New York Convention means the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, adopted at the United Nations in New York on 10 June 1958;

return means an amount yielded by or derived from an investment, including profits, dividends, interest, capital gains, royalty payments, payments in connection with intellectual property rights, and all other lawful income. For the purposes of the definition of "investment", returns that are invested shall be treated as investments and any alteration of the form in which assets are invested or reinvested shall not affect their character as investments;

territory means:

(a) in respect of the Republic of Singapore: its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea

which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;

(b) in respect of the Republic of Rwanda: its land, internal waters and airspace;

UNCITRAL Arbitration Rules means the Arbitration Rules of the United Nations Commission on International Trade Law, as adopted by the United Nations General Assembly on 15 December 1976; and

WTO Agreement means the *Marrakesh Agreement Establishing the World Trade Organization* done at Marrakesh on 15 April 1994.

ARTICLE 2
APPLICABILITY OF AGREEMENT

1. Each Party shall admit the entry of investments made by investors of the other Party pursuant to its applicable laws and regulations.

2. The provisions in this Agreement shall apply to all investments made by investors of one Party in the territory of the other Party, whether made before or after the entry into force of this Agreement, but shall not apply to claims arising out of events which occurred, or claims which had been raised, prior to the entry into force of this Agreement.

3. This Agreement shall not apply to:

(a) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance, or to any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to investors of the Party or investments of investors of the Party; and

(b) matters of taxation in the territory of either Party, which shall, except as set out in Article 29 (Indirect Expropriation through Taxation), be governed by any tax treaty between the two Parties and the domestic laws of each Party.

CHAPTER II: PROTECTION

ARTICLE 3
MINIMUM STANDARDS OF TREATMENT

1. Each Party shall accord to investments of investors of the other Party treatment in accordance with the customary international law minimum standard of treatment of aliens,[4] including fair and equitable treatment and full protection and security.

2. For greater certainty, paragraph 1 prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to investments of investors of the other Party. The obligation to provide "fair and equitable treatment" and "full protection and security" as described below do not require treatment in addition to or beyond the customary international law minimum standard of treatment of aliens, and do not create additional substantive rights.

(a) The obligation to provide "fair and equitable treatment" includes the obligation not to deny justice in criminal, civil or administrative adjudicatory proceedings in accordance with the principle of due process embodied in the principal legal systems of the world.

(b) The obligation to provide "full protection and security" requires each Party to provide the level of police protection required under customary international law.

3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

ARTICLE 4
MOST-FAVOURED NATION TREATMENT

1. Each Party shall accord to investments of investors of the other Party treatment no less favourable than that it accords, in like circumstances, to investments in its territory of investors of any non-Party with respect to the management, conduct, operation, and sale or other disposition of investments.

2. The provisions of this Article shall not be construed so as to oblige one Party to extend to the investors of the other Party and investments of investors of the other Party the benefit of any treatment, preference or privilege resulting from:

(a) any existing or future customs union, free trade area, free trade arrangement, common market, monetary union or similar international agreement or other forms of regional cooperation to which either of the Parties is or may become a

[4] Customary international law results from a general and consistent practice of States that they follow from a sense of legal obligation. With regard to this Article, the customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the economic rights and interests of aliens.

party; or the adoption of an agreement designed to lead to the formation or extension of such a union, area or arrangement;

(b) any existing bilateral investment agreements (also commonly referred to as "investment guarantee agreements", "investment promotion and protection agreements" or "international investment agreements");

(c) any existing or future international investment agreements between or among Member States of a regional economic community, including investment agreements between or among Member States of a regional economic community and any one or more third States; or

(d) any arrangement with a non-Party or parties in the same geographical region designed to promote regional cooperation in the economic, social, labour, industrial or monetary fields within the framework of specific projects.

3. For greater certainty, paragraphs 1 and 2 shall not be construed as granting to investors options or procedures for the settlement of disputes other than those set out in Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement).

ARTICLE 5
EXPROPRIATION[5]

1. Neither Party shall nationalise, expropriate or subject to measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") the investments of investors of the other Party unless such a measure is taken on a non-discriminatory basis, for a public purpose, in accordance with due process of law, and upon payment of compensation in accordance with this Article.

2. The expropriation shall be accompanied by the payment of prompt, adequate and effective compensation. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation or before the impending expropriation became public knowledge, whichever is earlier. Such compensation shall be effectively realisable, freely usable and freely transferable in accordance with Article 7 (Transfers), and made without undue delay. The compensation shall include interest at a commercially reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

3. Notwithstanding paragraphs 1 and 2, any measure of expropriation relating to land, which shall be as defined in the Party's existing domestic legislation on the date of entry into force of this Agreement, shall be for a purpose and upon payment of compensation in accordance with the aforesaid legislation.

[5] Article 5 (Expropriation) is to be interpreted in accordance with Annex 1 (Expropriation).

4. Any measure of expropriation or valuation may, at the request of the investors affected, be reviewed by a judicial or other independent authority of the Party taking the measure in the manner prescribed by its laws.

5. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the *Agreement on Trade-Related Aspects of Intellectual Property Rights* in Annex 1C to the WTO Agreement.

ARTICLE 6
COMPENSATION FOR LOSSES

1. Investors of one Party whose investments in the territory of the other Party suffer losses owing to war or other armed conflict, civil disturbances, a state of national emergency, revolt, insurrection, riot or other similar situations in the territory of the latter Party, shall be accorded by the latter Party treatment, as regards restitution, indemnification, compensation or other settlement, if any, no less favourable than that which the latter Party accords to investors of any non-Party or to its own investors, whichever is more favourable. Any resulting compensation shall be made in freely usable currency and be freely transferable in accordance with Article 7 (Transfers).

2. Notwithstanding paragraph 1, if an investor of a Party, in the situations referred to in paragraph 1, suffers a loss in the territory of the other Party resulting from:

(a) requisitioning of the investment or part thereof of the investor by the latter Party's forces or authorities; or

(b) destruction of the investment or part thereof of the investor by the latter Party's forces or authorities, which was not required by the necessity of the situation,

the latter Party shall provide the investor restitution, compensation, or both, as appropriate, for such loss.

ARTICLE 7
TRANSFERS

1. Each Party shall permit all transfers relating to investments in its territory of an investor of the other Party to be made freely and without delay into and out of its territory. Such transfers include:

(a) contributions to capital, including the initial contribution;

(b) profits, dividends, capital gains, and proceeds from the sale of all or any part of the investment or from the partial or complete liquidation of the investment;

(c) interest, royalty payments, management fees, and technical assistance and other fees;

(d) payments made under a contract entered into by the investor, or its investment, including payments made pursuant to a loan agreement;

(e) payments made pursuant to Article 5 (Expropriation) and Article 6 (Compensation for Losses); and

(f) payments arising under Chapter III (Dispute Settlement).

2. Each Party shall permit such transfers to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.

3. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer through the equitable, non-discriminatory, and good faith application of its laws relating to:

(a) bankruptcy, insolvency, or the protection of the rights of creditors;

(b) issuing, trading, or dealing in securities, futures, options or derivatives;

(c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;

(d) taxation;

(e) criminal or penal offences;

(f) ensuring compliance with orders or judgments in judicial or administrative proceedings; or

(g) social security, public retirement or compulsory savings schemes.

4. Nothing in this Agreement shall affect the rights and obligations of the members of the International Monetary Fund under the *Articles of Agreement* of the International Monetary Fund, including the use of exchange actions which are in conformity with the *Articles of Agreement* of the International Monetary Fund, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its obligations under this Agreement regarding such transactions, except under Article 8 (Restrictions to Safeguard the Balance of Payments) or at the request of the International Monetary Fund.

ARTICLE 8
RESTRICTIONS TO SAFEGUARD THE BALANCE OF PAYMENTS

1. In the event of serious balance of payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on payments or transfers related to investments. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development may necessitate the use of restrictions to ensure,

inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development.

2. The restrictions referred to in paragraph 1 shall:

(a) be consistent with the *Articles of Agreement* of the International Monetary Fund;

(b) avoid unnecessary damage to the commercial, economic and financial interests of the other Party;

(c) not exceed those necessary to deal with the circumstances described in paragraph 1;

(d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves; and

(e) be applied on a non-discriminatory basis such that the other Party is treated no less favourably than any non-Party.

3. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the other Party.

4. The Party adopting any restrictions under paragraph 1 shall commence consultations with the other Party in order to review the restrictions adopted by the former Party.

ARTICLE 9
SUBROGATION

1. In the event that either Party (or any agency, institution, statutory body or corporation designated by it), as a result of an indemnity it has given in respect of an investment or any part thereof, makes payment to its own investors in respect of any of their claims under this Agreement, the other Party acknowledges that the former Party (or any agency, institution, statutory body or corporation designated by it) is entitled by virtue of subrogation to exercise the rights and assert the claims of its own investors. The subrogated rights or claims shall not be greater than the original rights or claims of the said investor.

2. Any payment made by one Party (or any agency, institution, statutory body or corporation designated by it) to its investors shall not affect the right of such investors to make their claims against the other Party in accordance with Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement).

CHAPTER III: DISPUTE SETTLEMENT

SECTION ONE: SETTLEMENT OF DISPUTES BETWEEN A PARTY AND AN INVESTOR OF THE OTHER PARTY

ARTICLE 10
SCOPE

1. This Section shall apply to disputes between a Party and an investor of the other Party concerning an alleged breach of an obligation of the former under this Agreement which causes loss or damage to the investor or its investment.

2. This Section shall not apply to any dispute concerning any measure adopted or maintained or any treatment accorded to investors or investments by a Party in respect of tobacco or tobacco-related products[6] that is aimed at protecting or promoting human health.

ARTICLE 11
INSTITUTION OF ARBITRAL PROCEEDINGS

1. The disputing parties shall initially seek to resolve the dispute by consultations and negotiations.

2. Where the dispute cannot be resolved as provided for under paragraph 1 within 6 months from the date of a written request for consultations and negotiations, then, unless the disputing parties agree otherwise, the disputing investor may submit the dispute to arbitration:

(a) under the ICSID Convention and the ICSID Arbitration Rules, provided that both the respondent Party and the Party of the disputing investor are parties to the ICSID Convention;

(b) under the ICSID Additional Facility Rules, provided that either the respondent Party or the Party of the disputing investor is a party to the ICSID Convention;

(c) under the UNCITRAL Arbitration Rules; or

(d) to any other arbitral institutions or under any other arbitration rules, if the disputing parties so agree.

For the avoidance of doubt, the disputing investor may submit a claim on its own behalf in respect of loss or damage that has been incurred by the disputing investor, or on behalf of an enterprise of the respondent Party that the disputing investor owns or controls, either directly or indirectly, in respect of loss or damage that has been incurred by the enterprise.

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[6] For the purpose of this Agreement, "tobacco products" means products under Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes) and tobacco-related products falling outside Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes).

3. Each Party hereby consents to the submission of a dispute to arbitration under paragraph 2 in accordance with the provisions of this Section, conditional upon:

(a) the submission of the dispute to such arbitration taking place within 3years of the time at which the disputing investor became aware, or should reasonably have become aware, of a breach of an obligation under this Agreement causing loss or damage to the disputing investor or its investment;

(b) the disputing investor not being an enterprise of the respondent Party until the disputing investor refers the dispute for arbitration pursuant to paragraph 2;

(c) the disputing investor providing written consent to arbitration in accordance with the provisions set out in this Section; and

(d) the disputing investor providing written notice, which shall be submitted at least 90 days before the claim is submitted, to the respondent Party of its intent to submit the dispute to such arbitration and which:

(i) states the name and address of the disputing investor and, where a dispute is submitted on behalf of an enterprise, the name, address, and place of constitution of the enterprise;

(ii) nominates one of the *fora* referred to in paragraph 2 as the forum for dispute settlement;

(iii) waives the disputing investor's right to initiate or continue any proceedings (excluding proceedings for interim measures of protection referred to in paragraph 1 of Article 15 (Interim Measure of Protection and Diplomatic Protection)) before any of the other dispute settlement *fora* referred to in paragraph 2 in relation to the matter under dispute; and

(iv) briefly summarises the alleged breach of the respondent Party under this Agreement (including the provisions alleged to have been breached), the legal and factual basis for the dispute, and the loss or damage allegedly caused to the disputing investor or its investment by reason of that breach.

4. The consent under paragraph 3 and the submission of a claim to arbitration under this Section shall satisfy the requirements of:

(a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules for written consent of the parties to the dispute; and

(b) Article II of the New York Convention for an "agreement in writing".

5. A claim that is submitted for arbitration under this Section shall be considered to arise out of a commercial relationship or transaction for purposes of Article I of the New York Convention.

ARTICLE 12
CONSTITUTION OF THE ARBITRAL TRIBUNAL

1. Unless the disputing parties otherwise agree, the arbitral tribunal shall be composed of three arbitrators, who shall not be nationals or permanent residents of either Party. Each disputing party shall appoint one arbitrator and the disputing parties shall agree upon a third arbitrator, who shall be the chairman of the arbitral tribunal. If an arbitral tribunal has not been established within 90 days from the date on which the claim was submitted to arbitration, either because a disputing party failed to appoint an arbitrator or because the disputing parties failed to agree upon the chairman, the Secretary-General of ICSID, upon request of either disputing party, shall appoint, at his own discretion, the arbitrator or arbitrators not yet appointed. If the Secretary-General is a national or permanent resident of either Party, or he or she is otherwise unable to act, the Deputy Secretary-General, who is not a national or permanent resident of either Party, may be invited to make the necessary appointments.

2. The arbitrators shall:

(a) have experience or expertise in public international law or international investment law; and

(b) be independent from the Parties and the disputing investor, and not be affiliated to or receive instructions from any of them.

ARTICLE 13
PLACE OF ARBITRATION

Unless the disputing parties otherwise agree, the tribunal shall determine the place of arbitration in accordance with the applicable arbitration rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.

ARTICLE 14
THE ARBITRAL PROCEEDINGS

1. A tribunal established under this Section shall decide the issues in dispute in accordance with this Agreement and the applicable rules and principles of international law.

2. Without prejudice to a tribunal's authority to address other objections as a preliminary question, such as an objection that a dispute is not within the competence of the tribunal, a tribunal shall address and decide as a preliminary question any objection by the respondent Party that, as a matter of law, a claim submitted is not a claim for which an award in favour of the disputing investor may be made under Article 16 (Award).

(a) Such objection shall be submitted to the tribunal as soon as possible after the tribunal is constituted, and in no event later than the date the tribunal fixes for the respondent Party to submit its counter-memorial (or, in the case of an amendment to the notice of arbitration, the date the tribunal fixes for the respondent Party to submit its response to the amendment).

(b) On receipt of an objection under this paragraph, the tribunal shall suspend any proceedings on the merits, establish a schedule for considering the objection consistent with any schedule it has established for considering any other preliminary question, and issue a decision or award on the objection, stating the grounds therefor.

(c) In deciding an objection under this paragraph, the tribunal shall assume to be true the disputing investor's factual allegations in support of any claim in the notice of arbitration (or any amendment thereof) and, in disputes brought under the UNCITRAL Arbitration Rules, the statement of claim referred to in the relevant article of the UNCITRAL Arbitration Rules. The tribunal may also consider any relevant facts not in dispute.

(d) The respondent Party does not waive any objection as to competence or any argument on the merits merely because the respondent Party did or did not raise an objection under this paragraph or make use of the expedited procedure set out in paragraph 3.

3. In the event that the respondent Party so requests within 45 days after the tribunal is constituted, the tribunal shall decide on an expedited basis an objection under paragraph 2 and any objection that the dispute is not within the tribunal's competence. The tribunal shall suspend any proceedings on the merits and issue a decision or award on the objection(s), stating the grounds therefor, no later than 150 days after the date of the request. However, if a disputing party requests a hearing, the tribunal may take an additional 30 days to issue the decision or award. Regardless of whether a hearing is requested, a tribunal may, on a showing of extraordinary cause, delay issuing its decision or award by an additional brief period, which may not exceed 30 days.

4. When deciding the respondent Party's objection under paragraph 2 or 3, the tribunal may, if warranted, award to the prevailing disputing party reasonable costs and attorney's fees incurred in submitting or opposing the objection. In determining whether such an award is warranted, the tribunal shall consider whether either the claim of the disputing investor or the respondent Party's objection was frivolous, and shall provide the disputing parties a reasonable opportunity to comment.

ARTICLE 15
INTERIM MEASURES OF PROTECTION AND DIPLOMATIC PROTECTION

1. Neither Party shall prevent the disputing investor from seeking interim measures of protection, not involving the payment of damages or resolution of the substance of the matter in dispute before the courts or administrative tribunals of the respondent Party, prior to the institution of proceedings before any of the dispute settlement *fora* referred to in paragraph 2 of Article 11 (Institution of Arbitral Proceedings), for the preservation of its rights and interests.

2. Neither Party shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its investors and the other Party shall have consented to submit or have submitted to arbitration under this Section, unless such other Party has failed

to abide by and comply with the award rendered in such dispute. Diplomatic protection, for the purposes of this paragraph, shall not include informal diplomatic exchanges for the sole purpose of facilitating a settlement of the dispute.

ARTICLE 16
AWARD

1. Where a tribunal makes a final award against a respondent Party, the tribunal may award, separately or in combination, only:

(a) monetary damages and any applicable interest; and

(b) restitution of property, in which case the award shall provide that the respondent Party may pay monetary damages and any applicable interest in lieu of restitution.

A tribunal may also award costs and attorney's fees in accordance with this Section and the applicable arbitration rules.

2. Any arbitral award shall be final and binding upon the disputing parties. Each Party shall ensure the recognition and enforcement of the award in accordance with its relevant laws and regulations.

3. Where a claim is submitted on behalf of an enterprise of the respondent Party, the arbitral award shall be made to the enterprise.

4. In any arbitration conducted under this Section, at the request of a disputing party, a tribunal shall, before issuing a decision or award on liability, transmit its proposed decision or award to the disputing parties. Within 60 days after the tribunal transmits its proposed decision or award, the disputing parties may submit written comments to the tribunal concerning any aspect of the proposed decision or award. The tribunal shall consider any such comments and issue its decision or award not later than 45 days after the expiration of the 60-day comment period.

ARTICLE 17
CONSOLIDATION

1. Where two or more claims have been submitted separately to arbitration under this Section, and the claims raised have a question of law or fact in common and arise out of the same events or circumstances, any disputing party may seek a consolidation order, in accordance with the agreement of all the disputing parties sought to be covered by the order or the terms of this Article.

2. A disputing party that seeks a consolidation order under this Article shall deliver, in writing, a request to the Secretary-General of ICSID and to all the disputing parties sought to be covered by the order, specifying the name and address of each of the disputing parties sought to be covered by the order; the nature of the order sought; and the grounds on which the order is sought.

3. Unless the Secretary-General of ICSID finds within 30 days after receiving a request in conformity with paragraph 2 that the request is manifestly unfounded, a tribunal shall be established under this Article.

4. Unless all the disputing parties sought to be covered by the consolidation order otherwise agree, the tribunal established under this Article shall comprise 3 arbitrators, who shall not be nationals or permanent residents of either Party, and who shall be appointed as follows:

(a) one arbitrator appointed by agreement of the disputing investors;

(b) one arbitrator appointed by the respondent Party; and

(c) the chairman of the arbitral tribunal appointed by the Secretary-General of ICSID.

5. If, within the 60 days after the Secretary-General of ICSID receives a request made under paragraph 2, the respondent Party fails or the disputing investors fail to appoint an arbitrator in accordance with paragraph 4, the Secretary-General of ICSID, on request of any disputing party sought to be covered by the order, shall appoint the arbitrator or arbitrators not yet appointed.

6. Where a tribunal established under this Article is satisfied that two or more claims that have been submitted to arbitration in accordance with Article 11 (Institution of Arbitral Proceedings), have a question of law or fact in common, and arise out of the same events or circumstances, the tribunal may, in the interest of fair and efficient resolution of the claims, and after hearing the disputing parties, by order:

(a) assume jurisdiction over, and hear and determine together, all or part of the claims;

(b) assume jurisdiction over, and hear and determine one or more claims, whose determination it considers would assist in the resolution of the other claims; or

(c) instruct a tribunal previously established under Article 12 (Constitution of the Arbitral Tribunal) to assume jurisdiction over and to hear and determine together, all or part of the claims, provided that:

(i) that tribunal, at the request of any disputing investor, not previously a disputing party before that tribunal, shall be reconstituted with its original members, except that the arbitrator for the disputing investors shall be appointed pursuant to paragraphs 4(a) and 5; and

(ii) that tribunal shall decide whether any previous hearing must be repeated.

7. Where a tribunal has been established under this Article, a disputing investor that has submitted a claim to arbitration pursuant to Article 11 (Institution of Arbitral Proceedings)

and that has not been named in a request made under paragraph 2, may make a written request to the tribunal that it be included in any order issued under paragraph 6, specifying:

(a) the name and address of the disputing investor;

(b) the nature of the order sought; and

(c) the grounds on which the order is sought.

The claimant shall provide the Secretary-General of ICSID with a copy of its request.

8. A tribunal established pursuant to this Article shall conduct the proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this Section.

9. A tribunal established under Article 12 (Constitution of the Arbitral Tribunal) shall not have jurisdiction to decide a claim or a part of a claim over which a tribunal established or instructed under this Article has assumed jurisdiction.

10. On application of a disputing party, a tribunal established pursuant to this Article may, pending its decision under paragraph 6, order that the proceedings of a tribunal established under Article 12 (Constitution of the Arbitral Tribunal) be stayed, unless the latter tribunal has already adjourned its proceedings.

SECTION TWO: SETTLEMENT OF DISPUTES BETWEEN THE PARTIES

ARTICLE 18
SCOPE

1. This Section applies to the settlement of disputes between the Parties arising from the interpretation or application of the provisions of this Agreement.

2. This Section shall not apply to any dispute concerning any measure adopted or maintained or any treatment accorded to investors or investments by a Party in respect of tobacco or tobacco-related products[7] that is aimed at protecting or promoting human health.

ARTICLE 19
CONSULTATIONS AND NEGOTIATIONS

1. Either Party may request in writing, consultations on the interpretation or application of this Agreement. If a dispute arises between the Parties on the interpretation or application of this Agreement, it shall, to the extent possible, be settled amicably through consultations and negotiations.

2. In the event the dispute is not settled through the means mentioned above within 6 months from the date such negotiations or consultations were requested in writing, then, unless the Parties agree otherwise, either Party may submit such dispute to an arbitral tribunal established in accordance with this Section or, by agreement of the Parties, to any other international tribunal.

ARTICLE 20
CONSTITUTION OF THE ARBITRAL TRIBUNAL

1. Arbitration proceedings shall initiate upon written notice delivered by one Party (hereinafter referred to as "requesting Party") to the other Party (hereinafter referred to as "respondent Party") through diplomatic channels. Such notice shall contain a statement setting forth the provisions of Chapter II (Protection) alleged to have been breached, the legal and factual grounds of the claim, a summary of the development and results of the consultations and negotiations pursuant to Article 19 (Consultations and Negotiations), the requesting Party's intention to initiate proceedings under this Section and the name of the arbitrator appointed by such requesting Party.

2. Within 30 days after delivery of such notice, the respondent Party shall notify the requesting Party the name of its appointed arbitrator.

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[7] For the purpose of this Agreement, "tobacco products" means products under Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes) and tobacco-related products falling outside Harmonised System Chapter 24 (Tobacco and Manufactured Tobacco Substitutes).

3. Within 30 days following the date on which the second arbitrator was appointed, the Parties shall appoint, by mutual agreement, a third arbitrator, who shall be the chairman of the arbitral tribunal. In the event that the Parties fail to mutually agree on the appointment of the third arbitrator, the arbitrators appointed by the Parties shall, within 30 days, appoint the third arbitrator, who shall be the chairman of the arbitral tribunal.

4. The arbitrators shall:

(a) have experience or expertise in public international law or international investment law; and

(b) be independent from the Parties, and not be affiliated to or receive instructions from either of them.

5. With regards to the selection of arbitrators under paragraphs 1, 2 and 3 of this Article, both Parties and, where relevant, the arbitrators appointed by them, shall not select arbitrators who are nationals or permanent residents of either Party.

6. If the required appointments have not been made within the time limits set forth in paragraphs 2 and 3 above, either Party may invite the President of the International Court of Justice to appoint the arbitrator or arbitrators not yet appointed. If the President is a national or a permanent resident of either Party, or he or she is otherwise unable to act, the Vice-President of the International Court of Justice shall be invited to make the said appointments. If the Vice-President is a national or a permanent resident of either Party, or he or she is otherwise unable to act, the Member of the International Court of Justice next in seniority who is not a national nor a permanent resident of either Party shall be invited to make the necessary appointments.

7. In the event that an arbitrator appointed under this Article resigns or becomes unable to act, a successor shall be appointed in the same manner as prescribed for the appointment of the original arbitrator, and he or she shall have the same powers and duties that the original arbitrator had.

8. Each Party shall bear the costs of its appointed arbitrator and of any legal representation in the proceedings. The costs of the chairman of the arbitral tribunal and of other expenses associated with the conduct of the arbitration shall be borne equally by the Parties, unless the arbitral tribunal decides that a higher proportion of costs be borne by one of the Parties.

ARTICLE 21
PLACE OF ARBITRATION

Unless the Parties agree otherwise, the place of arbitration shall be determined by the arbitral tribunal.

ARTICLE 22
THE ARBITRAL PROCEEDINGS

1. An arbitral tribunal established under this Section shall decide all questions relating to its competence and, subject to any agreement between the Parties, determine its own procedure. At any stage of the proceedings, the arbitral tribunal may propose to the Parties that the dispute be settled amicably. At all times, the arbitral tribunal shall afford a fair hearing to the Parties.

2. The arbitral tribunal shall decide the issues in dispute in accordance with this Agreement and the applicable rules and principles of international law.

3. The arbitral tribunal shall reach its decision by majority vote. The award shall be issued in writing and shall contain the applicable factual and legal findings. A signed award shall be delivered to each Party. The award shall be final and binding on the Parties.

CHAPTER IV: FINAL PROVISIONS

ARTICLE 23
OTHER OBLIGATIONS

If the legislation of either Party, or any international obligation existing at present or established hereafter between the Parties in addition to this Agreement, results in a position entitling investments by investors of the other Party to treatment more favourable than is provided for by this Agreement, such position shall not be affected by this Agreement.

ARTICLE 24
DENIAL OF BENEFITS

Subject to prior notification and consultation, a Party (the "denying Party") may deny the benefits of this Agreement to an investor of the other Party that is an enterprise of that other Party and to investments of such an investor where the denying Party establishes that the enterprise is owned or controlled by persons of a non-Party, or of the denying Party, and has no substantive business operations in the territory of the other Party.

ARTICLE 25
TRANSPARENCY

1. Each Party shall ensure that its laws, regulations and administrative rulings of general application pertaining to or affecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons or the other Party to become acquainted with them. International agreements pertaining to or affecting investors or investment activities to which a Party is a signatory shall also be published.

2. To the extent possible, each Party shall make the measures and international agreements of the kind referred to in paragraph 1 available on the internet. Each Party shall, upon request by the other Party, promptly respond to specific questions from and provide information to the other Party with respect to matters referred to in paragraph 1.

ARTICLE 26
INFORMATION REQUIREMENTS AND DISCLOSURE OF INFORMATION

1. Notwithstanding Article 4 (Most-Favoured Nation Treatment), a Party may require an investor of the other Party, or its investment, to provide information concerning that investment solely for informational or statistical purposes. The Party shall protect such business information that is confidential from any disclosure that would prejudice the competitive position of the investor or its investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

2. Nothing in this Agreement shall require either Party to provide confidential information the disclosure of which would impede law enforcement, or otherwise be contrary

to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.

ARTICLE 27
GENERAL EXCEPTIONS[8]

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party or its investors where like conditions prevail, or a disguised restriction on investments of investors of the other Party in the territory of a Party, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures:

(a) necessary to protect public morals or to maintain public order[9];

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on a contract;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or

(iii) safety;

(d) imposed for the protection of national treasures of artistic, historic or archaeological value; or

(e) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

ARTICLE 28
SECURITY EXCEPTIONS

Nothing in this Agreement shall be construed to:

(a) require a Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or

[8] For greater certainty, the application of the general exceptions to this Agreement shall not be interpreted so as to diminish the ability of governments to take measures where investors are not in like circumstances due to the existence of legitimate regulatory objectives.

[9] The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(b) preclude a Party from applying measures that it considers necessary for the fulfilment of its obligations with respect to the maintenance or restoration of international peace or security, or the protection of its own essential security interests.

ARTICLE 29
INDIRECT EXPROPRIATION THROUGH TAXATION

1. Article 5 (Expropriation) and Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement) shall apply to taxation measures to the extent that such taxation measures constitute expropriation as provided for in Article 5 (Expropriation).[10] An investor that seeks to invoke Article 5 (Expropriation) with respect to a taxation measure must first refer to the competent taxation authorities of both Parties as described in paragraph 2, at the time that it gives notice under Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement), the issue of whether that taxation measure involves an expropriation as provided for under Article 5 (Expropriation). If the competent taxation authorities of both Parties do not agree to consider the issue or, having agreed to consider it, fail to agree that the measure is not an expropriation as provided for under Article 5 (Expropriation) within a period of 6 months of such referral, the investor may submit its claim to arbitration under Section One (Settlement of Disputes between a Party and an Investor of the Other Party) of Chapter III (Dispute Settlement).

2. For the purposes of this Article, "competent taxation authorities" means:

(a) in the case of Rwanda, the Ministry of Finance and Economic Planning;

(b) in the case of the Republic of Singapore, the Ministry of Finance;

or their successors.

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[10] With reference to Article 5 (Expropriation), in assessing whether a taxation measure constitutes expropriation, the following considerations are relevant:

(i) the imposition of taxes does not generally constitute expropriation. The mere introduction of new taxation measures or the imposition of taxes in more than one jurisdiction in respect of an investment, does not in and of itself constitute expropriation;

(ii) taxation measures which are consistent with internationally recognised tax policies, principles and practices do not constitute expropriation. In particular, taxation measures aimed at preventing the avoidance or evasion of taxes should not, generally, be considered to be expropriatory; and

(iii) taxation measures which are applied on a non-discriminatory basis, as opposed to being targeted at investors of a particular nationality or specific individual taxpayers, are less likely to constitute expropriation. A taxation measure should not constitute expropriation if, when the investment is made, it was already in force, and information about the measure was made public or otherwise made publicly available.

ARTICLE 30
ENTRY INTO FORCE, DURATION, AMENDMENT AND TERMINATION

1. Each Party shall notify (through diplomatic channels) the other Party of the fulfillment of its internal legal procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the thirtieth day after the date of notification of the later Party.

2. The Agreement may be amended by mutual consent of the Parties in writing. The amendments shall enter into force in accordance with the same legal procedure prescribed under paragraph 1.

3. This Agreement shall remain in force for a period of 10 years and shall continue in force thereafter unless, after the expiry of the initial period of 9 years, either Party notifies the other Party in writing of its intention to terminate this Agreement. The notice of termination shall become effective one year after it has been received by the other Party.

4. In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of this Agreement shall remain in force for a further period of 10 years from that date.

DONE in Kigali, on 14th June 2018

FOR THE GOVERNMENT OF THE REPUBLIC OF RWANDA

VINCENT MUNYESHYAKA
MINISTER OF TRADE AND INDUSTRY

FOR THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE

Koh Poh Koon

KOH POH KOON
SENIOR MINISTER OF STATE FOR TRADE AND INDUSTRY

Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida nº 101/01 ryo ku wa 18/09/2019 ryemeza burundu Amasezerano hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Singapuru yerekeye guteza imbere no kurinda ishoramari, yashyiriweho umukono i Kigali mu Rwanda, ku wa 14 Kamena 2018

Kigali, ku wa 18/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Presidential Order n° 101/01 of 18/09/2019 ratifying the Agreement between the Government of the Republic of Rwanda and the Government of the Republic of Singapore on the promotion and protection of investments, signed at Kigali, Rwanda, on 14 June 2018

Kigali, on 18/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à l'Arrêté Présidentiel n° 101/01 du 18/09/2019 ratifiant l'Accord entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Singapour relatif à la promotion et la protection des investissements, signé à Kigali, Rwanda, le 14 juin 2018

Kigali, le 18/09/2019.

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEKA RYA PEREZIDA N° 102/01 RYO KU WA 18/09/2019 RYEMEZA BURUNDU AMASEZERANO ASHYIRAHO AGACE K'UBUCURUZI N'UBUHAHIRANE BUTAGIRA UMUPAKA GAHURIWEHO N'ISOKO RUSANGE RY'IBIHUGU BY'AFURIKA Y'IBURASIRAZUBA N'AMAJYEPFO, UMURYANGO W'IBIHUGU BY'AFURIKA Y'IBURASIRAZUBA N'UMURYANGO W'ITERAMBERE RY'IBIHUGU BY'AFURIKA Y'AMAJYEPFO, YASHYIRIWEHO UMUKONO I SHARM EL SHEIKH, MURI REPUBULIKA NYARABU YA MISIRI, KU WA 10 KAMENA 2015

PRESIDENTIAL ORDER N° 102/01 OF 18/09/2019 RATIFYING THE AGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY, SIGNED AT SHARM EL SHEIKH, IN THE ARAB REPUBLIC OF EGYPT, ON 10 JUNE 2015

ARRÊTÉ PRÉSIDENTIEL N° 102/01 DU 18/09/2019 RATIFIANT L'ACCORD INSTITUANT LA ZONE DE LIBRE ÉCHANGE TRIPARTITE ENTRE LE MARCHÉ COMMUN D'AFRIQUE ORIENTALE ET AUSTRALE, LA COMMUNAUTÉ D'AFRIQUE DE L'EST ET LA COMMUNAUTÉ DE DÉVELOPPEMENT D'AFRIQUE AUSTRALE, SIGNÉ À SHARM EL SHEIKH, EN RÉPUBLIQUE ARABE D'ÉGYPTE, LE 10 JUIN 2015

ISHAKIRO

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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 122, iya 167, iya 168 n'iya 176;

Dushingiye ku Itegeko n° 019/2019 ryo ku wa 16/08/2019 ryemera kwemeza burundu Amasezerano ashyiraho Agace k'Ubucuruzi n'Ubuhahirane Butagira Umupaka gahuriweho n'Isoko Rusange

PRESIDENTIAL ORDER N° 102/01 OF 18/09/2019 RATIFYING THE AGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY, SIGNED AT SHARM EL SHEIKH, IN THE ARAB REPUBLIC OF EGYPT, ON 10 JUNE 2015

We, KAGAME Paul,
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 122, 167, 168 and 176;

Pursuant to Law n° 019/2019 of 16/08/2019 approving the ratification of the Agreement establishing a Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa, the East African

ARRÊTÉ PRÉSIDENTIEL N° 102/01 DU 18/09/2019 RATIFIANT L'ACCORD INSTITUANT LA ZONE DE LIBRE ÉCHANGE TRIPARTITE ENTRE LE MARCHÉ COMMUN D'AFRIQUE ORIENTALE ET AUSTRALE, LA COMMUNAUTÉ D'AFRIQUE DE L'EST ET LA COMMUNAUTÉ DE DÉVELOPPEMENT D'AFRIQUE AUSTRALE, SIGNÉ À SHARM EL SHEIKH, EN RÉPUBLIQUE ARABE D'ÉGYPTE, LE 10 JUIN 2015

Nous, KAGAME Paul,
Président de la République;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 122, 167, 168 et 176;

Vu la Loi n° 019/2019 du 16/08/2019 approuvant la ratification de l'Accord instituant la Zone de Libre Échange Tripartite entre le Marché Commun d'Afrique Orientale et Australe, la

ry'Ibihugu by'Afurika y'Iburasirazuba n'Amajyepfo, Umuryango w'Ibihugu by'Afurika y'Iburasirazuba n'Umuryango w'Iterambere ry'Ibihugu by'Afurika y'Amajyepfo, yashyiriweho umukono i Sharm El Sheikh, muri Repubulika Nyarabu ya Misiri, ku wa 10 Kamena 2015;

Community and the Southern African Development Community, signed at Sharm El Sheikh, in the Arab Republic of Egypt, on 10 June 2015;

Communauté d'Afrique de l'Est et la Communauté de Développement d'Afrique Australe, signé à Sharm El Sheikh, en République Arabe d'Égypte, le 10 juin 2015;

Tumaze kubona Amasezerano ashyiraho Agace k'Ubucuruzi n'Ubuhahirane Butagira Umupaka gahuriweho n'Isoko Rusange ry'Ibihugu by'Afurika y'Iburasirazuba n'Amajyepfo, Umuryango w'Ibihugu by'Afurika y'Iburasirazuba n'Umuryango w'Iterambere ry'Ibihugu by'Afurika y'Amajyepfo, yashyiriweho umukono i Sharm El Sheikh muri, Repubulika Nyarabu ya Misiri, ku wa 10 Kamena 2015;

Considering the Agreement establishing a Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa, the East African Community and the Southern African Development Community, signed at Sharm El Sheikh, in the Arab Republic of Egypt, on 10 June 2015;

Considérant l'Accord instituant la Zone de Libre Échange Tripartite entre le Marché Commun d'Afrique Orientale et Australe, la Communauté d'Afrique de l'Est et la Communauté de Développement d'Afrique Australe, signé à Sharm El Sheikh, en République Arabe d'Égypte, le 10 juin 2015;

Bisabwe na Minisitiri w'Ubucuruzi n'Inganda;

On proposal by the Minister of Trade and Industry;

Sur proposition du Ministre du Commerce et de l'Industrie;

Inama y'Abaminisitiri imaze kubisuzuma no kubyemeza;

After consideration and approval by the Cabinet;

Après examen et adoption par le Conseil des Ministres;

TWATEGETSE KANDI DUTEGETSE:

HAVE ORDERED AND ORDER:

AVONS ARRÊTÉ ET ARRÊTONS:

<u>Ingingo ya mbere</u>: Kwemeza burundu

<u>Article One</u>: Ratification

<u>Article One</u>: Ratification

Amasezerano ashyiraho Agace k'Ubucuruzi n'Ubuhahirane Butagira

The Agreement establishing a Tripartite Free Trade Area among the Common

L'Accord instituant la Zone de Libre Échange Tripartite entre le Marché

Umupaka gahuriweho n'Isoko Rusange ry'Ibihugu by'Afurika y'Iburasirazuba n'Amajyepfo, Umuryango w'Ibihugu by'Afurika y'Iburasirazuba n'Umuryango w'Iterambere ry'Ibihugu by'Afurika y'Amajyepfo, yashyiriweho umukono i Sharm El Sheikh, muri Repubulika Nyarabu ya Misiri, ku wa 10 Kamena 2015, ari ku mugereka w'iri teka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

Market for Eastern and Southern Africa, the East African Community and the Southern African Development Community, signed at Sharm El Sheikh, in the Arab Republic of Egypt, on 10 June 2015, annexed to this Order, is ratified and becomes fully effective.

Commun d'Afrique Orientale et Australe, la Communauté d'Afrique de l'Est et la Communauté de Développement d'Afrique Australe, signé à Sharm El Sheikh, en République Arabe d'Égypte, le 10 juin 2015, annexé au présent arrêté, est ratifié et sort son plein et entier effet.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Minisitiri w'Intebe, Minisitiri w'Ubucuruzi n'Inganda, Minisitiri w'Ububanyi n'Amahanga n'Ubutwererane na Minisitiri w'Imari n'Igenamigambi bashinzwe gushyira mu bikorwa iri teka.

Article 2: Authorities responsible for the Implementation of this Order

The Prime Minister, the Minister of Trade and Industry, the Minister of Foreign Affairs and International Cooperation and the Minister of Finance and Economic Planning are entrusted with the implementation of this Order.

Article 2: Autorités chargées de l'exécution du présent arrêté

Le Premier Ministre, le Ministre du Commerce et de l'Industrie, le Ministre des Affaires Étrangères et de la Coopération Internationale et le Ministre des Finances et de la Planification Économique sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iri teka ritangirira gukurikizwa

Iri teka ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 18/09/2019

Article 3: Commencement

This Order comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 18/09/2019

Article 3: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 18/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEKA RYA PEREZIDA N° 102/01 RYO KU WA 18/09/2019 RYEMEZA BURUNDU AMASEZERANO ASHYIRAHO AGACE K'UBUCURUZI N'UBUHAHIRANE BUTAGIRA UMUPAKA GAHURIWEHO N'ISOKO RUSANGE RY'IBIHUGU BY'AFURIKA Y'IBURASIRAZUBA N'AMAJYEPFO, UMURYANGO W'IBIHUGU BY'AFURIKA Y'IBURASIRAZUBA N'UMURYANGO W'ITERAMBERE RY'IBIHUGU BY'AFURIKA Y'AMAJYEPFO, YASHYIRIWEHO UMUKONO I SHARM EL SHEIKH, MURI REPUBULIKA NYARABU YA MISIRI, KU WA 10 KAMENA 2015

ANNEX TO THE PRESIDENTIAL ORDER N° 102/01 OF 18/09/2019 RATIFYING THE AGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY, SIGNED AT SHARM EL SHEIKH, IN THE ARAB REPUBLIC OF EGYPT, ON 10 JUNE 2015

ANNEXE A L'ARRÊTÉ PRÉSIDENTIEL N° 102/01 DU 18/09/2019 RATIFIANT L'ACCORD INSTITUANT LA ZONE DE LIBRE ÉCHANGE TRIPARTITE ENTRE LE MARCHÉ COMMUN D'AFRIQUE ORIENTALE ET AUSTRALE, LA COMMUNAUTÉ D'AFRIQUE DE L'EST ET LA COMMUNAUTÉ DE DÉVELOPPEMENT D'AFRIQUE AUSTRALE, SIGNÉ À SHARM EL SHEIKH, EN RÉPUBLIQUE ARABE D'ÉGYPTE, LE 10 JUIN 2015

AGREEMENT ESTABLISHING A TRIPARTITE FREE TRADE AREA AMONG THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA, THE EAST AFRICAN COMMUNITY AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

Preamble

WE, the Member States of the Common Market for Eastern and Southern Africa, the Partner States of the East African Community, and the Member States of the Southern African Development Community, hereinafter referred to as "Tripartite Member/Partner States":

RECALLING AND AFFIRMING the strong and indissoluble bonds of history, freedom, liberation struggles, friendship, solidarity, commerce, trade, shared natural resources, and culture among the people and Governments of the Member/Partner States of the Common Market for Eastern and Southern Africa, the East African Community, and the Southern African Development Community;

RECOGNISING the Kampala Communiqué of the Tripartite Summit of 22 October2008 under which the Heads of State and Government representing the three regional economic communities agreed, *inter alia*, to establish a single Customs Union beginning with a Free Trade Area;

FURTHER RECOGNISING the Declaration Launching the Negotiations for the Establishment of the Tripartite Free Trade Area of Johannesburg, South Africa, 12 June 2011;

RECALLING the Tripartite Memorandum of Understanding signed on 19 January, 2011 and its provisions on the establishment of the Tripartite Free Trade Area;

COMMITED to championing and expediting the continental integration process under the Treaty establishing the African Economic Community and the Constitutive Act of the African Union through regional initiatives;

COGNISANT of the provisions establishing free trade areas in the Common Market of Eastern and Southern Africa Treaty, Treaty for the Establishment of the East African Community and the Southern African Development Community Protocol on Trade;

DETERMINED to build upon the success and best practices achieved in trade liberalisation within the three Regional Economic Communities;

COMMITTED to resolving the challenges of overlapping memberships of the Tripartite Member/Partner States to the three Regional Economic Communities;

CONSIDERING that trade in goods and services, infrastructure, cross-border investment, industrial development and movement of business persons should be major areas of co-operation;

DETERMINED to take the necessary measures for reducing the cost of doing business and creating a conducive environment for private sector development;

MINDFUL of the important role of micro, small and medium enterprises in job creation and income generation for the majority of the people in the Tripartite Member/Partner States;

RECOGNISING the significant contribution of trade in goods and services to national incomes of the Member/Partner States;

DETERMINED to progressively liberalise trade in goods and services, promote industrial development, facilitate movement of business persons, support the strengthening of infrastructure, promote competitiveness, build the capacity of micro, small and medium scale enterprises, and contribute to the deepening of integration in the Tripartite Member/Partner States;

RECOGNISING that the development of trade and investment is essential to the economic integration of the Region and will create new opportunities for a dynamic business sector;

CONVINCED that a framework of trade co-operation among Tripartite Member/Partner States based on equality, fair competition and mutual benefit will contribute to the creation of a viable development community;

MINDFUL of the different levels of economic development and geographic specificities of the Tripartite Member/Partner States and the need to share equitably the benefits of regional economic integration;

COMMITED to improving the competitiveness of Tripartite Member/Partner States at enterprise, industrial and regional levels so as to fully derive benefits from regional and global trade opportunities;

RECOGNISING the progress achieved in the elimination of import duties and other trade barriers within the three regional economic communities;

RECOGNISING the initiatives undertaken by the regional economic communities in establishing themselves as single investment areas and building on this progress; and

RECOGNISING our international obligations under the existing agreements;

HEREBY AGREE as follows:

PART I

INTERPRETATION, ESTABLISHMENT, OBJECTIVES AND PRINCIPLES

Article 1
Interpretation

In this Agreement, unless the context otherwise requires:

"Agreement" means this agreement establishing the Tripartite Free Trade Area;

"COMESA" means the Common Market for Eastern and Southern Africa as established by the Treaty Establishing the Common Market for Eastern and Southern Africa which entered into force on 8th December, 1994;

"Customs duties" means duties laid down in the customs tariff to which goods are liable on entering or leaving the customs territory of the Member/Partner State;

"EAC" means the East African Community established by the Treaty for the Establishment of the East African Community which entered into force on 7th July, 2000;

"Import duties" means customs duties or charges of equivalent effect imposed on, or in connection with, the importation of goods consigned from any Tripartite Member/Partner State to a consignee in another Tripartite Member/Partner State, but do not include any;

a) charges equivalent to internal taxes imposed consistently with Article III(2) of the GATT 1994 and its interpretative notes in respect of like directly competitive or substitutable goods of the party or the signatory party or in respect of goods from which imported goods have been manufactured or produced in whole or in part;

b) antidumping or countervailing duties imposed in accordance with Articles VI, and XVI of GATT 1994 and the WTO Agreement on Subsidies and countervailing measures and Article 17 of this Agreement;

c) safeguard duties or levies imposed in accordance with Articles XIX of GATT 1994, the WTO Agreement on Safeguards and Articles 18 and 19 of this Agreement other fees or charges imposed consistently with Article VIII of GATT 1994.

"Most Favoured Nation treatment" (MFN) means that advantages that any Tripartite Member/Partner State offers to third countries would be offered to other Tripartite Member/Partner States. The purpose is to ensure that Tripartite

Member/Partner State trade amongst each other on terms as good as or better than that offered to non-FTA partners. These advantages would be extended on reciprocity.

"Non-Tariff Barriers" (NTB) means any laws, regulations, administrative and technical requirements other than tariffs imposed by a partner state whose effect is to impede trade;

"Quantitative restrictions" means prohibitions or restrictions on imports into, or exports from a Tripartite Member/Partner State whether made effective through quotas, import licences, or other measures and requirements restricting imports or exports;

"REC" means Regional Economic Community;

"**Region**" means the geographical territories of the Tripartite Member/Partner States collectively;

"SADC" means the Southern African Development Community as established by the Treaty of the Southern African Development Community which entered into force on 30th September, 1993;

"Special Economic Zones" means a designated economic area in a Tripartite Member/Partner State with regulations that may be different from other areas in the same Tripartite Member/Partner State for the purpose of attracting foreign and domestic investments, know-how and technology;

"SPS" means Sanitary and Phyto-Sanitary Measures;

"TBT" means Technical Barriers to Trade;

"Transit" refers to Customs transit which means a Customs procedure under which goods are transported under Customs control from one Customs office to another; (Annex A and Specifically Annex E to the Istanbul Convention);

"Tripartite Member/Partner States" means the Member States of Common Market for Eastern and Southern Africa, the Partner States of the East African Community, and the Member States of the Southern African Development Community who are party to this Agreement and any other member of the African Union that would have become party to this Agreement;

"Third country" means a country that is not a party to this Agreement;

"variable geometry" means the principle of flexibility which allows for progression in cooperation amongst members in a larger integration scheme in a variety of areas and at different speeds;

"WTO" means the World Trade Organisation.

Article 2
Establishment of the Tripartite Free Trade Area

A Free Trade Area among the Member/Partner States of COMESA, EAC and SADC is hereby established.

Article 3
Scope and Coverage

This Agreement shall, without derogating from the purpose already outlined herein comprise of:

a) Trade in goods;
b) Trade in services; and
c) Other trade-related matters.

Article 4
General Objectives

The general objectives of the Tripartite Free Trade Area shall be to:

a) promote economic and social development of the Region;
b) create a large single market with free movement of goods and services to promote intra-regional trade;
c) enhance the regional and continental integration processes; and
d) build a strong Tripartite Free Trade Area for the benefit of the people of the Region.

Article 5
Specific Objectives

For purposes of fulfilling and realising the objectives set out in Article 4 of this Agreement, Tripartite Member/Partner States shall:

a) progressively eliminate tariffs and Non-Tariff Barriers to trade in goods;
b) liberalise trade in services;
c) cooperate on customs matters and implementation of trade facilitation measures;
d) establish and promote cooperation in all trade-related areas among Tripartite Member/Partner States; and
e) establish and maintain an institutional framework for implementation and administration of the Tripartite Free Trade Area.

Article 6
Principles

The principles governing this Agreement shall be the following:

a) REC and/ or Tripartite Member/Partner States driven;
b) variable geometry;
c) flexibility and special and differential treatment;
d) transparency;
e) building on the *acquis*;
f) single undertaking with regard to the various phases of the Agreement;
g) MFN treatment
h) national treatment;
i) reciprocity;
j) substantial liberalisation;
k) consensus decision making; and
l) best practices in the regional economic communities, the Tripartite Member/Partner States and international conventions binding Tripartite Member/Partner States.

PART II

NON-DISCRIMINATION

Article 7
Most-Favoured-Nation Treatment

1. Tripartite Member/Partner States shall accord to one another the Most-Favoured- Nation Treatment.

2. Nothing in this Agreement shall prevent a Tripartite Member/Partner State from maintaining or entering into new preferential trade agreements with third countries provided that any advantage, concession, privilege or favour granted to a third country under such agreements are offered to the other Tripartite Member/Partner States on a reciprocal basis.

3. Nothing in this Agreement shall prevent two or more Tripartite Member/Partner States from entering into new preferential agreements which aim at achieving the objectives of this Agreement among themselves, provided that any preferential treatment accorded under such agreements is extended to the other Tripartite Member/Partner States on a reciprocal and non-discriminatory basis.

4. Any agreement entered into under paragraph 2 and 3 shall be notified to the Tripartite Sectoral Ministerial Committee responsible for Trade, Finance, Customs, Economic Matters and Home/Internal Affairs.

Article 8
National Treatment

A Tripartite Member/Partner State shall accord to products imported from other Tripartite Member/Partner States treatment no less favourable than that accorded to like domestic products, after the imported products have passed customs, and that this treatment covers all measures affecting the sale and conditions for sale of such products in accordance with Article III of GATT 1994.

PART III

LIBERALISATION OF TRADE IN GOODS

Article 9
Elimination of Import Duties

1. Tripartite Member/Partner States shall not impose new import duties or charges of equivalent effect except as provided for under this Agreement.

2. The provisions of paragraph 1 shall not apply to goods that are not subject to liberalisation.

3. The Tripartite Member/Partner States shall progressively eliminate import duties in accordance with schedules contained in **Annex** I on Elimination of Import Duties.

Article 10
Non-Tariff-Barriers

1. Tripartite Member/Partner States shall eliminate all existing Non-Tariff-Barriers to trade with each other and shall not impose any new ones in line with **Annex III** on Non-Tariff Barriers.

2. Tripartite Member/Partner States recognise the existing reporting, monitoring and elimination mechanisms on Non-Tariff-Barriers established by the three RECs and undertake to harmonise them into a single mechanism as provided for in **Annex III.**

Article 11
Elimination of Quantitative Restrictions

Tripartite Member/Partner States shall not impose quantitative restrictions on imports or exports in trade with other Tripartite Member/Partner States except as otherwise provided for in Article XI.2 of GATT1994, the WTO Agreement on Safeguards and Articles 17 and 18 and **Annex II** on Trade Remedies of this Agreement.

Article 12
Rules of Origin

Goods shall be eligible for preferential treatment under this Agreement if they are originating goods in any of the Tripartite Member/Partner States in accordance with the criteria and conditions set out in **Annex IV** on Rules of Origin.

PART IV
CUSTOMS COOPERATION AND TRADE FACILITATION

Article 13
Customs Cooperation

Tripartite Member/Partner States shall take appropriate measures including arrangements regarding customs cooperation and mutual administrative assistance to ensure that the provisions of this Agreement are effectively applied in accordance with **Annex V** on Customs Cooperation and Mutual Administrative Assistance.

Article 14
Trade Facilitation

1. Tripartite Member/Partner States agree to design and standardise their trade and customs documentation and information in accordance with internationally accepted standards, taking into account the use of electronic data processing systems.

2. Tripartite Member/Partner States shall ensure an efficient and effective application of this Article in accordance with **Annex VI** on Trade Facilitation.

3. Tripartite Member/Partner States undertake to initiate trade facilitation programmes in accordance with **Annex VI** on Trade Facilitation aimed at:

    a) reducing the cost of processing documents and volume of paper work required in respect of trade among Tripartite Member/Partner States;

    b) ensuring that the nature and volume of information required in respect of trade within the Tripartite Free Trade Area does not adversely affect the economic development of, or trade among, the Tripartite Member/Partner States;

    c) adopting common standards of trade procedures within the Tripartite Free Trade Area where international requirements do not suit the conditions prevailing among Tripartite Member/Partner States;

    d) ensuring adequate coordination between trade and transport facilitation within the Tripartite Free Trade Area;

e) keeping under review procedures adopted in international trade and transport with a view to simplifying and adopting them;

f) collecting and disseminating information on international development regarding trade facilitation;

g) promoting the development and adoption of common solutions to problems in trade facilitation instruments;

h) initiating and promoting the establishment of joint programmes, for the training of personnel engaged in trade facilitation; and

i) establishing and promoting one-stop border posts.

Article 15
Transit

Tripartite Member/Partner States agree to facilitate the movement of goods and means of transport in transit to other Tripartite Member/Partner States in accordance with **Annex VII** on Transit Trade and Transit Facilitation.

PART V

TRADE REMEDIES

Article 16
Transitional Arrangements

1. Where there is evidence of dumping, subsidisation or surge in imports into the territory of a Tripartite Member/Partner State, nothing in this Agreement shall prevent that Tripartite Member/Partner State from applying, in the interim, an anti-dumping, countervailing or safeguard measure governed by:

   a) REC provisions among the Member/Partner State of the same REC;
   b) The relevant WTO provisions across the RECs.

2. The Tripartite guidelines on the implementation of trade remedies shall be drafted by a Tripartite Committee of Experts as part of the built in agenda and shall form an integral part of **Annex II** on Trade Remedies.

3. Articles 17, 18 and 19 shall be suspended until **Annex II** on Trade Remedies is finalised and operational.

Article 17
Anti-dumping and Countervailing Measures

1. Subject to the provisions of this Agreement, nothing in this Agreement shall prevent Tripartite Member/Partner States from adopting anti-dumping and countervailing measures in accordance with the relevant WTO Agreements and **Annex II** on Trade Remedies.

2. In applying this Article, Tripartite Member/Partner States shall be guided by provisions of the WTO Agreement on the Interpretation of Article VI of the GATT 1994; and the WTO Agreement on Subsidies and Countervailing Measures.

Article 18
Safeguard Measures

1. A Tripartite Member/Partner State may apply a safeguard measure to a product only after determining that such product is being imported into its territory:

   a) in such increased quantities, absolute or relative to domestic production; and

   b) under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

2. In applying this Article, Tripartite Member/Partner States shall be guided by the provisions of Article XIX of GATT 1994 WTO Agreement on Safeguard Measures and **Annex II** on Trade Remedies.

Article 19
Preferential Safeguards

1. Preferential safeguard measures may be applied by a Tripartite Member/Partner States under the provisions in **Annex II** on Trade Remedies, if as a result of the obligations undertaken by that Tripartite Member/Partner State goods are imported into the territory of a Tripartite Member/Partner State under such conditions as to cause or threaten to cause serious injury to the domestic industry.

2. Preferential safeguard measures shall be applied only to the extent necessary to prevent or remedy serious injury.

Article 20
Cooperation on Trade Remedies

Recognising that dumping, subsidisation and import surges, whether originating from the Region or a Third Country, can adversely affect more than one Tripartite Member

/Partner State within the Region, Tripartite Member/Partner States shall co-operate in the detection and investigation of dumping or subsidisation or sudden imports urges and in the imposition of the appropriate measures to curb such practices.

PART VI

TRADE-RELATED AREAS

Article 21
Technical Barriers to Trade

1. Tripartite Member/Partner States reaffirm their rights and obligations in respect of the WTO Agreement on Technical Barriers to Trade.

2. Tripartite Member/Partner States undertake to facilitate trade through cooperation in the areas of technical regulations, standards, metrology, conformity assessment and accreditation.

3. Tripartite Member/Partner States shall, cooperate to eliminate unnecessary and unjustifiable Technical Barriers to Trade.

4. Cooperation shall include but not be limited to:

   a) the reinforcement of good regulatory and standards setting practices;
   b) the implementation of various mechanisms to facilitate the acceptance of conformity assessment results;
   c) promoting the use of relevant international standards as a basis for technical regulations;
   d) identifying and assessing instruments for trade facilitation such as the harmonisation, and or equivalence of technical regulations; and
   e) mutual recognition of conformity assessment results.

5. Tripartite Member/Partner States shall strengthen cooperation and agree on priority areas of mutual interest in matters relating to Technical Barriers to Trade.

6. Tripartite Member/Partner States shall establish and implement a capacity building programme to support the implementation of **Annex** VIII on Technical Barriers to Trade.

7. Tripartite Member/Partner States shall establish mechanisms and structures to enhance transparency in the development and implementation of standards, technical regulations, and conformity assessment requirements.

8. The implementation of this Article shall be in accordance with the provisions of **Annex VIII** on Technical Barriers to Trade.

Article 22
Sanitary and Phytosanitary Measures

1. Tripartite Member/Partner States reaffirm their rights and obligations in respect of the WTO Agreement on the application of Sanitary and Phytosanitary measures.

2. Tripartite Member/Partner States shall undertake to facilitate safe trade in animals and animal products, plants and plant products whilst safeguarding human, animal and plant life or health.

3. Tripartite Member/Partner States shall cooperate to eliminate unjustifiable SPS measures in order to facilitate safe trade in sectors of mutual economic interest.

4. Tripartite Member/Partner States shall establish and implement a capacity building programme to support the implementation of **Annex IX** on Sanitary and Phytosanitary Measures.

5. The implementation of this Article shall be in accordance with **Annex IX** Sanitary and Phytosanitary Measures.

Article 23
Special Economic Zones

1. Tripartite Member/Partner States may support the establishment and operation of special economic zones for the purpose of accelerating development.

2. Products benefiting from special economic zones shall be subject to any regulations that may be made by the Tripartite Council of Ministers. Regulations under this paragraph shall be subject to paragraph 3 of this Article and in support of the Tripartite industrialisation programmes.

3. The trade of products manufactured in special economic zones within the Tripartite Member/Partner States shall be subject to the provisions of **Annex IV** on Rules of Origin.

Article 24
Infant industries

1. For purposes of this Article, an infant industry shall be understood to refer to a new industry of national strategic importance that has not been in existence for more than five years, and that is experiencing high start-up costs and difficulties competing with like imports.

2. For the purposes of protecting an infant industry, a Tripartite Member/Partner State may, provided that it has taken all reasonable steps to overcome the difficulties related to such infant industry, adopt appropriate measures on similar

goods originating from other Tripartite Member/Partner States, provided that the measures are applied on a non-discriminatory basis.

3. The Tripartite Council of Ministers shall determine the period and the nature of the measures that may be adopted under this Article.

4. The Tripartite Committee of Experts, established under Article 29 of this Agreement, shall keep under constant review the operation of any restrictions imposed under this Article and regularly report to the Tripartite Council of Ministers with recommendations.

Article 25
Balance of Payments

A Tripartite Member/Partner State facing severe balance of payments and external financial difficulties, and that has taken all reasonable steps to overcome the difficulties, may adopt appropriate measures in accordance with guidelines to be determined by the Tripartite Council of Ministers, provided that such measures shall be reviewed annually.

PART VII
OTHER AREAS OF COOPERATION

Article 26
Cooperation in Financial Areas

For the purposes of this Agreement, Tripartite Member/Partner States may cooperate and strengthen coordination in financial and payment systems, development of capital markets and commodity exchanges.

Article 27
Cooperation in Trade Policies and Negotiations

Tripartite Member/Partner States may:

a) cooperate with respect to their trade policies;
b) enhance their cooperation with bilateral and multilateral partners; and
c) enhance cooperation in international and multilateral negotiations.

Article 28
Cooperation in Research and Statistics

1. Tripartite Member/Partner States may cooperate in areas of research and statistics necessary for monitoring the performance and operation of the Tripartite Free Trade Area.

2. For purposes of this Article, cooperation shall include the following:

a) policy research and trade development;

b) establishment of a Tripartite statistical database;

c) joint capacity building including joint training;

d) harmonisation of statistical systems and data management; and

e) exchange of information.

PART VIII

IMPLEMENTATION OF THE TRIPARTITE FREE TRADE AREA

Article 29
Organs for the Implementation of the Tripartite Free Trade Area

1. The organs for the implementation of the Free Trade Area shall be:

   a) the Tripartite Summit consisting of the Heads of State and/or Governments of Tripartite Member/Partner States which shall give general direction and impetus for the Tripartite arrangement;

   b) the Tripartite Council of Ministers consisting of ministers as designated by Tripartite Member/Partner States for the purposes of the Tripartite Free Trade Area;

   c) the Tripartite Sectoral Ministerial Committee on Trade, Finance, Customs and Economic Matters and Home/Internal Affairs; and the Tripartite Sectoral Ministerial Committee on Legal Affairs each of which shall be responsible for policy direction and implementation in their respective sectors ;

   d) the Tripartite Task Force of the Secretariats of the three RECs which shall coordinate the implementation of the Tripartite work programme and shall provide secretariat services to the Tripartite arrangement;

   e) the Tripartite Committee of Senior Officials which shall be responsible for overseeing and guiding technical work; and

   f) the Tripartite Committee of Experts which shall carry out the technical work and report to the Tripartite Committee of Senior Officials.

2. The Tripartite Summit shall adopt its own rules of procedure.

3. The Tripartite Council of Ministers shall adopt its own rules of procedure.

4. Each Committee shall develop its rules of procedure which shall be approved by the Tripartite Council of Ministers.

PART IX

DISPUTE SETTLEMENT

Article 30
Dispute Settlement

1. A Dispute Settlement Body is hereby established to administer the rules and procedure, as well as the dispute settlement provisions under this Agreement.

2. The Dispute Settlement Body shall have the power to:

   a) establish panels and an Appellate Body;
   b) adopt Panel and Appellate Body reports;
   c) maintain surveillance of implementation of rulings and recommendations of panels and Appellate Body; and
   d) authorise suspension of concessions under the Agreement.

3. The Dispute Settlement Body shall inform the Tripartite Council of Ministers and relevant Committees of any development in disputes related to provisions of this Agreement.

4. Any dispute arising from the interpretation or application of this Agreement shall be resolved in accordance with the provisions of this Article and **Annex X** on Dispute Settlement Mechanism.

5. The settlement of any dispute between or among Tripartite Member/Partner States shall, whenever possible, imply removal of a measure not conforming with the provisions of this Agreement or causing nullification or impairment of a benefit under such provision.

6. No Tripartite Member/Partner State shall refer a dispute to the Dispute Settlement Body unless it has in good faith engaged in consultations and negotiations, with a view to resolve the dispute.

7. In the event of inconsistency or a conflict between this Agreement and the treaties and instruments of COMESA, EAC and SADC, this Agreement shall prevail to the extent of the inconsistency or conflict.

PART X

GENERAL AND SECURITY EXCEPTIONS

Article 31
General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed as preventing the adoption or enforcement of measures by any Tripartite Member/Partner State;

a) necessary to protect public morals or to maintain public order;

b) necessary to protect human, animal or plant life or health;

c) relating to the importation or exportation of precious and semi-precious stones, precious and strategic minerals and metals including but not limited to gold, silver, platinum, diamonds, coltan, oil, gas, tanzanite and uranium;

d) relating to the products of prison labour;

e) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the protection of patents, trademarks and copyrights, and the prevention of deceptive practices;

f) imposed for the protection of national treasures of artistic, historic or archaeological value;

g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;

h) undertaken in pursuance of obligations under any intergovernmental commodity agreement approved by the Tripartite Council of Ministers;

i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilisation plan: provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination; and

j) essential to the acquisition or distribution of foodstuffs or any other products in general or local short supply, provided that any such measures shall be consistent with the principle that all Tripartite Member/Partner States are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

Article 32
Security Exceptions

Nothing in this Agreement shall be construed to:

a) require any Tripartite Member/Partner State to furnish any information the disclosure of which it considers contrary to its essential security interests; or

b) prevent any Tripartite Member/Partner State from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; and

(iii) taken in time of war or other emergency in international relations; or

c) prevent any Tripartite Member/Partner State from taking any action in pursuance of its obligations under the Charter of the United Nations.

Article 33
Notification of Prohibited and Restricted Goods

A Tripartite Member/Partner State taking measures pursuant to Articles 31 and 32 shall within twenty-one (21) days from the date the Tripartite Member/Partner State implements the measure notify such measures to the Tripartite Sectoral Ministerial Committee on Trade, Finance, Customs and Economic Matters and Home/Internal Affairs.

PART XI

FINANCIAL PROVISIONS

Article 34
Funding

Tripartite Member/Partner States shall institute appropriate modalities to fund their commitments in the implementation of this Agreement.

PART XII

GENERAL AND FINAL PROVISIONS

Article 35
Working Languages

The working languages under this Agreement shall be Arabic, English, French and Portuguese.

Article 36
Protocols and Annexes

1. Tripartite Member/Partner States shall from time to time conclude such Protocols and Annexes as are necessary for the implementation of this Agreement. Such Protocols and Annexes shall be adopted by the Tripartite Council of Ministers.

2. The Protocols and Annexes shall form an integral part of this Agreement.

Article 37
Amendment

1. This Agreement may be amended at any time by consensus.

2. Any Tripartite Member/Partner State may submit proposals for amendment of this Agreement to the Chairperson of the Tripartite Task Force in writing. The Chairperson of the Tripartite Task Force shall, within 30 days, submit the proposals to Tripartite Member/Partner States.

3. A Tripartite Member/Partner State that wishes to comment on the proposals may do so within 90days from the date of the dispatch of the proposal.

4. After the expiration of the period, the Chairperson of the Tripartite Task Force shall submit proposals and any comments to the Tripartite Council of Ministers for consideration and adoption.

5. Any amendment shall enter into force upon adoption by the Tripartite Summit by consensus.

Article 38
Sanctions

A Tripartite Member/Partner State which defaults in meeting its obligations under this Agreement shall be subject to such sanctions as the Tripartite Summit may, determine on the recommendation of the Tripartite Council of Ministers,.

Article 39
Signature, Ratification and Entry into Force

1. This Agreement shall be signed by the Tripartite Member/Partner States.

2. This Agreement shall be ratified by Tripartite Member/Partner States in accordance with their national laws.

3. This Agreement shall enter into force on the Thirtieth day after the deposit of the fourteenth instrument of ratification by Member/Partner States of COMESA, EAC and SADC.

Article 40
Obligation not to Defeat the Object and Purpose of this Agreement Prior to its Entry into Force

A Tripartite Member/Partner State shall refrain from acts which would defeat the object and purpose of this Agreement when it has:

a) signed the Agreement or has exchanged instruments constituting the Agreement subject to ratification until it shall have made its intention clear not to become a party to the Agreement; or
b) expressed its consent to be bound by the Agreement, pending the entry into force of the Agreement, provided that such entry into force is not unduly delayed.

Article 41
Accession

1. This Agreement shall remain open for accession by any Member/Partner State of COMESA, EAC or SADC.
2. The Agreement shall also remain open for accession to other member states of the African Union.
3. The Tripartite Council of Ministers shall adopt accession regulations.

Article 42
Withdrawal

A Tripartite Member/Partner State wishing to withdraw from this Agreement, shall notify the Tripartite Council of Ministers giving twelve (12) months' notice, of its intention to do so. Such a Tripartite Member/Partner State shall discharge its existing obligations before withdrawing from this Agreement.

Article 43
Depositary and Registration

1. This Agreement and all instruments of ratification, accession and notification of entry into force or withdrawal thereof shall be deposited with the Tripartite Task Force.

2. The Tripartite Task Force shall transmit certified copies of the Agreement to the Tripartite Member/Partner States.
3. The Tripartite Task Force shall notify the Tripartite Member/Partner States of the dates of deposit of instruments of ratification and accession.

4. The Tripartite Task Force shall notify this Agreement to the United Nations Secretary General and the WTO.

Article 44
Negotiations on Outstanding Issues on Phase I

Tripartite Member/Partner States undertake to conclude negotiations on outstanding issues under Phase I as set out in **Annex I** on Elimination of Customs Duties, **Annex II** on Trade Remedies and **Annex IV** on Rules of Origin after the launch of the Tripartite Free Trade Area.

Article 45
Phase II Negotiations

1. Recognising the need to conclude Phase II Negotiations, and to provide flexibility in the implementation of the Agreement, the Tripartite Member/Partner States agree to negotiate and endeavour to conclude the following protocols within 24 months upon entry into force of this Agreement:

    a) A protocol on trade in services; and
    b) Protocols on trade-related matters, including Competition policy, Cross-Border Investment, Trade and Development, and Intellectual Property Rights.

2. The Tripartite Member/Partner States may conclude protocols in any other trade-related matter agreed to by the Tripartite Member/Partner States.

IN WITNESS WHEREOF, WE the Heads of State and Government or duly Authorised Representatives of Tripartite Member/Partner States have signed and sealed this Agreement in four original texts in English, French, Arabic and Portuguese languages, all texts being equally authentic.

DONE at Sharm El Sheikh, in the Arab Republic of Egypt, on this 10th day of June in the year Two Thousand and Fifteen.

.....
Republic of Angola

.....
Republic of Botswana

.....
Republic of Burundi

.....
Union of the Comoros

.....
Democratic Republic of Congo

.....
Republic of Djibouti

.....
Federal Democratic Republic of Ethiopia

.....
State of Eritrea

.....
Arab Republic of Egypt

.....
Republic of Kenya

.....
Kingdom of Lesotho

.....
State of Libya

..... Republic of Madagascar	..... Republic of Malawi
..... Republic of Mauritius	..... Republic of Mozambique
..... Republic of Namibia	..... Republic of Rwanda
..... Republic of Seychelles	..... Republic of South Africa
..... Kingdom of Swaziland	..... Republic of Sudan
..... United Republic of Tanzania	..... Republic of Uganda
..... Republic of Zambia	..... Republic of Zimbabwe

Bibonywe kugira ngo bishyirwa ku mugereka w'Iteka rya Perezida n° 102/01 ryo ku wa 18/09/2019 ryemeza burundu Amasezerano ashyiraho Agace k'Ubucuruzi n'Ubuhahirane butagira Umupaka gahuriweho n'Isoko Rusange ry'Ibihugu by'Afurika y'Iburasirazuba n'Amajyepfo, Umuryango w'Ibihugu by'Afurika y'Iburasirazuba n'Umuryango w'Iterambere ry'Ibihugu by'Afurika y'Amajyepfo, yashyiriweho umukono i Sharm El Sheikh, muri Repubulika Nyarabu ya Misiri, ku wa 10 Kamena 2015

Kigali, ku wa 18/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Presidential Order n° 102/01 of 18/09/2019 ratifying the Agreement establishing a Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa, the East African Community and the Southern African Development Community, signed at Sharm El Sheikh, in the Arab Republic of Egypt, on 10 June 2015

Kigali, on 18/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à l'Arrêté Présidentiel n° 102/01 du 18/09/2019 ratifiant l'Accord instituant la Zone de Libre Échange Tripartite entre le Marché Commun d'Afrique Orientale et Australe, la Communauté d'Afrique de l'Est et la Communauté de Développement d'Afrique Australe, signé à Sharm El Sheikh, en République Arabe d'Égypte, le 10 juin 2015

Kigali, le 18/09/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEKA RYA PEREZIDA N° 103/01 RYO KU WA 18/09/2019 RYEMEZA BURUNDU AMASEZERANO Y'UBUFATANYE HAGATI YA GUVERINOMA YA REPUBULIKA Y'U RWANDA NA GUVERINOMA YA REPUBULIKA YUNZE UBUMWE IHARANIRA DEMOKARASI YA ETHIOPIA, MU BYEREKEYE ITUMANAHO, AMAKURU N'ITANGAZAMAKURU, YAKOREWE I KIGALI KU WA 28 MATA 2017

PRESIDENTIAL ORDER N° 103/01 OF 18/09/2019 RATIFYING THE COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, IN THE FIELD OF COMMUNICATION, INFORMATION AND MEDIA, DONE AT KIGALI ON 28 APRIL 2017

ARRÊTÉ PRÉSIDENTIEL N° 103/01 DU 18/09/2019 RATIFIANT L'ACCORD DE COOPÉRATION ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE FÉDÉRALE DÉMOCRATIQUE D'ÉTHIOPIE, DANS LE DOMAINE DE LA COMMUNICATION, DE L'INFORMATION ET DES MÉDIA, FAIT À KIGALI LE 28 AVRIL 2017

ISHAKIRO

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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 122, iya 167, iya 168 n'iya 176;

Dushingiye ku Itegeko n° 023/2019 ryo ku wa 04/09/2019 ryemera kwemeza burundu Amasezerano y'Ubufatanye hagati ya Guverinoma ya Repubulika y'u Rwanda na Guverinoma ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Etiyopiya, mu byerekeye Itumanaho, Amakuru n'Itangazamakuru, yakorewe i Kigali ku wa 28 Mata 2017;

PRESIDENTIAL ORDER N° 103/01 OF 18/09/2019 RATIFYING THE COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, IN THE FIELD OF COMMUNICATION, INFORMATION AND MEDIA, DONE AT KIGALI ON 28 APRIL 2017

We, KAGAME Paul,
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 122, 167, 168 and 176;

Pursuant to Law n° 023/2019 of 04/09/2019 approving ratification of the Cooperation Agreement between the Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia, in the field of Communication, Information and Media, done at Kigali on 28 April 2017;

ARRÊTÉ PRÉSIDENTIEL N° 103/01 DU 18/09/2019 RATIFIANT L'ACCORD DE COOPÉRATION ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE FÉDÉRALE DÉMOCRATIQUE D'ÉTHIOPIE, DANS LE DOMAINE DE LA COMMUNICATION, DE L'INFORMATION ET DES MÉDIA, FAIT À KIGALI LE 28 AVRIL 2017

Nous, KAGAME Paul,
Président de la République;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 122, 167, 168 et 176;

Vu la Loi n° 023/2019 du 04/09/2019 approuvant la ratification de l'Accord de Coopération entre le Gouvernement de la République du Rwanda et le Gouvernement de la République Fédérale Démocratique d'Éthiopie, dans le domaine de la Communication, de l'Information et des Média, fait à Kigali le 28 avril 2017;

Tumaze kubona Amasezerano y'Ubufatanye hagati ya Guverinoma ya Repubulika y'u Rwanda na Guverinoma ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Etiyopiya, mu byerekeye Itumanaho, Amakuru n'Itangazamakuru, yakorewe i Kigali ku wa 28 Mata 2017;

Bisabwe na Minisitiri w'Ubutegetsi bw'Igihugu;

Inama y'Abaminisitiri imaze kubisuzuma no kubyemeza;

TWATEGETSE KANDI DUTEGETSE:

Ingingo ya mbere: Kwemeza burundu

Amasezerano y'Ubufatanye hagati ya Guverinoma ya Repubulika y'u Rwanda na Guverinoma ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Etiyopiya, mu byerekeye Itumanaho, Amakuru n'Itangazamakuru, yakorewe i Kigali ku wa 28 Mata 2017, ari ku mugereka w'iri teka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

Considering the Cooperation Agreement between the Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia, in the field of Communication, Information and Media, done at Kigali on 28 April 2017;

On proposal by the Minister of Local Government;

After consideration and approval by the Cabinet;

HAVE ORDERED AND ORDER:

Article One: Ratification

The Cooperation Agreement between the Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia, in the field of Communication, Information and Media, done at Kigali on 28 April 2017, annexed to this Order, is ratified and becomes fully effective.

Considérant l'Accord de Coopération entre le Gouvernement de la République du Rwanda et le Gouvernement de la République Fédérale Démocratique d'Éthiopie, dans le domaine de la Communication, de l'Information et des Média, fait à Kigali le 28 avril 2017;

Sur proposition du Ministre de l'Administration Locale;

Après examen et adoption par le Conseil des Ministres;

AVONS ARRÊTÉ ET ARRÊTONS:

Article premier: Ratification

L'Accord de Coopération entre le Gouvernement de la République du Rwanda et le Gouvernement de la République Fédérale Démocratique d'Éthiopie, dans le domaine de la Communication, de l'Information et des Média, fait à Kigali le 28 avril 2017, annexé au présent arrêté, est ratifié et sort son plein et entier effet.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Minisitiri w'Intebe, Minisitiri w'Ubutegetsi bw'Igihugu, Minisitiri w'Ububanyi n'Amahanga n'Ubutwererane na Minisitiri w'Imari n'Igenamigambi bashinzwe gushyira mu bikorwa iri teka.

Ingingo ya 3: Igihe iri teka ritangirira gukurikizwa

Iri teka ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 18/09/2019

Article 2: Authorities responsible for the implementation of this Order

The Prime Minister, the Minister of Local Government, the Minister of Foreign Affairs and International Cooperation and the Minister of Finance and Economic Planning are entrusted with the implementation of this Order.

Article3: Commencement

This Order comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 18/09/2019

Article 2: Autorités chargées de l'exécution du présent arrêté

Le Premier Ministre, le Ministre de l'Administration Locale, le Ministre des Affaires Étrangères et de la Coopération Internationale et le Ministre des Finances et de la Planification Économique sont chargés de l'exécution du présent arrêté.

Article 3: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 18/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEKA RYA PEREZIDA N° 103/01 RYO KU WA 18/09/2019 RYEMEZA BURUNDU AMASEZERANO Y'UBUFATANYE HAGATI YA GUVERINOMA YA REPUBULIKA Y'U RWANDA NA GUVERINOMA YA REPUBULIKA YUNZE UBUMWE IHARANIRA DEMOKARASI YA ETHIOPIA, MU BYEREKEYE ITUMANAHO, AMAKURU N'ITANGAZAMAKURU, YAKOREWE I KIGALI KU WA 28 MATA 2017

ANNEX TO THE PRESIDENTIAL ORDER N° 103/01 OF 18/09/2019 RATIFYING THE COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, IN THE FIELD OF COMMUNICATION, INFORMATION AND MEDIA, DONE AT KIGALI ON 28 APRIL 2017

ANNEXE À L'ARRÊTÉ PRÉSIDENTIEL N° 103/01 DU 18/09/2019 RATIFIANT L'ACCORD DE COOPÉRATION ENTRE LE GOUVERNEMENT DE LA RÉPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE FÉDÉRALE DÉMOCRATIQUE D'ÉTHIOPIE, DANS LE DOMAINE DE LA COMMUNICATION, DE L'INFORMATION ET DES MÉDIA, FAIT À KIGALI LE 28 AVRIL 2017

COOPERATION AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF RWANDA

AND

THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

IN THE FIELD OF COMMUNICATION, INFORMATION AND MEDIA

The Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia (hereafter jointly referred to as "the Parties" and separately as "the Party")

Realizing the significance promotion of Communication, Information and Media cooperation would be of mutual benefit to the Parties;

Desiring to further strengthen the friendly ties between the Parties;

Guided by the principles of mutual respect for each other's National Sovereignty and Independence;

Have agreed as follows:

Article 1

Definition

a. Communication" means the activity or process of expressing ideas and feelings or of giving people information;
b. "Information" means "facts or details about somebody or something" without compromising national security;
c. "Media" means "the main ways that large numbers of people receive information and entertainment, that is television, radio, newspapers and the internet

Article 2

Objective

The objective of this Agreement is to promote the development of co-operation in the field of Communication, Information and Media between the two Parties in accordance with the provisions of this Agreement and the laws of each country on the basis of equality and mutual benefit.

Article 3

Areas of Cooperation

The Parties shall encourage and promote bilateral co-operation through:

a. Mutual exchange of visits of delegations and personnel in the field of Communication, Information, and Media of both countries;
b. Exchange of experience on branding, event creation and national image building practice;
c. Mutual collaboration between the Ethiopia Broadcasting Corporations /EBC/, Ethiopian News Agency /ENA/, Ethiopian Press Agency/EPA/, Ethiopian Broadcast Authority /EBA/and Rwanda Broadcasting Agency /RBA, Mutual cooperation in the field of media

management and capacity building programs in communication, information and media for practitioners from both Countries;

d. Exchange of documentaries and information materials;
e. Co-production of special features and documentaries within the framework of themes relevant to the development policies of both Parties.

Article 4

Exchange of Experience and Success

The Parties shall share the successes and experiences gained in the field of Communication, Information, and Media and make every effort to further expand and strengthen the co-operation in this field in particular to:

a. Exchanging research documents between both sides in the field of communication, information and media sector;
b. Exchange expertise between the Parties in the audiovisual, new media, community media and related fields
c. Allowing professionals in this field to benefit from the trainings that will be organized in the higher institutes for Journalism, Media development, public relations, and audiovisual professions in both Parties;

Article 5

Cooperation of Media Organs

The Parties to this Agreement shall assist the mass media organs such as Broadcasting, print, social media, news Agencies and Broadcast authority of the two countries to strengthen co-operation.

Article 6

Exchange of Public Information Materials

In accordance with their respective domestic laws and regulations in force, the Parties shall endeavor to exchange public information materials for broadcast in form of records, tapes, films, recorded cassettes, and other forms, covering different aspects of lives of the peoples of both countries.

Article 7

Cooperation between News Agencies

1. The Parties shall promote cooperation between the News Agencies of the two countries.
2. The News Agencies of the two countries shall endeavor to exchange news, pictures and features of common interest and news related documents.

Article 8

Cooperation between Press Agencies

The Ethiopian Press Agency /EPA/ and the Rwandan Broadcasting Agency shall cooperate to identify modalities for exchanging publications for news papers, magazines and other publications of common national interest to both countries.

Article 9

Cooperation between Broadcasting Corporations

The parties in order to establish new professional relation between Ethiopian Broadcasting Corporation/EBC/ and Rwandan broadcasting Agency agree to:

1. exchange, economic, social, cultural and technological programs in the English language
2. Cooperate in the exchange of audio and video news and news items in the English language.

Article 10

Cooperation between Broadcasting Authority

The broadcasting authority of the two countries shall in a bid to foster better mutual cooperation, liaise with the intent to share and exchange experiences as they concern general broadcast, policy making, laws and regulations in tandem with the global practices.

Article 11

Competent Authorities

The Competent Authorities responsible for the implementation of this Agreement shall be the Government Communication Affairs Office of the Federal Democratic Republic of Ethiopia and the Ministry of Local Government of the Republic of Rwanda.

Article 12

Establishment of Joint Technical Committee

1. The Parties will establish a Joint Technical Committee in order to coordinate and follow up the implementation of this Agreement.
2. The composition of the Joint Technical Committee will be determined by mutual agreement of the Parties through diplomatic channels.
3. The Joint Technical Committee will meet alternately in the Federal Democratic Republic of Ethiopia and in the Republic of Rwanda, at the request of one of the Parties.
4. The Joint Technical Committee will have the role of following and evaluating the current programs of cooperation and preparing new programs being able to include other fields of common interest.

Article 13

Validity of other Agreements

This Agreement shall not affect the validity of any obligation arising from other International Agreements, Conventions, Treaties or Protocols concluded by either of the Parties.

Article 14

Financial Arrangements

The financial arrangement of the activities made under this Agreement shall be determined by the Parties on case by case basis.

Article 15

Amendments

1. This Agreement may be amended by mutual consent of the Parties in writing by exchange of notes through diplomatic channels or by signing of a separate amendment agreements.
2. The amendment(s) agreed by the Parties shall enter into force in accordance with Article 16(1) of this Agreement.
3. The effective date of any such amendment(s) shall be the date of receipt of the last notification in accordance with article 16(1) of this Agreement.
4. The amendments made pursuant to sub article 1 and 2 of this article shall form an integral part of this Agreement.

Article 16

Dispute resolution

The Parties shall settle all issues concerning the interpretation and application of the provisions of this Agreement amicably by consultation or negotiations through diplomatic channels.

Article 17

Entry into Force, Duration and Termination

1. This Agreement shall enter into force on the date on which the Parties have notified each other in writing through the diplomatic channels that their respective internal procedures for entry into force of this Agreement have been fulfilled. The date of entry shall be the date of the receipt of the last written notification.
2. This Agreement shall remain valid for a period of five years and shall be automatically extended for additional period of one year unless terminated by either of the Parties giving six months prior notice of its intention to terminate to the other party, through diplomatic channels.

Article 18

Unexpired and Existing Obligations

Unless the Parties agree otherwise, at the expiration or termination of this Agreement, its provisions and the provision of any protocol or contract, made in this respect shall continue to govern whatever unexpired and existing obligations or projects commenced there under. Any such obligations or projects shall be carried on to conclusion.

IN WITNESS WHEREOF, the undersigned being duly authorized by their respective governments, have signed this Agreement in Duplicate in the English language, both texts being equally authentic.

Done at Kigali on this 28th day of the month of April in the year 2017.

FOR THE GOVERNMENT OF THE REPUBLIC OF RWANDA	FOR THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA
Hon. Francis KABONEKA	H.E. Dr. Negeri Lencho, Minister, Government
Minister of Local Government	Communications Affairs Office of FDRE

Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida nº 103/01 ryo ku wa 18/09/2019 ryemeza burundu Amasezerano y'Ubufatanye hagati ya Guverinoma ya Repubulika y'u Rwanda na Guverinoma ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Ethiopia, mu byerekeye Itumanaho, Amakuru n'Itangazamakuru yakorewe i Kigali ku wa 28 Mata 2017

Kigali, ku wa 18/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Presidential Order nº 103/01 of 18/09/2019 ratifying the Cooperation Agreement between the Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia, in the field of Communication, Information and Media, done at Kigali on 28 April 2017

Kigali, on 18/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à l'Arrêté Présidentiel nº 103/01 du 18/09/2019 ratifiant l'Accord de Coopération entre le Gouvernement de la République du Rwanda et le Gouvernement de la République Fédérale Démocratique d'Éthiopie, dans le domaine de la Communication, de l'Information et des Média, fait à Kigali le 28 avril 2017

Kigali, le 18/09/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEKA RYA PEREZIDA N° 104/01 RYO KU WA 18/09/2019 RYEMEZA BURUNDU AMASEZERANO Y'AFURIKA YUNZE UBUMWE YEREKEYE GUCUNGA UMUTEKANO W'IBIJYANYE N'IKORANABUHANGA N'AMAKURU Y'UMUNTU BWITE ABIKWA MURI MUDASOBWA, YEMEREJWE I MALABO, MURI GINEYA EKWATORIYALE, KU WA 27 KAMENA 2014

PRESIDENTIAL ORDER N° 104/01 OF 18/09/2019 RATIFYING THE AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION, ADOPTED IN MALABO, EQUATORIAL GUINEA ON 27 JUNE 2014

ARRÊTÉ PRÉSIDENTIEL N° 104/01 DU 18/09/2019 RATIFIANT LA CONVENTION DE L'UNION AFRICAINE SUR LA CYBER SÉCURITÉ ET LA PROTECTION DES DONNÉES À CARACTÈRE PERSONNEL, ADOPTÉE À MALABO, GUINÉE ÉQUATORIALE LE 27 JUIN 2014

ISHAKIRO

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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 122, iya 167, iya 168 n'iya 176;

Dushingiye ku Itegeko nº 024/2019 ryo ku wa 04/09/2019 ryemera kwemeza burundu Amasezerano y'Afurika Yunze Ubumwe yerekeye gucunga umutekano w'ibijyanye n'ikoranabuhanga n'amakuru y'umuntu bwite abikwa muri mudasobwa, yemerejwe i Malabo, muri Gineya Ekwatoriyale ku wa 27 Kamena 2014;

PRESIDENTIAL ORDER N° 104/01 OF 18/09/2019 RATIFYING THE AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION, ADOPTED IN MALABO, EQUATORIAL GUINEA ON 27 JUNE 2014

We, KAGAME Paul,
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 122, 167, 168 and 176;

Pursuant to Law nº 024/2019 of 04/09/2019 approving the ratification of the African Union Convention on Cyber Security and Personal Data Protection, adopted in Malabo, Equatorial Guinea on 27 June 2014;

ARRÊTÉ PRÉSIDENTIEL N° 104/01 DU 18/09/2019 RATIFIANT LA CONVENTION DE L'UNION AFRICAINE SUR LA CYBER SÉCURITÉ ET LA PROTECTION DES DONNÉES À CARACTÈRE PERSONNEL, ADOPTÉE À MALABO, GUINÉE ÉQUATORIALE LE 27 JUIN 2014

Nous, KAGAME Paul,
Président de la République;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 122, 167, 168 et 176;

Vu la Loi nº 024/2019 du 04/09/2019 approuvant la ratification de la Convention de l'Union Africaine sur la cyber sécurité et la protection des données à caractère personnel adoptée à Malabo, en Guinée Équatoriale le 27 juin 2014;

Tumaze kubona Amasezerano y'Afurika Yunze Ubumwe yerekeye gucunga umutekano w'ibijyanye n'ikoranabuhanga n'amakuru y'umuntu bwite abikwa muri mudasobwa, yemerejwe i Malabo, muri Gineya Ekwatoriyale ku wa 27 Kamena 2014;

Considering the African Union Convention on Cyber Security and Personal Data Protection, adopted in Malabo, Equatorial Guinea on 27 June 2014;

Considérant la Convention de l'Union Africaine sur la cyber sécurité et la protection des données à caractère personnel, adoptée à Malabo, en Guinée Équatoriale le 27 juin 2014;

Bisabwe na Minisitiri w'Ikoranabuhanga mu Itumanaho na Inovasiyo;

On proposal by the Minister of Information, Communication, Technology and Innovation;

Sur proposition du Ministre des Technologies de l'Information, de la Communication et de l'Innovation;

Inama y'Abaminisitiri imaze kubisuzuma no kubyemeza;

After consideration and approval by the Cabinet;

Après examen et adoption par le Conseil des Ministres;

TWATEGETSE KANDI DUTEGETSE:

HAVE ORDERED AND ORDER:

AVONS ARRÊTÉ ET ARRÊTONS:

Ingingo ya mbere: Kwemeza burundu

Amasezerano y'Afurika Yunze Ubumwe yerekeye gucunga umutekano w'ibijyanye n'ikoranabuhanga n'amakuru y'umuntu bwite abikwa muri mudasobwa, yemerejwe i Malabo, muri Gineya Ekwatoriyale ku wa 27 Kamena 2014, ari ku mugereka w'iri teka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

Article One: Ratification

The African Union Convention on Cyber Security and Personal Data Protection, adopted in Malabo, Equatorial Guinea on 27 June 2014, annexed to this Order, is ratified and becomes fully effective.

Article premier: Ratification

La Convention de l'Union Africaine sur la cyber sécurité et la protection des données à caractère personnel adoptée à Malabo, en Guinée Équatoriale le 27 juin 2014, annexé au présent arrêté, est ratifié et sort son plein et entier effet.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Minisitiri w'Intebe, Minisitiri w'Ikoranabuhanga mu Itumanaho na Inovasiyo, Minisitiri w'Ububanyi n'Amahanga n'Ubutwererane na Minisitiri w'Imari n'Igenamigambi bashinzwe gushyira mu bikorwa iri teka.

Article 2: Authorities responsible for the implementation of this Order

The Prime Minister, the Minister of Information, Communication, Technology and Innovation, the Minister of Foreign Affairs and International Cooperation and the Minister of Finance and Economic Planning are entrusted with the implementation of this Order.

Article 2: Autorités chargées de l'exécution du présent arrêté

Le Premier Ministre, le Ministre des Technologies de l'Information, de la Communication et de l'Innovation, le Ministre des Affaires Étrangères et de la Coopération Internationale et le Ministre des Finances et de la Planification Économique sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iri teka ritangirira gukurikizwa

Iri teka ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 18/09/2019

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Article3: Commencement

This Order comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 18/09/2019

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Article 3: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 18/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
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(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEKA RYA PEREZIDA N° 104/01 RYO KU WA 18/09/2019 RYEMEZA BURUNDU AMASEZERANO Y'AFURIKA YUNZE UBUMWE YEREKEYE GUCUNGA UMUTEKANO W'IBIJYANYE N'IKORANABUHANGA N'AMAKURU Y'UMUNTU BWITE ABIKWA MURI MUDASOBWA, YEMEREJWE I MALABO, MURI GINEYA EKWATORIYALE, KU WA 27 KAMENA 2014

ANNEX TO THE PRESIDENTIAL ORDER N° 104/01 OF 18/09/2019 RATIFYING THE AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION, ADOPTED IN MALABO, EQUATORIAL GUINEA ON 27 JUNE 2014

ANNEXE À L'ARRÊTÉ PRÉSIDENTIEL N° 104/01 DU 18/09/2019 RATIFIANT LA CONVENTION DE L'UNION AFRICAINE SUR LA CYBER SÉCURITÉ ET LA PROTECTION DES DONNÉES À CARACTÈRE PERSONNEL, ADOPTÉE À MALABO, GUINÉE ÉQUATORIALE LE 27 JUIN 2014

AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION

PREAMBLE

The Member States of the African Union:

Guided by the Constitutive Act of the African Union adopted in 2000;

Considering that this Convention on the Establishment of a Legal Framework for **Cyber-security and Personal Data Protection** embodies the existing commitments of African Union Member States at sub-regional, regional and international levels to build the Information Society,

Recalling that it aims at defining the objectives and broad orientations of the Information Society in Africa and strengthening existing legislations on Information and Communication Technologies (ICTs) of Member States and the Regional Economic Communities (RECs);

Reaffirming the commitment of Member States to fundamental freedoms and human and peoples' rights contained in the declarations, conventions and other instruments adopted within the framework of the African Union and the United Nations;

Considering that the establishment of a regulatory framework on cyber-security and personal data protection takes into account the requirements of respect for the rights of citizens, guaranteed under the fundamental texts of domestic law and protected by international human rights Conventions and Treaties, particularly the African Charter on Human and Peoples' Rights;

Mindful of the need to mobilize all public and private actors (States, local communities, private sector enterprises, civil society organizations, the media, training and research institutions, etc.) for the promotion of cyber security;

Reiterating the principles of the African Information Society Initiative (AISI) and the Regional Action Plan on the Knowledge Economy (ARAPKE);

Aware that it is meant to regulate a particularly evolving technological domain, and with a view to meeting the high expectations of many actors with often divergent interests, **this convention** sets forth the security rules essential for establishing a credible digital space for electronic transactions, personal data protection and combating cybercrime;

Bearing in mind that the major **obstacles** to the development of electronic commerce in Africa are linked to security issues, particularly:

a) The gaps affecting the regulation of legal recognition of data communications and electronic signature;

b) The absence of specific legal rules that protect consumers, intellectual property rights, personal data and information systems;

c) The absence of e-services and telecommuting legislations;

d) The application of electronic techniques to commercial and administrative acts;

e) The probative elements introduced by digital techniques (time stamping, certification, etc.);

f) The rules applicable to cryptology devices and services;

g) The oversight of on-line advertising;

h) The absence of appropriate fiscal and customs legislations for electronic commerce;

Convinced that the afore-listed observations justify the call for the establishment of an appropriate normative framework consistent with the African legal, cultural, economic and social environment; and that the objective of this Convention is therefore to provide the necessary security and legal framework for the emergence of the knowledge economy in Africa;

Stressing that at another level, the protection of personal data and private life constitutes a major challenge to the Information Society for governments as well as other stakeholders; and that such protection requires a balance between the use of information and communication technologies and the protection of the privacy of citizens in their daily or professional lives, while guaranteeing the free flow of information;

Concerned by the urgent need to establish a mechanism to address the dangers and risks deriving from the use of electronic data and individual records, with a view to respecting privacy and freedoms while enhancing the promotion and development of ICTs in Member States of the African Union;

Considering that the goal of this Convention is to address the need for harmonized legislation in the area of cyber security in Member States of the African Union, and to establish in each State party a mechanism capable of combating violations of privacy that may be generated by personal data collection, processing, transmission, storage and use; that by proposing a type of institutional basis, the Convention guarantees that whatever form of processing is used shall respect the basic freedoms and rights of individuals while also taking into account the prerogatives of States, the rights of local communities and the interests of businesses; and take on board internationally recognized best practices;

Considering that the protection under criminal law of the system of values of the information society is a necessity prompted by security considerations; that is

reflected primarily by the need for appropriate criminal legislation in the fight against cybercrime in general, and money laundering in particular;

Aware of the need, given the current state of cybercrime which constitutes a real threat to the security of computer networks and the development of the Information Society in Africa, to define broad guidelines of the strategy for the repression of cybercrime in Member States of the African Union, taking into account their existing commitments at sub-regional, regional and international levels;

Considering that this Convention seeks, in terms of substantive criminal law, to modernize instruments for the repression of cybercrime by formulating a policy for the adoption of new offences specific to ICTs, and aligning certain offences, sanctions and criminal liability systems in force in Member States with the ICT environment;

Considering further that in terms of criminal procedural law, the Convention defines the framework for the adaptation of standard proceedings concerning information and telecommunication technologies and spells out the conditions for instituting proceedings specific to cybercrime;

Recalling Decision Assembly/AU/Decl.1(XIV) of the Fourteenth Ordinary Session of the Assembly of Heads of State and Government of the African Union on Information and Communication Technologies in Africa: Challenges and Prospects for Development, held in Addis Ababa, Ethiopia from 31 January to 2 February 2010;

Taking into account the Oliver Tambo Declaration adopted by the Conference of African Ministers in charge of Information and Communication Technologies held in Johannesburg, South Africa on 5 November 2009;

Recalling the provisions of the Abidjan Declaration adopted on 22 February 2012 and the Addis Ababa Declaration adopted on 22 June 2012 on the Harmonization of Cyber Legislation in Africa.

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Convention:

AU means the African Union;

Child pornography means any visual depiction, including any photograph, film, video, image, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

a) the production of such visual depiction involves a minor;

b) such visual depiction is a digital image, computer image, or computer-generated image where a minor is engaging in sexually explicit conduct or when images of their sexual organs are produced or used for primarily sexual purposes and exploited with or without the child's knowledge;

c) such visual depiction has been created, adapted, or modified to appear that a minor is engaging in sexually explicit conduct.

Code of conduct means set of rules formulated by the processing official with a view to establishing the correct use of computer resources, networks and the electronic communication of the structure concerned, and approved by the protection authority;

Commission means the African Union Commission;

Communication with the public by electronic means refers to any provision to the public or segments of the public, of signs, signals, written material, image, audio or any messages of any type, through an electronic or magnetic communication process;

Computer system means an electronic, magnetic, optical, electrochemical, or other high speed data processing device or a group of interconnected or related devices performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device or devices;

Computerized data means any representation of facts, information or concepts in a form suitable for processing in a computer system;

Consent of data subject means any manifestation of express, unequivocal, free, specific and informed will by which the data subject or his/her legal, judicial or treaty representative accepts that his/her personal data be subjected to manual or electronic processing;

The (or this) Convention means the African Union Convention on Cyber-security and Personal Data Protection;

Critical Cyber/ICT Infrastructure means the cyber infrastructure that is essential to vital services for public safety, economic stability, national security, international stability and for the sustainability and restoration of critical cyberspace;

Cryptology activity means all such activity that seeks to produce, use, import, export or market cryptology tools;

Cryptology means the science of protecting and securing information particularly for the purpose of ensuring confidentiality, authentication, integrity and non-repudiation;

Cryptology tools means the range of scientific and technical tools (equipment or software) which allows for enciphering and/or deciphering;

Cryptology service refers to any operation that seeks to implement cryptology facilities on behalf of oneself or another person;

Cryptology services provider means any natural or legal person who provides cryptology services;

Damage any impairment to the integrity or availability of data, a program, a system, or information;

Data controller means any natural or legal person, public or private, any other organization or association which alone or jointly with others, decides to collect and process personal data and determines the purposes;

Data subject means any natural person that is the subject of personal data processing;

Direct marketing means the dispatch of any message that seeks to directly or indirectly promote the goods and services or the image of a person selling such goods or providing such services; it also refers to any solicitation carried out through message dispatch, regardless of the message base or nature, especially messages of a commercial, political or charitable nature, designed to promote, directly or indirectly, goods and services or the image of a person selling the goods or providing the services;

Double criminality (dual criminality) means a crime punished in both the country where a suspect is being held and the country asking for the suspect to be handed over or transferred to;

Electronic communication means any transmission of signs, signals, written material, pictures, sounds or messages of whatsoever nature, to the public or a section of the public by electronic or magnetic means of communication;

Electronic Commerce (e-commerce): means the act of offering, buying, or providing goods and services via computer systems and telecommunications networks such as the Internet or any other network using electronic, optical or similar media for distance information exchange;

Electronic mail means any message in the form of text, voice, sound or image sent by a public communication network, and stored in a server of the network or in a terminal facility belonging to the addressee until it is retrieved;

Electronic signature means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication;

Electronic signature verification device means a set of software or hardware components allowing the verification of electronic signature;

Electronic signature creation device means a set of software or hardware elements allowing for the creation of an electronic signature(s);

Encryption means all techniques consisting in the processing of digital data in an unintelligible format using cryptology tools;

Exceeds authorized access means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter;

Health data means all information relating to the physical or mental state of the data subject, including the aforementioned genetic data;

Indirect electronic communication means any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient's terminal equipment until it is collected by the recipient;

Information means any element of knowledge likely to be represented with the aid of devices and to be used, conserved, processed or communicated. Information may be expressed in written, visual, audio, digital and other forms;

Interconnection of personal data means any connection mechanism that harmonizes processed data designed for a set goal with other data processed for goals that are identical or otherwise, or interlinked by one or several processing official(s);

Means of electronic payment refers to means by which the holder is able to make electronic payment transactions online;

Member State or Member States means Member State(s) of the African Union;
Child or Minor means every human being below the age of eighteen (18) years in terms of the African Charter on the Rights and Welfare of the Child and the United Nations Convention on the Rights of the Child respectively;

Personal data means any information relating to an identified or identifiable natural person by which this person can be identified, directly or indirectly in particular by reference to an identification number or to one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity;

Personal data file means all structured package of data accessible in accordance with set criteria, regardless of whether or not such data are centralized, decentralized or distributed functionally or geographically;

Processing of Personal Data means any operation or set of operations which is performed upon personal data, whether or not by automatic means such as the collection, recording, organization, storage, adaptation, alteration, retrieval, backup, copy, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination and locking, encryption, erasure or destruction of personal data;

Racism and xenophobia in information and telecommunication technologies means any written material, picture or any other representation of ideas or theories which advocates or encourages or incites hatred, discrimination or violence against any person or group of persons for reasons based on race, colour, ancestry, national or ethnic origin or religion;

Recipient of processed personal data means any person entitled to receive communication of such data other than the data subject, the data controller, the sub-contractor and persons who, for reasons of their functions, have the responsibility to process the data;

Secret conventions means unpublished codes required to implement a cryptology facility or service for the purpose of enciphering or deciphering operations;

Sensitive data means all personal data relating to religious, philosophical, political and trade-union opinions and activities, as well as to sex life or race, health, social measures, legal proceedings and penal or administrative sanctions;

State Party or State Parties means Member State(s), which has (have) ratified or acceded to the present Convention;

Sub-contractor means any natural or legal person, public or private, any other organization or association that processes data on behalf of the data controller;

Third Party means a natural or legal person, public authority, agency or body, other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor are authorized to process the data.

CHAPTER I
ELECTRONIC TRANSACTIONS

Section I: Electronic Commerce

Article 2
Scope of application of electronic commerce

1. States Parties shall ensure that e-commerce activities are exercised freely in *their territories except* :

   a) Gambling, even in the form of legally authorized betting and lotteries;

   b) Legal representation and assistance activities;

   c) Activities exercised by notaries or equivalent authorities in application of extant texts.

2. Without prejudice to other information obligations defined by extant legislative and regulatory texts in African Union Member States, State Parties shall ensure that any person exercising e-commerce activities shall provide to those for whom the goods and services are meant, easy, direct and uninterrupted access using non-proprietary standards with regard to the following information:

   a) Where a physical person is involved, the provider shall indicate his/her name and where it is a legal person, its corporate name; its capital, its registration number in the register of companies or associations;

   b) Full address of the place of establishment, electronic mail address and telephone number;

   c) Where the person is subject to business registration formalities or registration in the national directory of businesses and associations, the registration number, the share capital and corporate headquarters;

   d) Where the person is subject to taxes, the tax identification number;

   e) Where his/her activity is subject to a licensing regime, the name and address of the issuing authority, and the reference of the authorization;

   f) Where the person is member of a regulated profession, the applicable professional rules, his/her professional title, the African Union State Party in which he/she was granted such authorization, as well as the name of the order or professional body with which he/she is registered.

3. Any natural or legal person involved in e-commerce activities, even in the absence of contractual offers, provided the person has posted a price for the said activities, shall clearly and unambiguously indicate such a price, particularly where it includes taxes, delivery and other charges.

Article 3
Contractual liability of the provider of goods and services by electronic means

E-commerce activities are subject to the law of the State Party in whose territory the person exercising such activity is established, subject to the intention expressed in common by the said person and the recipient of the goods or services.

Article 4
Advertising by electronic means

1. Without prejudice to Article 3 any advertising action, irrespective of its form, accessible through an online communication service, shall be clearly identified as such. It shall clearly identify the individual or corporate body on behalf of whom it is undertaken.

2. The conditions governing the possibility of promotional offers as well as the conditions for participating in promotional competitions or games where such offers, competitions or games are electronically disseminated, shall be clearly spelt out and easily accessible.

3. State Parties shall prohibit direct marketing through any kind of indirect communication using, in any form, the particulars of an individual who has not given prior consent to receiving the said direct marketing through such means.

4. The provisions of Article 4.2. above notwithstanding, direct marketing by electronic mail shall be permissible where:

   a) The particulars of the addressee have been obtained directly from him/her;
   b) The recipient has given consent to be contacted by the marketing partners;
   c) The direct marketing concerns similar products or services provided by the same individual or corporate body

5. State Parties shall prohibit the transmission, for the purposes of direct marketing, of messages by means of any form of indirect electronic communication without indicating valid particulars to which the addressee may send a request to stop such communications without incurring charges other than those arising from the transmission of such a request.

6. State Parties undertake to prohibit concealment of the identity of the person on whose behalf the advertisement accessed by an online communication service is issued.

Section II: Contractual Obligations in Electronic Form

Article 5
Electronic contracts

1. The information requested for the purpose of concluding a contract or information available during contract execution may be transmitted by electronic means if the recipients have agreed to the use of that means. The use of electronic communications is presumed to be acceptable unless the recipient has previously expressly stated a preference for an alternative means of communication.

2. A service provider or supplier, who offers goods and services in a professional capacity by electronic means, shall make available the applicable contractual conditions directly or indirectly, in a way that facilitates the conservation and reproduction of such conditions according to national legislations.

3. For the contract to be validly concluded, the offeree shall have had the opportunity to verify details of his/her order, particularly the price thereof, prior to confirming the said order and signifying his/her acceptance.

4. The person offering his/her goods and services shall acknowledge receipt of the order so addressed to him/her without unjustified delay and by electronic means.

   The order, the confirmation of acceptance of an offer and the acknowledgment of receipt are deemed to be received when the parties to whom they are addressed are able to access to them.

5. Exemptions may be made to the provisions of Articles 5.3 and 5.4 of this Convention for agreements concluded between businesses or professionals (B2B).

6. a) Any natural or legal person engaged in the activity defined in the first paragraph of Article 2.1 of this Convention shall, *ipso facto*, be accountable to his/her contractual partner for the proper performance of the obligations arising from the contract, irrespective of whether such obligations are to be carried out by himself/herself or by other service providers, without prejudice to his/her right to claim against the said service providers.

   b) However, the natural or legal person may be released from all or part of the liability by proving that the non-fulfilment or poor performance of the contract is due either to the contractual partner or a case of *force majeure*.

Article 6
Writing in electronic form

1. Without prejudice to existing domestic legislative provisions in the State Party, no person shall be compelled to take legal action by electronic means.

   a) Where a written document shall be required for the validity of a legal act each State Party shall establish the legal conditions for functional equivalence between electronic communications and paper-based documents, when the internal regulations require a written document for the validity of a legal act.

   b) Where a paper document has been subject to specific conditions as to legibility or presentation, the written document in electronic form shall be subject to the same conditions.

   c) The requirement to transmit several copies of a written document shall be deemed to have been met in electronic form, where the said written document can be reproduced in material form by the addressee.

2. The provisions of Article 6.2 of this Convention do not apply to the following:

   a) Signed private deeds relating to family law and law of succession; and

   b) Acts under private signature relating to personal or real guarantees in accordance with domestic legislations, whether made under civil or commercial law, unless they are entered into by a person for the purposes of his/her profession.

3. The delivery of a written document in electronic form shall be effective when the addressee takes due note and acknowledges receipt thereof.

4. Given their tax functions, invoices must be in writing to ensure the readability, integrity and sustainability of the content. The authenticity of the origin must also be guaranteed.

   Among the methods that may be implemented to fulfil the tax purposes of the invoice and to ensure that its functions have been met is the establishment of management controls which create a reliable audit trail between an invoice and a supply of goods or services.

   In addition to the type of controls described in § 1, the following methods are examples of technologies that ensure the authenticity of origin and integrity of content of an electronic invoice:

   a) a qualified electronic signature as defined in Article 1;

   b) electronic data interchange (EDI), understood as the electronic transfer, from computer to computer, of commercial and administrative data in the

form of an EDI message structured according to an agreed standard, provided that the agreement to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and data integrity.

5. A written document in electronic form is admissible in evidence in the same way as a paper-based document, and shall have the same force of law, provided that the person from whom it originates can be duly identified and that it has been made out and retained in a manner that guarantees its integrity.

Section III: Security of Electronic Transactions

Article 7
Ensuring the Security of Electronic Transactions

1. a) The supplier of goods shall allow his/her clients to make payments using electronic payment methods approved by the State according to the regulations in force in each State Party.

   b) The supplier of goods or provider of services by electronic means who claims the discharge of an obligation must prove its existence or otherwise prove that the obligation was discharged or did not exist.

2. Where the legislative provisions of State Parties have not laid down other principles, and where there is no valid agreement between the parties, the judge shall resolve proof related conflicts by determining by all possible means the most plausible claim regardless of the message base employed.

3. a) A copy or any other reproduction of contracts signed by electronic means shall have the same probative value as the contract itself, where the said copy has been certified as a true copy of the said act by bodies duly accredited by an authority of the State Party.

   b) Certification will result in the issuance, where necessary, of a certificate of conformity.

4. a) An electronic signature created by a secure device which the signatory is able to keep under his exclusive control and is appended to a digital certificate shall be admissible as signature on the same terms as a handwritten signature.

   b) The reliability of the procedure is presumed, unless otherwise proven, if the electronic signature is generated by a secure signature creation device, the integrity of the act is guaranteed and the identification of the signatory is ensured.

CHAPTER II
PERSONAL DATA PROTECTION

Section I: Personal data protection

Article 8
Objective of this Convention with respect to personal data

1. Each State Party shall commit itself to establishing a legal framework aimed at strengthening fundamental rights and public freedoms, particularly the protection of physical data, and punish any violation of privacy without prejudice to the principle of free flow of personal data.

2. The mechanism so established shall ensure that any form of data processing respects the fundamental freedoms and rights of natural persons while recognizing the prerogatives of the State, the rights of local communities and the purposes for which the businesses were established.

Article 9
Scope of application of the Convention

1. The following actions shall be subject to this Convention:

   a) Any collection, processing, transmission, storage or use of personal data by a natural person, the State, local communities, and public or private corporate bodies;

   b) Any automated or non-automated processing of data contained in or meant to be part of a file, with the exception of the processing defined in Article 9.2 of this Convention;

   c) Any processing of data undertaken in the territory of a State Party;

   d) Any processing of data relating to public security, defence, research, criminal prosecution or State security, subject to the exceptions defined by specific provisions of other extant laws.

2. This Convention shall not be applicable to:

   a) Data processing undertaken by a natural person within the exclusive context of his/her personal or household activities, provided however that such data are not for systematic communication to third parties or for dissemination;

   b) Temporary copies produced within the context of technical activities for transmission and access to a digital network with a view to automatic, intermediate and temporary storage of data and for the sole purpose of

offering other beneficiaries of the service the best possible access to the information so transmitted.

Article 10
Preliminary personal data processing formalities

1. The following actions shall be exempted from the preliminary formalities:

   a) The processing mentioned in Article 9.2 of this Convention;

   b) Processing undertaken with the sole objective of maintaining a register meant exclusively for private use;

   c) Processing undertaken by a non-profit making association or body, with a religious, philosophical, political or trade union aim, provided that the data are consistent with the objective of the said association or body structure, and relate solely to its members, and that the data are not disclosed to a third party.

2. With the exception of the cases defined in Article 10.1 above and in Article 10.4 and 10.5 of this Convention, personal data processing shall be subject to a declaration before the protection authority.

3. With regard to the most common categories of personal data processing which are not likely to constitute a breach of privacy or individual freedoms, the protection authority may establish and publish standards with a view to simplifying or introducing exemptions from the obligation to make a declaration.

4. The following actions shall be undertaken after authorization by the national protection authority:

   a) Processing of personal data involving genetic information and health research;

   b) Processing of personal data involving information on offenses, convictions or security measures;

   c) Processing of personal data for the purpose of interconnection of files as defined in Article 15 of this Convention, data processing involving national identification number or any other identifier of the same type;

   d) Processing of personal data involving biometric data;

   e) Processing of personal data of public interest, particularly for historical, statistical or scientific purposes.

5. Personal data processing undertaken on behalf of the Government, a public institution, a local community, a private corporate body operating a public

service, shall be in accordance with a legislative or regulatory act enacted after an informed advice of the protection authority.

Such data processing is related to:

a) State security, defence or public security;

b) Prevention, investigation, detection or prosecution of criminal offences, or execution of criminal convictions or security measures;

c) Population survey;

d) Personal data directly or indirectly revealing racial, ethnic or regional origin, affiliation, political, philosophical or religious beliefs or trade union membership of persons, or data concerning health or sex life.

6. Requests for opinion, declarations and applications for authorization shall indicate:

a) The identity and address of the data controller or, where he/she is not established in the territory of a State Party of the African Union, the identity and address of his/her duly mandated representative;

b) The purpose(s) of the processing and a general description of its functions;

c) The interconnections envisaged or all other forms of harmonization with other processing activities;

d) The personal data processed, their origin and the category of persons involved in the processing;

e) Period of conservation of the processed data;

f) The service or services responsible for carrying out the processing as well as the category of persons who, due to their functions or service requirements, have direct access to registered data;

g) The recipients authorized to receive data communication;

h) The function of the person or the service before which the right of access is to be exercised;

i) Measures taken to ensure the security of processing actions and of data;

j) Indication regarding use of a sub-contractor;

k) Envisaged transfer of personal data to a third country that is not a member of the African Union, subject to reciprocity.

7. The national protection authority shall take a decision within a set timeframe starting from the date of receipt of the request for opinion or authorization.

Such timeframe may however be extended or not on the basis of an informed decision of the national protection authority.

8. The notification, the declaration or request for authorization may be addressed to the national protection authority by electronic means or by post.

9. The national protection authority may be approached by any person acting on his/her own, or through a lawyer or any other duly mandated natural or legal person.

Section II: Institutional framework for the protection of personal data

Article 11
Status, composition and organization of National Personal Data Protection Authorities

1. a) Each State Party shall establish an authority in charge of protecting personal data.

   b) The national protection authority shall be an independent administrative authority with the task of ensuring that the processing of personal data is conducted in accordance with the provisions of this Convention.

2. The national protection authority shall inform the concerned persons and the processing officials of their rights and obligations.

3. Without prejudice to Article 11.6, each State Party shall determine the composition of the national personal data protection authority.

4. Sworn officials may be invited to participate in audit missions in accordance with extant provisions in States Parties.

5. a) Members of the national protection authority shall be subject to the obligation of professional secrecy in accordance with the extant texts of each State Party.

   b) Each national protection authority shall formulate rules of procedure containing, *inter alia*, rules governing deliberations, processing and presentation of cases.

6. Membership of the national protection authority shall be incompatible with membership of Government, carrying out the functions of business executive and ownership of shares in businesses in the information and communication technologies sector.

7. a) Without prejudice to national legislations, members of the national protection authority shall enjoy full immunity for opinions expressed in the pursuit, or in connection with the pursuit of their duties.

   b) Members of the national protection authority shall not receive instructions from any other authority in the performance of their duties.

8. State Parties shall undertake to provide the national protection authority with the human, technical and financial resources necessary to accomplish their mission.

Article 12
Duties and Powers of National Protection Authorities

1. The national protection authority shall ensure that the processing of personal data is consistent with the provisions of this Convention within State Parties of the African Union.

2. The national protection authorities shall ensure that Information and Communication Technologies do not constitute a threat to public freedoms and the private life of citizens. To this end, they are responsible for:

   a) Responding to every request for an opinion regarding personal data processing;

   b) Informing the persons concerned and data controllers of their rights and obligations;

   c) In a number of cases, authorize the processing of data files, particularly sensitive files;

   d) Receiving the preliminary formalities for personal data processing;

   e) Entertaining claims, petitions and complaints regarding the processing of personal data and informing the authors of the results thereof;

   f) Speedily informing the judicial authority of certain types of offences that have come to their attention;

   g) Undertaking the audit of all processed personal data, through its officials or sworn officials;

   h) Imposing administrative and monetary sanctions on data controllers;

   i) Updating a processed personal data directory that is accessible to the public;

   j) Advising persons and bodies engaged in personal data processing or in carrying out tests and experiments likely to result in data processing;

k) Authorizing trans-border transfer of personal data;

l) Making suggestions that could simplify and improve legislative and regulatory frameworks for data processing;

m) Establishing mechanisms for cooperation with the personal data protection authorities of third countries;

n) Participating in international negotiations on personal data protection;

o) Preparing an activity report in accordance with a well-defined periodicity, for submission to the appropriate authorities of the State Party.

3. The national protection authorities may decide on the following measures:

a) Issuance of warning to any data controller that fails to comply with the obligations resulting from this Convention;

b) An official warning letter to stop such breaches within a timeframe set by the authority.

4. Where the data controller fails to comply with the official warning letter addressed to him/her, the national protection authority may impose the following sanctions after adversary proceedings:

a) Temporary withdrawal of the authorization granted;

b) Permanent withdrawal of the authorization;

c) Monetary fine.

5. In cases of emergency, where the processing or use of personal data results in violation of fundamental rights and freedoms, the national protection authority may, after adversary proceedings, decide as follows:

a) Discontinuation of data processing;

b) Blocking of some of the personal data processed;

c) Temporary or permanent prohibition of any processing at variance with the provisions of this Convention.

6. The sanctions imposed and decisions taken by national protection authorities are subject to appeal.

Section III: Obligations relating to conditions governing personal data processing

Article 13
Basic principles governing the processing of personal data

Principle 1: Principle of consent and legitimacy of personal data processing

Processing of personal data shall be deemed to be legitimate where the data subject has given his/her consent. This requirement of consent may however be waived where the processing is necessary for:

a) Compliance with a legal obligation to which the controller is subject;

b) Performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed;

c) Performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

d) Protect the vital interests or fundamental rights and freedoms of the data subject.

Principle 2: Principle of lawfulness and fairness of personal data processing

The collection, recording, processing, storage and transmission of personal data shall be undertaken lawfully, fairly and non-fraudulently.

Principle 3: Principle of purpose, relevance and storage of processed personal data

a) Data collection shall be undertaken for specific, explicit and legitimate purposes, and not further processed in a way incompatible with those purposes;

b) Data collection shall be adequate, relevant and not excessive in relation to the purposes for which they are collected and further processed;

c) Data shall be kept for no longer than is necessary for the purposes for which the data were collected or further processed;

d) Beyond the required period, data may be stored only for the specific needs of data processing undertaken for historical, statistical or research purposes under the law.

Principle 4: Principle of accuracy of personal data

Data collected shall be accurate and, where necessary, kept up to date. Every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified

Principle 5: Principle of transparency of personal data processing

The principle of transparency requires mandatory disclosure of information on personal data by the data controller.

Principle 6: Principle of confidentiality and security of personal data processing

a) Personal data shall be processed confidentially and protected, in particular where the processing involves transmission of the data over a network;

b) Where processing is undertaken on behalf of a controller, the latter shall choose a processor providing sufficient guarantees. It is incumbent on the controller and processor to ensure compliance with the security measures defined in this Convention.

Article 14
Specific principles for the processing of sensitive data

1. State Parties shall undertake to prohibit any data collection and processing revealing racial, ethnic and regional origin, parental filiation, political opinions, religious or philosophical beliefs, trade union membership, sex life and genetic information or, more generally, data on the state of health of the data subject.

2. The prohibitions set forth in Article 14.1 shall not apply to the following categories where:

a) Processing relates to data which are manifestly made public by the data subject;

b) The data subject has given his/her written consent, by any means, to the processing and in conformity with extant texts;

c) Processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving his/her consent;

d) Processing, particularly of genetic data, is required for the establishment, exercise or defence of legal claims;

e) A judicial procedure or criminal investigation has been instituted;

f) Processing is necessary in the public interest, especially for historical, statistical or scientific purposes;

g) Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

h) Processing is necessary for compliance with a legal or regulatory obligation to which the controller is subject;

i) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority or assigned by a public authority vested in the controller or in a third party to whom data are disclosed;

j) Processing is carried out in the course of the legitimate activities of a foundation, association or any other non-profit making body with a political, philosophical, religious, cooperative or trade union aim, and on condition that the processing relates solely to the members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed to a third party without the consent of the data subjects.

3. Personal data processing for journalistic purposes or for the purpose of research or artistic or literary expression shall be acceptable where the processing is solely for literary and artistic expression or for professional exercise of journalistic or research activity, in accordance with the code of conduct of these professions.

4. The provisions of this Convention shall not preclude the application of national legislations with regard to the print media or the audio-visual sector, as well as the provisions of the criminal code which provide for the conditions for exercise of the right of reply, and which prevent, limit, compensate for and, where necessary, repress breaches of privacy and damage to personal reputation.

5. A person shall not be subject to a decision which produces legal effects concerning him/her or significantly affects him/her to a substantial degree, and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to him/her.

6. a) The data controller shall not transfer personal data to a non-Member State of the African Union unless such a State ensures an adequate

level of protection of the privacy, freedoms and fundamental rights of persons whose data are being or are likely to be processed.

b) The previous prohibition is not applicable where, before any personal data is transferred to the third country, the data controller shall request authorization for such transfer from the national protection authority.

Article 15
Interconnection of personal data files

The interconnection of files laid down in Article 10.4 of this Convention should help to achieve the legal or statutory objectives which are of legitimate interest to data controllers. This should not lead to discrimination or limit data subjects' rights, freedoms and guarantees, should be subject to appropriate security measures, and also take into account the principle of relevance of the data which are to be interconnected.

Section IV: The Data Subjects' Rights

Article 16
Right to information

The data controller shall provide the natural person whose data are to be processed with the following information, no later than the time when the data are collected, and regardless of the means and facilities used, with the following information:

a) His/her identity and of his/her representative, if any;
b) The purposes of the processing for which the data are intended;
c) Categories of data involved;
d) Recipient(s) to which the data might be disclosed;
e) The capacity to request to be removed from the file;
f) Existence of the right of access to and the right to rectify the data concerning him/her;
g) Period for which data are stored;
h) Proposed transfers of data to third countries.

Article 17
Right of access

Any natural person whose personal data are to be processed may request from the controller, in the form of questions, the following:

a) Such information as would enable him/her to evaluate and object to the processing;

b) Confirmation as to whether or not data relating to him/her are being processed;

c) Communication to him/her of the personal data undergoing processing and any available information as to their source;

d) Information as to the purpose of the processing, the categories of personal data concerned, and the recipients or categories of recipients to whom the data are disclosed.

Article 18
Right to object

Any natural person has the right to object, on legitimate grounds, to the processing of the data relating to him/her.

He/she shall have the right to be informed before personal data relating to him/her are disclosed for the first time to third parties or used on their behalf for the purposes of marketing, and to be expressly offered the right to object, free of charge, to such disclosures or uses.

Article 19
Right of rectification or erasure

Any natural person may demand that the data controller rectify, complete, update, block or erase, as the case may be, the personal data concerning him/her where such data are inaccurate, incomplete, equivocal or out of date, or whose collection, use, disclosure or storage are prohibited.

Section V: Obligations of the Personal Data Controller

Article 20
Confidentiality obligations

Processing of personal data shall be confidential. Such processing shall be undertaken solely by persons operating under the authority of a data controller and only on instructions from the controller.

Article 21
Security obligations

The data controller must take all appropriate precautions, according to the nature of the data, and in particular, to prevent such data from being altered or destroyed, or accessed by unauthorized third parties.

Article 22
Storage obligations

Personal data shall be kept for no longer than is necessary for the purposes for which the data were collected or processed.

Article 23
Sustainability obligations

a) The data controller shall take all appropriate measures to ensure that processed personal data can be utilized regardless of the technical device employed in the process.

b) The processing official shall, in particular, ensure that technological changes do not constitute an obstacle to the said utilization.

CHAPTER III
PROMOTING CYBER SECURITY AND COMBATING CYBERCRIME

Section I: Cyber Security Measures to be taken at National Level

Article 24
National cyber security framework

1. National policy

Each State Party shall undertake to develop, in collaboration with stakeholders, a national cyber security policy which recognizes the importance of Critical Information Infrastructure (CII) for the nation identifies the risks facing the nation in using the all-hazards approach and outlines how the objectives of such policy are to be achieved.

2. National strategy

State Parties shall adopt the strategies they deem appropriate and adequate to implement the national cyber security policy, particularly in the area of legislative reform and development, sensitization and capacity-building, public-private partnership, and international cooperation, among other things. Such strategies shall define organizational structures, set objectives and timeframes for successful implementation of the cyber security policy and lay the foundation for effective management of cyber security incidents and international cooperation.

Article 25
Legal measures

1. Legislation against cybercrime

Each State Party shall adopt such legislative and/or regulatory measures as it deems effective by considering as substantive criminal offences acts which affect the confidentiality, integrity, availability and survival of information and communication technology systems, the data they process and the underlying network infrastructure, as well as effective procedural measures to pursue and prosecute offenders. State Parties shall take into consideration the choice of language that is used in international best practices.

2. National Regulatory Authorities

Each State Party shall adopt such legislative and/or regulatory measures as it deems necessary to confer specific responsibility on institutions, either newly established or pre-existing, as well as on the designated officials of the said institutions, with a view to conferring on them a statutory authority and legal capacity to act in all aspects of cyber security application, including but not limited to response to cyber security incidents, and coordination and cooperation in the field of restorative justice, forensic investigations, prosecution, etc.

3. Rights of citizens

In adopting legal measures in the area of cyber security and establishing the framework for implementation thereof, each State Party shall ensure that the measures so adopted will not infringe on the rights of citizens guaranteed under the national constitution and internal laws, and protected by international conventions, particularly the African Charter on Human and Peoples' Rights, and other basic rights such as freedom of expression, the right to privacy and the right to a fair hearing, among others.

4. Protection of critical infrastructure

Each State Party shall adopt such legislative and/or regulatory measures as they deem necessary to identify the sectors regarded as sensitive for their national security and well-being of the economy, as well as the information and communication technologies systems designed to function in these sectors as elements of critical information infrastructure; and, in this regard, proposing more severe sanctions for criminal activities on ICT systems in these sectors, as well as measures to improve vigilance, security and management.

Article 26
National cyber security system

1. Culture of Cyber Security

a) Each State Party undertakes to promote the culture of cyber security among all stakeholders, namely, governments, enterprises and the civil society, which develop, own, manage, operationalize and use information systems and networks. The culture of cyber security should lay emphasis on security in the development of information systems and networks, and on the adoption of new ways of thinking and behaving when using information systems as well as during communication or transactions across networks.

b) As part of the promotion of the culture of cyber security, State Parties may adopt the following measures: establish a cyber-security plan for the systems run by their governments; elaborate and implement programmes and initiatives for sensitization on security for systems and networks users; encourage the development of a cyber-security culture in enterprises; foster the involvement of the civil society; launch a comprehensive and detailed national sensitization programme for Internet users, small business, schools and children.

2. Role of Governments

Each State Party shall undertake to provide leadership for the development of the cyber security culture within its borders. Member States undertake to sensitize, provide education and training, and disseminate information to the public.

3. Public-Private Partnership

Each State Party shall develop public-private partnership as a model to engage industry, the civil society, and academia in the promotion and enhancement of a culture of cyber security.

4. Education and training

Each State Party shall adopt measures to develop capacity building with a view to offering training which covers all areas of cyber security to different stakeholders, and setting standards for the private sector.

States Parties undertake to promote technical education for information and communication technology professionals, within and outside government bodies, through certification and standardization of training; categorization of professional qualifications as well as development and needs-based distribution of educational material.

Article 27
National cyber security monitoring structures

1. Cyber security governance

a) Each State Party shall adopt the necessary measures to establish an appropriate institutional mechanism responsible for cyber security governance;

b) The measures adopted as per paragraph 1 of this Article shall establish strong leadership and commitment in the different aspects of cyber security institutions and relevant professional bodies of the State Party. To this end, State Parties shall take the necessary measures to:

i) Establish clear accountability in matters of cyber security at all levels of Government by defining the roles and responsibilities in precise terms;

ii) Express a clear, public and transparent commitment to cyber security;

iii) Encourage the private sector and solicit its commitment and participation in government-led initiatives to promote cyber security.

c) Cyber security governance should be established within a national framework that can respond to the perceived challenges and to all issues relating to information security at national level in as many areas of cyber security as possible.

2. Institutional framework

Each State Party shall adopt such measures as it deems necessary in order to establish appropriate institutions to combat cyber-crime, ensure monitoring and a response to incidents and alerts, national and cross-border coordination of cyber security problems, as well as global cooperation.

Article 28
International cooperation

1. Harmonization

State Parties shall ensure that the legislative measures and/or regulations adopted to fight against cyber-crime will strengthen the possibility of regional harmonization of these measures and respect the principle of double criminal liability.

2. Mutual legal assistance

State Parties that do not have agreements on mutual assistance in cyber-crime shall undertake to encourage the signing of agreements on mutual legal assistance in conformity with the principle of double criminal liability, while promoting the exchange of information as well as the efficient sharing of data between the organizations of State Parties on a bilateral and multilateral basis.

3. Exchange of information

State Parties shall encourage the establishment of institutions that exchange information on cyber threats and vulnerability assessment such as the Computer Emergency Response Team (CERT) or the Computer Security Incident Response Teams (CSIRTs).

4. Means of cooperation

State Parties shall make use of existing means for international cooperation with a view to responding to cyber threats, improving cyber security and stimulating dialogue between stakeholders. These means may be international, intergovernmental or regional, or based on private and public partnerships.

Section II : Criminal Provisions

Article 29
Offences specific to Information and Communication Technologies

1. Attacks on computer systems

State Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

a) Gain or attempt to gain unauthorized access to part or all of a computer system or exceed authorized access;

b) Gain or attempt to gain unauthorized access to part or all of a computer system or exceed authorized access with intent to commit another offence or facilitate the commission of such an offence;

c) Remain or attempt to remain fraudulently in part or all of a computer system;

d) Hinder, distort or attempt to hinder or distort the functioning of a computer system;

e) Enter or attempt to enter data fraudulently in a computer system;

f) Damage or attempt to damage, delete or attempt to delete, deteriorate or attempt to deteriorate, alter or attempt to alter, change or attempt to change computer data fraudulently.

State Parties further undertake to:

g) Adopt regulations compelling vendors of information and communication technology products to have vulnerability and safety guarantee assessments carried out on their products by independent experts and researchers, and disclose any vulnerabilities detected and the solutions recommended to correct them to consumers;

h) Take the necessary legislative and/or regulatory measures to make it a criminal offence to unlawfully produce, sell, import, possess, disseminate, offer, cede or make available computer equipment, program, or any device or data designed or specially adapted to commit offences, or unlawfully generate or produce a password, an access code or similar computerized data allowing access to part or all of a computer system.

2. Computerized Data Breaches

State Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

a) Intercept or attempt to intercept computerized data fraudulently by technical means during non-public transmission to, from or within a computer system;

b) Intentionally input, alter, delete, or suppress computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless of whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches;

c) Knowingly use data obtained fraudulently from a computer system;

d) Fraudulently procure, for oneself or for another person, any benefit by inputting, altering, deleting or suppressing computerized data or any other form of interference with the functioning of a computer system;

e) Even through negligence, process or have personal data processed without complying with the preliminary formalities for the processing;

f) Participate in an association formed or in an agreement established with a view to preparing or committing one or several of the offences provided for under this Convention.

3. Content related offences

1. State Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

   a) Produce, register, offer, manufacture, make available, disseminate and transmit an image or a representation of child pornography through a computer system;

   b) Procure for oneself or for another person, import or have imported, and export or have exported an image or representation of child pornography through a computer system;

   c) Possess an image or representation of child pornography in a computer system or on a computer data storage medium;

   d) Facilitate or provide access to images, documents, sound or representation of a pornographic nature to a minor;

   e) Create, download, disseminate or make available in any form writings, messages, photographs, drawings or any other presentation of ideas or theories of racist or xenophobic nature through a computer system;

   f) Threaten, through a computer system, to commit a criminal offence against a person for the reason that they belong to a group distinguished by race, colour, descent, national or ethnic origin or religion where such membership serves as a pretext for any of these factors, or against a group of persons which is distinguished by any of these characteristics;

   g) Insult, through a computer system, persons for the reason that they belong to a group distinguished by race, colour, descent, national or ethnic origin, or religion or political opinion, if used as a pretext for any of these factors, or against a group of persons distinguished by any of these characteristics;

   h) Deliberately deny, approve or justify acts constituting genocide or crimes against humanity through a computer system.

2. State Parties shall take the necessary legislative and/or regulatory measures to make the offences provided for under this Convention criminal offences.

   When such offences are committed under the aegis of a criminal organization, they will be punishable by the maximum penalty prescribed for the offense.

3. State Parties shall take the necessary legislative and/or regulatory measures to ensure that, in case of conviction, national courts will give a ruling for confiscation of the materials, equipment, instruments, computer program, and all other devices or data belonging to the convicted person and used to commit any of the offences mentioned in this Convention.

4. Offences relating to electronic message security measures

State Parties shall take the necessary legislative and/or regulatory measures to ensure that digital evidence in criminal cases is admissible to establish offenses under national criminal law, provided such evidence has been presented during proceedings and discussed before the judge, that the person from whom it originates can be duly identified, and that it has been made out and retained in a manner capable of assuring its integrity.

Article 30
Adapting certain offences to Information and Communication Technologies

1. Property Offences

a) State Parties shall take the necessary legislative and/or regulatory measures to criminalize the violation of property such as theft, fraud, handling of stolen property, abuse of trust, extortion of funds and blackmail involving computer data;

b) State Parties shall take the necessary legislative and/or regulatory measures to consider as aggravating circumstances the use of information and communication technologies to commit offences such as theft, fraud, handling of stolen property, abuse of trust, extortion of funds, terrorism and money laundering;

c) State Parties shall take the necessary legislative and/or regulatory measures to specifically include "by means of digital electronic communication" such as the Internet in listing the means of public dissemination provided for under the criminal law of State Parties;

d) State Parties shall take the necessary criminal legislative measures to restrict access to protected systems which have been classified as critical national defence infrastructure due to the critical national security data they contain.

2. Criminal liability for legal persons

State Parties shall take the necessary legislative measures to ensure that legal persons other than the State, local communities and public institutions can be held responsible for the offences provided for by this Convention, committed on their behalf by their organs or representatives. The liability of legal persons does not exclude that of the natural persons who are the perpetrators of or accomplices in the same offences.

Article 31
Adapting certain sanctions to Information and Communication Technologies

1. **Criminal Sanctions**

a) State Parties shall take the necessary legislative measures to ensure that the offences provided for under this Convention are punishable by effective, proportionate and dissuasive criminal penalties;

b) State Parties shall take the necessary legislative measures to ensure that the offences provided for under this Convention are punishable by appropriate penalties under their national legislations;

c) State Parties shall take the necessary legislative measures to ensure that a legal person held liable pursuant to the terms of this Convention is punishable by effective, proportionate and dissuasive sanctions, including criminal fines.

2. **Other criminal sanctions**

a) State Parties shall take the necessary legislative measures to ensure that in the case of conviction for an offense committed through a digital communication medium, the competent court may hand down additional sanctions;

b) State Parties shall take the necessary legislative measures to ensure that in the case of conviction for an offence committed through a digital communication medium, the judge may in addition order the mandatory dissemination, at the expense of the convicted person, of an extract of the decision, through the same medium, and according to modalities prescribed by the law of Member States;

c) State Parties shall take the necessary legislative measures to ensure that a breach of the confidentiality of data stored in a computer system is punishable by the same penalties as those applicable for breaches of professional secrecy.

3. **Procedural law**

a) State Parties shall take the necessary legislative measures to ensure that where the data stored in a computer system or in medium where computerized data can be stored in the territory of a State Party, are useful in establishing the truth, the court applied to may carry out a search to access all or part of a computer system through another computer system, where the said data are accessible from or available to the initial system;

b) State Parties shall take the necessary legislative measures to ensure that where the judicial authority in charge of investigation discovers data stored in a computer system that are useful for establishing the truth, but the seizure of the support does not seem to be appropriate, the data as well as all such data as are required to understand them, shall be copied into a computer storage medium that can be seized and sealed, in accordance with the modalities provided for under the legislations of State Parties;

c) State Parties shall take the necessary legislative measures to ensure that judicial authorities can, for the purposes of investigation or execution of a judicial delegation, carry out the operations provided for under this Convention;

d) State Parties shall take the necessary legislative measures to ensure that if information needs so require, particularly where there are reasons to believe that the information stored in a computer system are particularly likely to be lost or modified, the investigating judge may impose an injunction on any person to preserve and protect the integrity of the data in his/her possession or under his/her control, for a maximum period of two years, in order to ensure the smooth conduct of the investigation. The custodian of the data or any other person responsible for preserving the data shall be expected to maintain secrecy with regard to the data;

e) State Parties shall take the necessary legislative measures to ensure that where information needs so require, the investigating judge can use appropriate technical means to collect or record in real time, data in respect of the contents of specific communications in its territory, transmitted by means of a computer system or compel a service provider, within the framework of his/her technical capacities, to collect and record, using the existing technical facilities in its territory or that of State Parties, or provide support and assistance to the competent authorities towards the collection and recording of the said computerized data.

CHAPTER IV
FINAL PROVISIONS

Article 32
Measures to be taken at the level of the African Union

The Chairperson of the Commission shall report to the Assembly on the establishment and monitoring of the operational mechanism for this Convention.

The monitoring mechanism to be established shall ensure the following:

a) Promote and encourage the Continent to adopt and implement measures to strengthen cyber security in electronic services and in combatting cybercrime and human rights violations in cyberspace;

b) Gather documents and information on cyber security needs as well as on the nature and magnitude of cybercrime and human rights violations in cyberspace;

c) Work out methods for analysing cyber security needs, as well as the nature and magnitude of cybercrime and human rights violations in cyberspace, disseminate information and sensitize the public on the negative effects of these phenomena;

d) Advise African governments on the way to promote cyber security and combat the scourge of cybercrime and human rights violations in cyberspace at national level;

e) Garner information and carry out analyses of the criminal behaviour of the users of information networks and computer systems operating in Africa, and transmit such information to competent national authorities;

f) Formulate and promote the adoption of harmonized codes of conduct for the use of public officials in the area of cyber security;

g) Establish partnerships with the Commission and the African Court on Human and Peoples' Rights, the African civil society, and governmental, intergovernmental and non-governmental organizations with a view to facilitating dialogue on combating cybercrime and human rights violations in cyberspace;

h) Submit regular reports to the Executive Council of the African Union on the progress made by each State Party in the implementation of the provisions of this Convention;

i) Carry out any other tasks relating to cybercrime and breaches of the rights of individuals in cyberspace as may be assigned to it by the policy organs of the African Union.

Article 33
Safeguard Provisions

The provisions of this Convention shall not be interpreted in a manner that is inconsistent with the relevant principles of international law, including international customary law.

Article 34
Settlement of Disputes

1. Any dispute arising from this Convention shall be settled amicably through direct negotiations between the State Parties concerned.

2. Where the dispute cannot be resolved through direct negotiation, the State Parties shall endeavour to resolve the dispute through other peaceful means, including good offices, mediation and conciliation, or any other peaceful means agreed upon by the State Parties. In this regard, the State Parties shall be encouraged to make use of the procedures and mechanisms for resolution of disputes established within the framework of the Union.

Article 35
Signature, Ratification or Accession

This Convention shall be open to all Member States of the Union, for signature, ratification or accession, in conformity with their respective constitutional procedures.

Article 36
Entry into Force

This Convention shall enter into force thirty (30) days after the date of the receipt by the Chairperson of the Commission of the African Union of the fifteenth (15th) instrument of ratification.

Article 37
Amendment

1. Any State Party may submit proposals for the amendment or revision of this Convention;

2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission of the African Union, who shall transmit same to State Parties within thirty (30) days of receipt thereof;

3. The Assembly of the Union, upon recommendation of the Executive Council of the Union, shall consider these proposals at its next session, provided all State Parties have been notified at least three (3) months before the beginning of the session;

4. The Assembly of the Union shall adopt the amendments in accordance with its Rules of Procedure;

5. The amendments or revisions shall enter into force in accordance with the provisions of Article 36 above.

Article 38
Depository

1. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the African Union;

2. Any State Party may withdraw from this Convention by giving a written notice one (1) year in advance to the Chairperson of the Commission of the African Union;

3. The Chairperson of the Commission of the African Union shall inform all Member States of any signature, depositing of instrument of ratification or accession to this Convention, as well as its entry into force;

4. The Chairperson of the Commission shall also inform the State Parties of requests for amendments or withdrawal from the Convention, as well as reservations thereon.

5. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretary General of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

6. This Convention, drawn up in four (4) original texts in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified true copies of the same to all Member States of the African Union in its official language.

ADOPTED BY THE TWENTY-THIRD ORDINARY SESSION OF THE ASSEMBLY, HELD IN MALABO, EQUATORIAL GUINEA

27TH JUNE 2014

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Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida nº 104/01 ryo ku wa 18/09/2019 ryemeza burundu Amasezerano y'Afurika yunze Ubumwe yerekeye gucunga umutekano w'ibijyanye n'ikoranabuhanga n'amakuru y'umuntu bwite abikwa muri mudasobwa, yemerejwe i Malabo, Gineya Ekwatoriyale ku wa 27 Kamena 2014

Kigali, ku wa 18/09/2019

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Presidential Order nº 104/01 of 18/09/2019 ratifying the African Union Convention on Cyber Security and Personal Data Protection, adopted in Malabo, Equatorial Guinea on 27 June 2014

Kigali, on 18/09/2019

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à l'Arrêté Présidentiel nº 104/01 du 18/09/2019 ratifiant la Convention de l'Union Africaine sur la cyber sécurité et la protection des données à caractère personnel, adoptée à Malabo, en Guinée Èquatoriale le 27 juin 2014

Kigali, le 18/09/2019

(sé)
KAGAME Paul
Président de la République

(sé)
Dr NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEKA RYA MINISITIRI N° 17/MOJ/AG/19 RYO KU WA 25/09/2019 RISHYIRAHO ABAHESHA B'INKIKO B'UMWUGA

MINISTERIAL ORDER N° 17/MOJ/AG/19 OF 25/09/2019 APPOINTING PROFESSIONAL BAILIFFS

ARRÊTÉ MINISTÉRIEL N° 17/MOJ/AG/19 DU 25/09/2019 PORTANT NOMINATION DES HUISSIERS DE JUSTICE PROFESSIONNELS

ISHAKIRO

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Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta;

Ashingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 121 n'iya 176;

Ashingiye ku Itegeko nº 12/2013 ryo ku wa 22/03/2013 rigenga umurimo w'Abahesha b'Inkiko, cyane cyane mu ngingo zaryo, iya 3 n'iya 30;

Ashingiye ku Iteka rya Perezida nº 27/01 ryo ku wa 18/07/2004 rigena amwe mu mateka y'Abaminisitiri yemezwa atanyuze mu nama y'Abaminisitiri, cyane cyane mu ngingo yaryo ya mbere;

Bisabwe na Perezida w'Urugaga rw'Abahesha b'Inkiko b'umwuga mu ibaruwa nº 170 PBA/2019 yo ku wa 23/07/2019;

ATEGETSE:

MINISTERIAL ORDER N° 17/MOJ/AG/19 OF 25/09/2019 APPOINTING PROFESSIONAL BAILIFFS

The Minister of Justice/Attorney General;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 121 and 176;

Pursuant to Law nº 12/2013 of 22/03/2013 governing the Bailiff function, especially in Articles 3 and 30;

Pursuant to Presidential Order nº 27/01 of 18/7/2004 determining certain Ministerial Orders which are adopted without consideration by the Cabinet, especially in Article One;

Upon request by the President of the Professional Bailiffs Association in his letter nº 170 PBA/2019 of 23/07/2019;

ORDERS:

ARRÊTÉ MINISTÉRIEL N° 17/MOJ/AG/19 DU 25/09/2019 PORTANT NOMINATION DES HUISSIERS DE JUSTICE PROFESSIONNELS

Le Ministre de la Justice/Garde des Sceaux;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 121 et 176;

Vu la Loi nº 12/2013 du 22/03/2013 régissant la fonction d'Huissier de Justice, spécialement en ses articles 3 et 30;

Vu l'Arrêté Présidentiel nº 27/01 du 18/07/2004 déterminant certains Arrêtés Ministériels qui ne sont pas adoptés par le Conseil des Ministres, spécialement en son article premier;

Sur demande du Président du Corps d' Huissiers de Justice Professionnels dans sa lettre nº 170 PBA /2019 du 23/07/2019;

ARRÊTE:

Ingingo ya mbere: Ishyirwaho ry'Abahesha b'Inkiko b'Umwuga

Abantu bafite amazina ari ku rutonde ruri ku mugereka w'iri teka bagizwe Abahesha b'Inkiko bw'Umwuga.

Ingingo ya 2: Igihe iri teka ritangirira gukurikizwa

Iri teka ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 25/09/2019

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Article One: Appointment of Professional Bailiffs

Persons whose names appear on the list annexed to this Order are appointed Professional Bailiffs.

Article 2: Commencement

This Order comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 25/09/2019

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Article premier: Nomination des Huissiers de Justice Professionnels

Les personnes dont les noms figurent sur la liste annexée au présent arrêté sont nommées Huissiers de Justice Professionnels.

Article 2: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 25/09/2019

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

	UMUGEREKA W'ITEKA RYA MINISITIRI Nº 17/MOJ/AG/19 RYO KU WA 25/09/2019 RISHYIRAHO ABAHESHA B'INKIKO B'UMWUGA		**ANNEX TO THE MINISTERIAL ORDER Nº 17/MOJ/AG/19 OF 25/09/2019 APPOINTING PROFESSIONAL BAILIFFS**		**ANNEXE À L'ARRÊTÉ MINISTÉRIEL Nº 17/MOJ/AG/19 DU 25/09/2019 PORTANT NOMINATION DES HUISSIERS DE JUSTICE PROFESSIONNELS**
Nº	**AMAZINA Y'ABAGIZWE ABAHESHA B'INKIKO B'UMWUGA**	**Nº**	**NAMES OF PERSONS WHO ARE APPOINTED PROFESSIONAL BAILIFFS**	**Nº**	**NOMS DES PERSONNES QUI SONT NOMMÉES HUSSIERS DE JUSTICE PROFESSIONNELS**
01	BAYISENGE UMUTESI Josephine	01	BAYISENGE UMUTESI Josephine	01	BAYISENGE UMUTESI Josephine
02	BYIRINGIRO MUGANURA Etienne	02	BYIRINGIRO MUGANURA Etienne	02	BYIRINGIRO MUGANURA Etienne
03	MAYOMBO Venuste	03	MAYOMBO Venuste	03	MAYOMBO Venuste
04	MUGABO John	04	MUGABO John	04	MUGABO John
05	MUGISHA Honoré	05	MUGISHA Honoré	05	MUGISHA Honoré
06	MUKAMUSANA Gertrude	06	MUKAMUSANA Gertrude	06	MUKAMUSANA Gertrude
07	MUNEZERO Maryse	07	MUNEZERO Maryse	07	MUNEZERO Maryse
08	NDASANE Delphin	08	NDASANE Delphin	08	NDASANE Delphin
09	NZACAHIMANINYERETSE Jean de Dieu	09	NZACAHIMANINYERETSE Jean de Dieu	09	NZACAHIMANINYERETSE Jean de Dieu
10	UFITAMAHORO Marie Antoinette	10	UFITAMAHORO Marie Antoinette	10	UFITAMAHORO Marie Antoinette

Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Minisitiri nº 17/MOJ/AG/19 ryo ku wa 25/09/2019 rishyiraho Abahesha b'Inkiko b'Umwuga

Kigali, ku wa 25/09/2019

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Bibonywe kandi bishyizweho Ikirango cya Repubulika :

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen to be annexed to the Ministerial Order nº 17/MOJ/AG/19 of 25/09/2019 appointing Professional Bailiffs

Kigali, on 25/09/2019

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Seen and Sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à l'Arrêté Ministériel nº 17/MOJ/AG/19 du 25/09/2019 portant nomination des Huissiers de Justice Professionnels

Kigali, le 25/09/2019

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

Vu et scellé du Sceau de la République:

(sé)
BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux