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LEGAL NOTICE No. 38

**THE TREATY FOR THE ESTABLISHMENT OF THE EAST
AFRICAN COMMUNITY ACT, 2000***(No. 2 of 2000)***AMENDMENT OF THE TREATY**

WHEREAS the Treaty for the Establishment of the East African Community was adopted by the Summit of East African Community Heads of State on the 30th November, 1999, in Arusha, Tanzania;

AND WHEREAS Article 150 (1) of the said Treaty provides for its amendment;

AND WHEREAS the East African Community Heads of State, at the 4th Extra-Ordinary Summit held on the 14 December, 2006, in Nairobi, adopted the amendments to the Treaty set out in the Schedule hereto;

AND WHEREAS pursuant to Articles 150(6) and 152 of the Treaty, the Partner States have ratified the amendments and deposited the instruments of ratification with the Secretary-General as follows—

- (a) the Republic of Kenya, on the 8th January, 2007;
- (b) the Republic of Uganda, on the 26th February, 2007; and
- (c) the United Republic of Tanzania, on the 19th March, 2007;

AND WHEREAS by virtue of Article 150(6) of the Treaty, the amendments have entered into force on ratification by the Partner States:

NOW THEREFORE, in pursuance of section 9 of the Treaty for Establishment of the East African Community Act, 2000, it is hereby notified that the Treaty has been amended, in the manner set forth in the Schedule hereto, with effect from the 20th March, 2007.

SCHEDULE**AMENDMENTS****1. Article 1 of the Treaty is amended—**

- (a) by deleting the definition of the term “Judge” and replacing it with the following new definition—

“Judge” means a Judge of the Court serving on the

First Instance Division or the Appellate Division”;

- (b) by deleting the definition of the term “President of the Court”.

2. Article 23 of the Treaty is amended—

- (a) by renumbering the existing provision as paragraph 1;
- (b) by inserting the following new paragraphs immediately after paragraph 1—

“2. The Court shall consist of a First Instance Division and an Appellate Division.

3. The First Instance Division shall have jurisdiction to hear and determine, at first instance, subject to a right of appeal to the Appellate Division under Article 35A, any matter before the Court in accordance with this Treaty.”

3. Article 24 of the Treaty is amended—

- (a) in paragraph 1, by deleting the proviso and substituting therefor the following new proviso—

“Provided that no more than—

- (a) two Judges of the First Instance Division; or
- (b) one Judge of the Appellate Division,

shall be appointed on the recommendation of the same Partner State”.

- (b) by deleting paragraph 2 and replacing it with the following new paragraph—

“2. The Court shall be composed of a maximum of fifteen Judges of whom not more than ten shall be appointed to the First Instance Division and not more than five shall be appointed to the Appellate Division.

Provided that of the Judges first appointed to the Court, the terms of one third of the Judges shall expire at the end of five years, the terms of another one third of the Judges shall expire at the end of six years and the remaining one third of the Judges shall serve their full terms of seven years.

- (c) by deleting paragraph 4 and inserting the following new paragraphs immediately after paragraph 3—

“4. The Summit shall designate two of the Judges of the Appellate Division as the President and Vice-President respectively, who shall be responsible for the performance of such functions as are set out in this Treaty.

5. The Summit shall designate two of the Judges of the First Instance Division as the Principal Judge and Deputy Principal Judge respectively, who shall be responsible for the performance of such functions as may be set out in this Treaty.”

6. The President and the Vice President, the Principal

Judge and the Deputy Principal Judge, shall not be nationals of the same Partner State

- (d) by deleting paragraph 6 and substituting with the following:

“7. The President shall:

- (a) be the Head of the Court and shall be responsible for the administration and supervision of the Court;
- (b) direct work of the Appellate Division, represent it, regulate the disposition of the matters brought before the Court and preside over its sessions”.

“8. The Principal Judge shall direct work of the first Instance Division, represent it, regulate the disposition of the matters brought before the Court and preside over its sessions”.

- (e) by renumbering the existing paragraph 5 as paragraph 9.

4. Article 26 of the Treaty is amended—

- (a) by deleting paragraph 1 and replacing it with the following new paragraph—

“1. A Judge shall not be removed from office except by the Summit —

- (a) for misconduct or for inability to perform the functions of his or her office due to infirmity of mind or body:

Provided that a Judge shall only be removed from office under this subparagraph if the question of his or her removal from office has been referred to an *ad hoc* independent tribunal appointed for this purpose by the Summit and the tribunal has recommended that the Judge be removed from office for misconduct or inability to perform the functions of his or her office; or

- (b) in the case of a Judge who also holds judicial office or other public office in a Partner State—

- (i) is removed from that office for misconduct or due to inability to perform the functions of the office for any reason; or

- (ii) resigns from that office following allegations of misconduct or of inability to perform the functions of the office for any reason;

- (c) if the Judge is adjudged bankrupt under any