



Harmonizing Cyberlaws and Regulations: The experience of the East African Community





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Corrigendum

1. Page 13, paragraphs 6 and 7

For Penal Code Act n°1/95 *read* Penal Code Act n°1/05

2. Page 13, paragraphs 6 and 7

For Press Act n°025/01 *read* Press Act n°1/025

3. Page 13, paragraphs 6 and 7

For Protection of Right of Author and its related Act n°1/06 *read* Protection of Right of Author and its related Act n°1/021

4. Page 30, first paragraph

For Chapter 6 *read* Chapter 9

5. Page 48, note 101

For CAP 15 *read* CAP 215



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NOTE

Within the UNCTAD Division on Technology and Logistics, the ICT Analysis Section carries out policy-oriented analytical work on the development implications of information and communication technologies (ICTs). It is responsible for the preparation of the Information Economy Report as well as thematic studies on ICT for Development. The ICT Analysis Section promotes international dialogue on issues related to ICTs for development, and contributes to building developing countries' capacities to measure the information economy and to design and implement relevant policies and legal frameworks.

The following symbols have been used in the tables:

Two dots (..) indicate that data are not available or are not separately reported. Rows in tables have been omitted in those cases where no data are available for any of the elements in the row;

A dash (–) indicates that the item is equal to zero or its value is negligible;

A blank in a table indicates that the item is not applicable, unless otherwise indicated;

A slash (/) between dates representing years, e.g. 1994/95, indicates a financial year;

Use of an en dash (–) between dates representing years, e.g. 1994–1995, signifies the full period involved, including the beginning and end years;

Reference to “dollars” (\$) means United States dollars, unless otherwise indicated;

Annual rates of growth or change, unless otherwise stated, refer to annual compound rates;

Details and percentages in tables do not necessarily add up to the totals because of rounding.

The material contained in this study may be freely quoted with appropriate acknowledgement.

PREFACE

The development of an enabling framework for e-commerce has the potential to generate significant economic development gains for countries by promoting investor confidence, tapping into business opportunities and responding to the increasing reliance on electronic applications in all sectors (government, commerce, health, education, banking, insurance, etc.). Regional and national commitment towards providing a modern legal framework to interface between the physical and digital space is very important in this context.

This study was conducted as part of the work that the United Nations Conference on Trade and Development (UNCTAD) and the East African Community (EAC) Task Force on Cyberlaws have been carrying out since 2007 to prepare legal frameworks for e-commerce.

In 2009, the EAC became the first region in Africa to adopt a modern and effective regional harmonized framework for cyberlaws. It had been developed to meet the need expressed by Council of Ministers of the East African Community in 2006 to support the regional integration process with regard to e-Government and e-commerce. Two sets of recommendations for cyberlaws were subsequently prepared by the EAC Task Force on Cyberlaws in close cooperation with the EAC secretariat with the support of UNCTAD. Phase I of the Framework – covering electronic transactions, electronic signatures and authentication, cybercrime as well as data protection and privacy – was adopted in 2010 by the EAC Council of Ministers on Transport, Communications and Meteorology. It is currently being implemented at the national level. Phase II of the Framework – covering intellectual property rights, competition, e-taxation and information security – is to be examined by the EAC in 2012.

The present study assesses the status of cyber-legislation in the EAC. Similar analyses have previously been prepared by UNCTAD for Latin America and Central America.¹ The analysis contained in this report provides valuable information also for developing countries outside of the EAC region by documenting progress to date describing the law reform process and identifying best legislative standards to ensure cyberlaw harmonization.

The first part discusses the need for regional harmonization and the challenges faced with regard to the implementation of cyberlaws in the EAC region. The second gives a detailed account of the status of cyberlaws in each country. It is hoped that the work of the EAC Task Force on Cyberlaws and this study offer some useful lessons and tools for other countries and regions engaging in cyberlaw reforms.

The study's principal consultant was Professor Ian Walden. National inputs were provided by the following members of the EAC Task Force: Pierre Ndamama (Burundi), Mercy Wanjau (Kenya), Allan Kabutura (Rwanda), Adam Mambi (The United Republic of Tanzania), Denis Kibirige (Uganda), and Matthew Nduma (EAC Secretariat). The study was prepared by a team from UNCTAD comprising Torbjörn Fredriksson and Cécile Barayre, under the overall guidance of Anne Miroux. Statistical support was provided at various stages by Smita Barbattini and Agnes Collardeau-Angleys. The document was edited by Nancy Biersteker. Destop publishing and the cover were done by Nadège Hadjemian.

Valuable comments and inputs were received from Robert Achieng (EAC Secretariat) and Luca Castellani (UNCITRAL). Special thanks are also given to the members of EAC Force on Cyberlaws who have been actively involved in the preparation of Africa's first regional harmonized framework for cyberlaws.

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ABBREVIATIONS

CERT	Computer Emergency Response Team
CIRT	Computer Incidence Response Team
COMESA	Common Market for Eastern and Southern African States
EABC	East African Business Council
EAC	East African Community
EALA	East African Legislative Assembly
EASSy	Eastern Africa Submarine Cable System
ICT	Information and Communication Technologies
IPR	Intellectual Property Rights
ITU	International Telecommunication Union
RURA	Rwanda Utilities and Regulatory Agency
SADC	Southern African Development Community
TCRA	Tanzania Communications Regulatory Authority
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
VAT	Value Added Tax
WIPO	World Intellectual Property Organization

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