

- 6.3 Notwithstanding Sub-Article 5.4 of this Agreement, a law enforcement Officer of the adjoining State may in the control zone in the host State, arrest a person exiting the host State provided:
- (a) such arrest is authorized by a warrant issued by a court in the adjoining State; or
  - (b) the name or description or both, together with particulars of the offence of which there are reasonable grounds for suspecting such person to have committed, have been made available by the competent authorities of the adjoining State to the competent authorities of the host State.
- 6.4 The law enforcement agencies of the host State shall, upon request, assist those of the adjoining State in effecting their mandated controls in the control zone including, without limitation, the provision of secure holding cells and related facilities.
- 6.5 The Parties may, as necessitated by circumstances, agree to parameters for carrying out security related joint border control patrols in each other's territory involving border control Officers and consistent with the principles contained in this Agreement to facilitate the combat of cross-border crime. Such parameters to be agreed on and described in **the Fourth Schedule** which shall be annexed hereto and shall, *inter alia*, include a clear and precise definition of the extent of each other's territory to be covered by such joint patrols, jurisdiction and powers of the Officers involved in such joint patrols, provisions relating to the carrying and use of arms by the Officers during such joint patrols, and command and control structures of such joint patrols.

**ARTICLE 7  
Conduct of Officers**

- 7.1 Officers of the adjoining State shall be permitted to move freely in the control zone for official purposes. In carrying out their functions, they shall not be required to produce passports or visas and may pass through border controls of the host State simply by producing appropriate evidence of their identity and status.
- 7.2 The Parties shall agree on the number of Officers that may be tasked to undertake duties in the adjoining State, which number shall take into account the passenger and vehicle volumes at any peak point in time. The number may be varied from time to time at the discretion of the Parties. The competent authorities of the adjoining State shall inform the competent authorities of the host State in writing of the names and designation of the

Officers that will be working within the control zone of the host State. In the event of any change, information of such changes shall be communicated promptly to either Party.

- 7.3 Officers of the adjoining State shall wear their national uniform and visible distinctive insignia and or identification badge in the control zone of the host State. However, subject to provisions herein to the contrary, such Officers shall not be armed except by special arrangements between the Parties. In cases where a show or use of arms is required, the Officers of the adjoining State shall enlist the assistance of the law enforcement agents of the host State, which assistance shall not be unreasonably denied.
- 7.4 Each Party agrees to appoint an Officer serving in the adjoining State to act as the main contact person for communication with the competent authorities of the host State. Nothing in this Sub-Article shall prevent Officers representing individual border control agencies of one Party from collaborating and consulting with Officers from their counterpart agencies of the other Party during the course of the day-to-day performance of their functions in the control zone.
- 7.5 The authorities of the host State shall grant the same protection and assistance to Officers of the adjoining State, in the exercise of their functions, as they grant to their own Officers.
- 7.6 The laws of the host State relating to the protection of Officers in the exercise of their functions shall apply equally to the punishment of offences committed against Officers of the adjoining State in the exercise of their functions.
- 7.7 Any claim for compensation for loss, injury or damage caused by or to Officers of the adjoining State in the course of their functions in the host State shall be subject to the laws and jurisdiction of the adjoining State as if the circumstances giving rise to the claim had occurred in the adjoining State.
- 7.8 Officers of the adjoining State may be prosecuted for any offences committed in the control zone in the course of their functions. In such a case, they shall come under the jurisdiction of the adjoining State, as if the offence had been committed in the adjoining State.
- 7.9 The law enforcement agencies of the host State shall take such steps as deemed necessary to investigate, record and communicate to the

competent authorities of the adjoining State all the particulars and evidence of any alleged offence committed in the control zone of the host State by an Officer of the adjoining State as contemplated in Sub-Article 7.8. The laws of the adjoining State shall apply to such offences.

- 7.10 The Officers of the host State shall be competent witnesses in proceedings of any offences committed in the control zone of the host State to which they are investigating officers or percipient witnesses involving either members of the public or Officers of the adjoining State where such offences are tried before the courts of competent jurisdiction and other quasi-legal or administrative structures of the adjoining State.

#### **ARTICLE 8 Facilities**

- 8.1 The Parties undertake to provide each other comparable office and other accommodation within the facilities located in the host State which shall be as agreed to and listed in **the Fifth Schedule** to be annexed hereto and to waive all costs related to the occupation and maintenance of such premises.
- 8.2 Subject to proper declarations being made and appropriate inventories being kept, all equipment which is necessary to enable the Officers of the adjoining State to carry out their functions in the control zones of the host State, shall be freely transferable within the control zones and shall not be regarded as imports or exports on entry or exit.
- 8.3 The Officers of the adjoining State shall, whilst exercising their functions in the host State, be authorized to communicate with their national authorities and to establish such communication links to the adjoining State as shall be required for this purpose including but not limited to the extension of their local area telecommunication and other networks into the control zone of the host State. To this end, the authorities of the host State shall, where necessary, assist the Officers of the adjoining State to obtain telecommunication and other communication services subject to commercial costs and conditions normally prevailing.
- 8.4 The Parties undertake to harmonize the structures and facilities in the juxtaposed control zones so as to mirror each other, through the exchange of or joint designs and procurement of related services. In doing so, the Parties shall consult both internal and external public and private sector stakeholders for input as to their requirements in the control zones.

- 8.5 Notwithstanding anything to the contrary herein, the Parties shall ensure that adequate and appropriate facilities are provided within their respective control zones to the public that utilize the border post including, without limitation, ablution, food, banking and other convenience facilities.

**ARTICLE 9**  
**Facilitation Agents**

- 9.1 Facilitation agents of both States shall be granted reasonable access to the control zones for official purposes. In carrying out their functions they shall not be required to produce any passports or visas, but shall access the control zones by way of appropriately issued identification and status cards.
- 9.2 The Parties shall, in consultation with the national facilitation agents associations, agree on the criteria for the vetting, registration and the numbers of facilitation agents that shall be afforded access to the control zones in terms of this Sub-Article. The competent authorities of each State shall submit in writing the names and full particulars of the facilitation agents that will be working within the control zone of the host State. In the event of any changes, information of such changes shall be communicated promptly to either Party.
- 9.3 Facilitation agents shall in the control zones wear their agency uniforms and shall at all times visibly display their identification badges.
- 9.4 Facilitation agents shall at all times in the exercise of their functions in the control zones be subject to the laws of the host State in all respects.
- 9.5 Notwithstanding the foregoing, facilitation agents shall provide their services in accordance with the border control laws of the State under whose controls they are facilitating regardless of the location of such facilitation.
- 9.6 Each Party shall determine and allocate appropriate and comparable office accommodation and other facilities to facilitation agents of both States in the control zone within its own territory. A list of such facilities to be allocated to facilitation agents shall be as agreed to by the Parties and listed in **the Sixth Schedule** to be annexed hereto.
- 9.7 Subject to proper declarations being made and appropriate inventories being kept, all equipment which is necessary to enable the facilitation agents of the adjoining State to carry out their functions in the control zones of the host State, shall be freely transferable within the control zones and

shall not be regarded as imports or exports on entry or exit, as the case may be.

- 9.8 Facilitation agents of the adjoining State, whilst in the exercise of their functions in the host State, shall be authorized to communicate with their national offices and to establish such communications as may be required for this purpose on their own accord and cost.
- 9.9 Facilitation agents of the adjoining State shall freely transfer any sums of money received for facilitation services in the control zone to the adjoining State subject to the adjoining State's exchange control laws and regulations.
- 9.10 In order to simplify and expedite the clearance of commercial traffic through the border post, the Parties shall migrate from the manual entry system to the electronic control system that is easily accessible for use by the facilitation agents and introduce appropriate and mandatory pre-clearance procedures.

**ARTICLE 10  
Joint Commission**

- 10.1 A Joint Commission, comprising equal numbers from each State of representatives of the competent authorities and facilitation agents, shall be established to oversee the implementation of this Agreement. The Parties shall determine the level at which such representation shall be, and the number of members of the Commission. Each Party shall be responsible for the nomination of its Officers who shall constitute the Commission.
- 10.2 The Commission shall determine the administrative measures necessary for the implementation of this Agreement and resolve any difficulties that may arise from such implementation including the power to constitute any administrative committees comprising Officers of the Parties directly involved in undertaking border controls. Operatives of the facilitation agents at the border post shall also be co-opted into such administrative committees to ensure valuable contribution and feedback from the relevant private sector stakeholders.
- 10.3 The Commission shall adopt its decisions by consensus. In the event of failure by the Commission to reach a consensus on any issue in terms of this Agreement, such issue shall be referred for consideration and direction as may be agreed upon by the Parties.

- 10.4 The Commission shall meet as often as required and alternate the locality of the meetings between the territories of the Parties, unless agreed otherwise. The meetings of the Commission shall also be chaired by an Officer representing the Party in whose territory the meeting is held, unless agreed otherwise. The administrative committees shall meet routinely at pre-determined intervals or as necessary. Both the Commission and administrative committees shall regulate their own procedures at such meetings.
- 10.5 Each Party shall take all necessary administrative, financial and other measures to ensure the effective implementation of this Agreement by the Commission.

**ARTICLE 11**  
**Temporary Measures**

- 11.1 This Agreement shall not affect the rights of any Party to take temporary measures in the interests of defence and security, public safety, public order, economic interests of the State, public health, and any other circumstances of a similar nature. Such temporary measures shall include, but not limited to, the temporary closure of the border post within that Party's territory.
- 11.2 The Party taking any temporary measures under this Article shall, prior to taking such temporary measures, inform the other Party without delay through the exchange of diplomatic notes and refer the matter to the Joint Commission for consideration.
- 11.3 In circumstances where prior notification shall not be practical, the Party taking such temporary measures shall simultaneously inform the other Party of the temporary measures imposed through the exchange of diplomatic notes and refer the matter to the Joint Commission for consideration.
- 11.4 Each Party shall take responsibility to expeditiously inform its Officers working in the control zone about the temporary measures imposed.

**ARTICLE 12**  
**Force Majeure**

- 12.1 Neither Party shall be in breach of this Agreement if it is prevented from performing any of its obligations hereunder, by reason of strikes, boycotts, acts of nature, wars, riots, sabotage, acts of public enemy or any other

circumstances of a similar nature: Provided that prompt written notice is given by such Party to the other and is simultaneously referred to the Joint Commission in the most expeditious manner, setting forth the circumstances or inability giving rise to the failure to fulfill such obligations.

**ARTICLE 13  
Dispute Resolution**

- 13.1 Any dispute that may arise in the interpretation, application and implementation of this Agreement and any supplementary agreements shall be resolved by the Parties amicably and in the spirit of friendship and co-operation.
- 13.2 The Parties hereby acknowledge that in resolving such disputes they shall primarily be guided by the need to give effect to the paramount objectives of this Agreement.
- 13.3 Any dispute between the Parties in terms of this Agreement that remains unresolved in terms of this Article for a period of more than one hundred and eighty (180) days shall be referred for settlement in accordance with the provisions of the dispute settlement procedure stipulated in the Treaty.

**ARTICLE 14  
Limits of Liability**

- 14.1 Nothing in this Agreement shall be interpreted as restricting the jurisdiction of either Party to take such legislative or administrative measures and decisions as may be deemed appropriate within its territory including the control zone. Where such measures and decisions are likely to affect the other Party, such Party shall give prior notice to the other Party through the exchange of diplomatic notes.

**ARTICLE 15  
Confidentiality**

- 15.1 Neither Party shall, at any time during the subsistence of this Agreement or at any time thereafter, disclose to any third party or use for any other purpose, except as provided for in this Agreement, any information or data which has been disclosed or obtained by it from the other Party pursuant to this Agreement.

**ARTICLE 16  
Notices and Addresses**

- 16.1 For the purposes of this Agreement, including the giving of notices in terms hereof, each Party shall utilize the normal diplomatic channels existing between the two States.
- 16.2 Without prejudice to the provisions of Sub-Articles 3.8, 3.9, 5.4, 6.4 and 7.3 of this Agreement, any notice or request required or permitted to be given or made under this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall have been delivered by hand, mail, fax, or e-mail to the Ministry in charge of foreign affairs in each State.
- 16.3 Each Party shall designate a focal Ministry to be responsible for the implementation of this Agreement.

**ARTICLE 17  
Amendments**

- 17.1 This Agreement may be amended by the Parties through mutual written agreement.

**ARTICLE 18  
Termination**

- 18.1 Either Party may terminate this Agreement by giving the other Party ninety (90) days notice or such longer period as the Parties may require by mutual agreement, through the exchange of diplomatic notes.
- 18.2 On termination, the Parties shall revert to a two-stop border post concept on such terms, conditions and practical disengagement arrangements as mutually determined by the Parties.



**ARTICLE 19  
Entry into Force**

- 19.1 Each Party agrees to, where necessary, amend any of its other existing laws or enact such new law as may be necessary to give effect to the provisions of this Agreement.
- 19.2 The provisions of the new legislation referred to in Sub-Article 19.1 shall be similar in effect and be in such terms as shall be agreed between the Parties.
- 19.3 Notwithstanding the date of signature and the dates of exchange of instruments of ratification, this Agreement shall enter into force on the date of commencement of the new legislation referred to in Sub-Article 19.1 which legislation shall come into operation simultaneously within the respective jurisdictions of the two States.

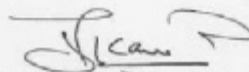
**IN WITNESS WHEREOF**, the undersigned being the duly nominated and authorized representatives of the Parties have signed this Agreement.

**THUS DONE AND SIGNED** at Arusha on the 26<sup>th</sup> day of March 2010, in duplicate and in the English language, both copies being equally authentic.



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**Hon. Monique Mukaruliza**  
Minister for East African Community Affairs

For and on behalf of the Government of  
The Republic of Rwanda



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**Hon. Dr. Shukuru Jumanne Kawambwa**  
Minister for Infrastructure Development

For and on behalf of the Government of  
The United Republic of Tanzania