

THE REPUBLIC OF UGANDA

**CONSULTANCY TO ALIGN RELEVANT LAWS WITH THE EAST AFRICAN COMMUNITY
(EAC) COMMON MARKET PROTOCOL**

PO/20120551

FINAL ASSIGNMENT REPORT

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ACRONYMS

AHPC	Allied Health Professional Council
ARB	Architects Registration Board
CET	Common External Tariffs
CMP	Common Market Protocol
CPD	Continuous Professional Development
CMIP	Common Market Protocol Implementation Plan
EAC	East African Community
EACJMC	East African Joint Medical Council
EALA	East African Legislative Assembly
ERB	Engineers Registration Board
KACITA	Kampala City Traders Association
MEACA	Ministry of East African Community Affairs
MDAs	Ministries, Departments and Agencies
MRAs	Mutual Recognition Agreements
NIC	National Implementation Committees
NTB	Non Tariff Barriers
SCEAP	Sectoral Council of Ministers Responsible for EAC Affairs and Planning
SRB	Surveyors Registration Board
TMEA	TradeMark East Africa
TSU	Technical Support Unit
ULRC	Uganda Law Reform Commission
UNBS	Uganda National Bureau of Standards
VRB	Veterinary Registration Board

GLOSSARY

Alignment	As used in this Report, alignment refers to the altering or amending of the law so as to remove conflict between the law and the provisions of the EAC CMP.
Harmonisation	Harmonisation seeks to 'effect an approximation or co-ordination of different legal provision or systems by eliminating major differences and creating minimum requirements or standards ¹ .

¹ Kamba, *Comparative Law in a Changing World*, London: Cavendish Publishing, Pg 84.

EXECUTIVE SUMMARY

1.1 Background

This is the Final Assignment Report of the consultants under the project “*Consultancy to Align Relevant Laws of Uganda with the East African Community Common Market Protocol*”.

This Consultancy seeks to expedite the implementation of the EAC legal regime in Uganda through facilitating the review and amendment of national laws to conform to Uganda’s EAC commitments. Prior to this assignment, TMEA funded a Study to assess the needs of the Uganda Law Reform Commission (ULRC) in supporting MDAs to carry out the legislative reforms necessary to implement the CMP.

This assignment is a follow up of that study. The consultant under this assignment is required to conduct an in-depth study of the laws recommended as priority laws in the ULRC study, identify provisions in the laws that are not aligned to the CMP and prepare the requisite amendment draft amendment Bills and statutory instruments, with input from the ULRC and the relevant MDAs.

The EAC Common Market Protocol

In 2009, the Partner States moved to the second phase of integration when they signed the EAC Common Market Protocol which lays the foundation for the establishment of the East African Common Market. The Common Market Protocol became operational on the 1st of July 2010, with the overarching objective of the Common Market being to widen and deepen cooperation amongst the EAC Partner States in the economic and social fields for the benefit of the Partner states.

For the proper enjoyment of the rights and freedoms granted under the CMP, Partner States are required to review their laws so as to align the laws with the provisions of the CMP. The alignment of Partner States’ national laws to make them compliant with the EAC Treaty and the EAC CMP is critical to the full realization of the benefits of EAC integration in general and the Common Market in particular.

1.2. The objectives of the Assignment

The overall objective of the consultancy is to review, for CMP compliance, the laws identified as priority laws in the ULRC Report and any other laws identified by the consultant, and draft the required amendment Bills and statutory instruments so as to align the laws with the EAC CMP.

1.3 Methodology

The methodology used for implementation of the assignment was very much dependent on sourcing and analysis of data through extensive review of reports and other documents, in-depth review of the selected laws. The consultant carried out wide-ranging informant interviews and consultations with key MDAs, including brainstorming sessions and discussions at meetings with selected MDAs.

The Consultant conducted in-depth review of the laws selected to be reviewed under the assignment, carried out consultations with the relevant MDAs, discussed findings with ULRC, TMEA, MEACA and relevant MDAs, and drafted the requisite CMP compliant amendment Bills and amendment statutory instruments.

1.4 Laws reviewed under the assignment

The laws reviewed under the assignment:

(a) Critical laws relating to establishment and registration of businesses:

- I. Companies Act, 2012
- II. Companies Fees Rules 2005, S.I 57 of 2005
- III. Business Names Registration Act, Cap. 109.
- IV. Trade (Licensing) Act, Cap. 101,
- V. Trade Licensing (Amendment) Bill 2013.
- VI. Investment Code Act, Cap.92.
- VII. Partnerships Act, 2011.

(b) Laws affecting free movement of persons and labour

- I. Uganda Citizenship and Immigration Control Act, Cap. 66,
- II. The Uganda Citizenship and Immigration Control Regulations, 2004, S.I 16 of 2004
- III. The Uganda Citizenship and Immigration Control (Fees) Rules, 2009, S.I 53 of 2009
- IV. Employment Act, 2006
- V. Labour Unions Act, 2006
- VI. The Trade Unions (check off) Regulations S.I 223-3
- VII. The Trade Unions (Prescription of Balance Sheet) Instrument S.I 223-4
- VIII. The Trade Unions Regulations S.I 223-1.
- IX. The Trade Unions (Subscription to the National Organization) Order S.I 223-2
- X. The Trade Unions (Arbitration and Settlement) (Form) Rules S.I 224-2
- XI. The Trade Unions(Arbitration and Settlement) (Industrial Court) (Procedure) Rules S.I 224-3
- XII. The Trade Unions (Arbitration and Settlement) (Arbitration Tribunal and Board of Inquiry) (Procedure) Rules S.I 224-1.
- XIII. Workers Compensation Act, Cap. 225.
- XIV. The workers Compensation Regulations S.I 225-1
- XV. The Workers Compensation(Appointment of officers to Act on Behalf of Workers) S.I 225-2
- XVI. The Workers Compensation(Prescription of Fees) Regulations S.I 225-3
- XVII. The Workers Compensation (Rules of Court) Rules S.I 225-4
- XVIII. Occupational Safety and Health Act, 2006 and Regulations made under the Act.

(c) Laws relating to free movement of Services

- I. Accountants Act, Cap 266
- II. Architects Registration Act, Cap. 269
- III. The Architects Registration (Prescription of Forms and Fees) regulations S.I 269-1
- IV. The Architects Registration (Prescription of Forms) regulations S.I 269-2
- V. Engineers Registration Act, Cap. 271
- VI. Medical and Dental Practitioners Act, Cap. 272

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- VII. Veterinary Surgeons Act, Cap. 277
- VIII. Nurses and Midwives Act, Cap. 274
- IX. Nurses and Midwives Rules ,S.I 274-1
- X. Nurses and Midwives (Election) Rules ,S.I 274-2
- XI. Allied Health Professionals Act, Cap. 268
- XII. The Surveyors Registration Act, Cap. 275
- XIII. The Auctioneers Act, Cap. 270
- XIV. The Auctioneers Rules S.I 270-1
- XV. The Business Technical Vocational Education and Training Act, Act No. 12/2008
- XVI. The Education (Pre-Primary , Primary and Post Primary) Act, Act 13/2008

(d) Laws relating to movement of goods

- (i) External Trade Act, Cap 88

The laws found to have provisions that are not aligned with the CMP, and hence proposed for amendments are:

- (a) Companies Fees Rules, 2005
- (b) Investment Code Act, Cap 92
- (c) Uganda Citizenship and Immigration Control Act, Cap 66
- (d) Uganda Citizenship and Immigration Control Regulations, 2004
- (e) Uganda Citizenship and Immigration Control (Fees) Rules, 2009
- (f) Workers Compensation Act, Cap 225
- (g) Architects Registration Act, Cap 269
- (h) Architects Registration (Prescription of Forms and Fees) Rules, S.I-269-1
- (i) Engineers Registration Act, Cap 271
- (j) Surveyors Registration Act, Cap 275
- (k) External Trade Act, Cap 88

1.5 Conclusions and Recommendations

Conclusions

There are a number of ongoing law reform processes being undertaken by various MDAs. Some of the laws under reform, notably the reforms affecting free movement of professional services, have a bearing on the implementation of the CMP. Most of reforms commenced before the coming into force of the CMP. Consequently, the focus of some of the reforms has not been CMP implementation.

There is also no coordination in the law reform processes even among related MDA; The law reform processes by some of the MDAs has been ongoing for many years, with most of the reforms taking a minimum of 5 years.

There are no clear guidelines developed at the EAC level for the adoption of MRAs concluded by professional regulatory bodies. This has caused frustration among the professions who concluded the

MRAs.

1.6 Recommendations

1.6.1 Review of the remaining laws should be finalised; and any laws found not to be aligned with the CMP be amended to form part of the omnibus Bill.

1.6.2 The amendment laws prepared under this assignment should be fast tracked in order to beat the deadline given by the EAC Sectoral Council. The omnibus style of amending several laws using one instrument should be adopted. MEACA as the Ministry proposed to move the omnibus Bill must first own the approach, and drum support of Cabinet, Parliament and relevant MDAs to pass the Bill.

1.6.3 There is need for EAC Secretariat to establish and publish clear guidelines for adoption of MRAs at EAC level

1.6.4 MEACA should be facilitated to develop an information, education and communication strategy for the sensitisation of Ugandans about the benefits of the CMP.

1.6.5 Since Swahili is a de-facto official language for East Africa, Ugandans will easily integrate if they learn to speak the language commonly used by the rest of East Africa. We recommend that this matter be captured in the National EAC Integration Policy under formulation. However, the promoters of the Swahili language should ensure that the objective of promoting Swahili should not be achieved at the expense of the English language.

1.6.6 The institutions responsible for approval and drafting of laws should have a checklist to help them ensure that any new laws drafted do not contain provisions that discriminate or conflict with the CMP.

1.6.7 MEACA should encourage the professional regulatory bodies in Uganda that have not yet commenced negotiation of MRAs such as surveyors and veterinary surgeons to do so. A template for MRAs exists at the EAC level and any profession seeking to execute an MRA should contact the education department of the EAC as a starting point.

1.6.8 The Government of Uganda should eliminate non- tariff measures and also rally other partner States to do the same.

1.6.9 Review of Uganda's progress in harmonisation of its laws as required by the Common Market Protocol should form recurrent part of the agenda of the Meetings of the National Implementation Committees as convened by the Ministry of East African Affairs in Kampala. The National Implementation Committees (NICs) are the multi-institutional national level vehicles that have been charged with monitoring each EAC country's progress in domesticating the common market protocol.

CHAPTER ONE: INTRODUCTION

1.0 Background

This Consultancy seeks to expedite the implementation of the EAC legal regime in Uganda through facilitating the review and amendment of national laws to conform to Uganda's EAC commitments.

The realisation of the EAC regional integration in Uganda requires MDAs to undertake any necessary policy, administrative and legislative reforms in their respective sectors. MDAs are required to audit laws in their respective sectors, identify inconsistent or restrictive provisions and ensure that laws are amended to comply with the EAC protocols in general, and the CMP in particular.

Prior to this assignment, TMEA funded a Study to assess the needs of the Uganda Law Reform Commission (ULRC) in supporting MDAs to carry out the legislative reforms necessary to implement the CMP. The ULRC needs assessment report, which was an output of the study identified a number of priority laws that are relevant to the rights and freedoms granted by the EAC CMP, which required to be amended in order to be aligned to the CMP.

This assignment is a follow up of that study. The consultant under this assignment is required to conduct an in-depth study of the laws recommended as priority laws in the ULRC study, identify provisions in the laws that are not aligned to the CMP and prepare the requisite amendment draft amendment Bills and statutory instruments, with input from the ULRC and the relevant MDAs.

The EAC Common Market Protocol

The Treaty for the Establishment of the EAC which came into force in 2000 laid down the foundation for the integration agenda in the East African Region. According to the EAC Treaty, the regional integration process was to be progressive, starting with a Customs Union, Common Market, Monetary Union and finally, Political federation.

EAC Customs Union was launched in 2005. Under the Customs Union, Partner States provided for free movement of goods within the region.

In 2009, the Partner States moved to the second phase of integration when they signed the EAC Common Market Protocol (CMP) which lays the foundation for the establishment of the East African Common Market. The CMP became operational on the 1st of July 2010, with the overarching objective of the Common Market being to widen and deepen cooperation amongst the EAC Partner States.

The Specific Objectives of the CMP are to:

- Accelerate economic growth and development of the partner states through the attainment of free movement of goods, persons and labour, the rights of establishment and residence, and the free movement of services and capital.
- Strengthen, coordinate and regulate the economic and trade relations amongst the partner states in order to promote accelerated, harmonious and balanced development within the community.
- Sustain the expansion and integration of economic activities within the community, the benefit of which shall be equitably distributed amongst the partner states.

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- Promote common understanding and cooperation amongst the nationals of the partner states for their economic and social development; and
- Enhance research and technological advancement to accelerate economic and social development.

The CMP provides for the free movement of goods, services, persons, labour, and capital and the right of establishment and residence.

The CMP also provides for cooperation amongst the EAC partner states in the areas of protection of cross border investments, economic and monetary policy coordination, harmonisation of tax policies and laws, public procurement, consumer protection, coordination in trade relations.

For the proper enjoyment of the rights and freedoms granted under the CMP, Partner States are required to review their laws so as to align the laws with the provisions of the CMP. The alignment of Partner States' national laws to make them compliant with the EAC Treaty and the EAC CMP is critical to the full realisation of the benefits of EAC integration in general and the Common Market in particular.

This Consultancy seeks to review the laws of Uganda in order to identify the laws that are in conflict with the CMP and amend the laws to remove the conflicting provisions.

1.1 Objectives of Assignment

The main objective of the assignment is to expedite the implementation of the East African Community legal regime in Uganda, particularly the CMP, through facilitating the review and amendment of national laws to conform to Uganda's EAC commitments.

1.2. Summary of Terms of Reference

The consultant was to review laws identified as priority laws in the Report for the Needs Assessment Study for ULRC in supporting MDAs implementing the CMP (the ULRC Report) and identify provisions in those laws that are not CMP compliant. Following the review findings, the consultant was required to draft the requisite CMP compliant amendment Bills, amendment statutory instruments or fresh Bills, where necessary. Throughout the entire process, the consultant was to work closely with ULRC, MEACA and the relevant MDAs.

The Terms of Reference are attached as **Annex I**.

1.3. Scope of the Assignment

Due to the large number of laws affected by the provisions of the CMP, it became necessary to prioritise the laws to be reviewed and subsequently amended during the assignment period (70 working days).

Criteria that guided the prioritization of the laws to be reviewed in the assignment period included:

- Laws recommended by the consultant in the ULRC Needs assessment report as priority laws
- Critical laws relating to establishment and registration of businesses;
- Laws recommended by the EAC Sub-committee Reports on Approximation of National Laws as priority laws

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- The laws that are affected by the commitments made by Uganda under Annex II and Annex V of the CMP, to remove restrictions on free movement workers and free movement of services by 2010.

The review thus covered only the following laws:

(a) Critical laws relating to establishment and registration of businesses:

- VIII. Companies Act, 2012
- IX. Companies Fees Rules 2005, S.I 57 of 2005
- X. Business Names Registration Act, Cap. 109.
- XI. Trade (Licensing) Act, Cap. 101,
- XII. Trade Licensing (Amendment) Bill 2013.
- XIII. Investment Code Act, Cap.92.
- XIV. Partnerships Act, 2011.

(b) Laws affecting free movement of persons and labour

- XIX. Uganda Citizenship and Immigration Control Act, Cap. 66,
- XX. The Uganda Citizenship and Immigration Control Regulations, 2004, S.I 16 of 2004
- XXI. The Uganda Citizenship and Immigration Control (Fees) Rules, 2009, S.I 53 of 2009
- XXII. Employment Act, 2006
- XXIII. Labour Unions Act, 2006
- XXIV. The Trade Unions (check off) Regulations S.I 223-3
- XXV. The Trade Unions (Prescription of Balance Sheet) Instrument S.I 223-4
- XXVI. The Trade Unions Regulations S.I 223-1.
- XXVII. The Trade Unions (Subscription to the National Organization) Order S.I 223-2
- XXVIII. The Trade Unions (Arbitration and Settlement) (Form) Rules S.I 224-2
- XXIX. The Trade Unions(Arbitration and Settlement) (Industrial Court) (Procedure) Rules S.I 224-3
- XXX. The Trade Unions (Arbitration and Settlement) (Arbitration Tribunal and Board of Inquiry) (Procedure) Rules S.I 224-1.
- XXXI. Workers Compensation Act, Cap. 225.
- XXXII. The workers Compensation Regulations S.I 225-1
- XXXIII. The Workers Compensation(Appointment of officers to Act on Behalf of Workers) S.I 225-2
- XXXIV. The Workers Compensation(Prescription of Fees) Regulations S.I 225-3
- XXXV. The Workers Compensation (Rules of Court) Rules S.I 225-4
- XXXVI. Occupational Safety and Health Act, 2006 and Regulations made under the Act.

(c) Laws relating to free movement of Services

- XVII. Accountants Act, Cap 266
- XVIII. Architects Registration Act, Cap. 269
- XIX. The Architects Registration (Prescription of Forms and Fees) regulations S.I 269-1
- XX. The Architects Registration (Prescription of Forms) regulations S.I 269-2

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- XXI. Engineers Registration Act, Cap. 271
- XXII. Medical and Dental Practitioners Act, Cap. 272
- XXIII. Veterinary Surgeons Act, Cap. 277
- XXIV. Nurses and Midwives Act, Cap. 274
- XXV. Nurses and Midwives Rules ,S.I 274-1
- XXVI. Nurses and Midwives (Election) Rules ,S.I 274-2
- XXVII. Allied Health Professionals Act, Cap. 268
- XXVIII. The Surveyors Registration Act, Cap. 275
- XXIX. The Auctioneers Act, Cap. 270
- XXX. The Auctioneers Rules S.I 270-1
- XXXI. The Business Technical Vocational Education and Training Act, Act No. 12/2008
- XXXII. The Education (Pre-Primary , Primary and Post Primary) Act, Act 13/2008

(d) *Laws relating to movement of goods*

- (i) External Trade Act, Cap 88

1.4. Methodology and Approach

The phases of our Service Delivery Approach included:

- Study set up and inception
- Review of priority laws
- Drafting of Bills and statutory instruments
- Assignment completion and reporting.

Detailed approach

The assignment was conducted in four phases detailed as follows:

Phase 1: Study set up and inception

This involved holding consultative meetings with the Client so as to:

- clarify and confirm the consultant's understanding of the terms of reference and scope of the work
- confirm the work plan as proposed by the consultant
- clarify the role to be played by ULRC, MEACA and the MDAs in the execution of the assignment.
- reconfirm the deliverables and the reporting timelines.

During this phase, the consultant collected and reviewed a host of documents and reports. These included the EAC Treaty and relevant Protocols, relevant EAC Reports including reports of the EAC Sub-Committee on Approximation of Municipal laws, MEACA reports on the status of implementation of the EAC CMP in Uganda. A list of the reports and documents reviewed is attached as **Annex II**.

During the inception phase preliminary consultations were conducted with selected stakeholders. The aim of the consultations during the inception phase was essentially to gauge stakeholder understanding and appreciation of the CMP, and generally to seek their views on CMP implementation.

An inception report was prepared and submitted to the Client, discussed and finally adopted.

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Phase 2: Review of priority laws

Prior to the actual review of the laws, the consulting team conducted an in-depth study of the EAC Common Market Protocol, so as to understand its provisions. The consultant sought clarification on the grey areas in the CMP from officers in MEACA and the Ministry of Justice and Constitutional Affairs, some of whom had participated in the negotiations and drafting of the CMP.

The laws were reviewed section by section. The object of the review was to identify from each law, provisions that are in conflict or apparent conflict with the CMP. The output of the review exercise was a matrix containing the following:

- Law reviewed
- Relevant section of the law not compliant with CMP provision
- CMP provision referred to
- Type of amending action required i.e. repeal of section, repeal and replacement, or addition of new section

The review findings from each law were submitted to ULRC and also to the relevant MDAs. Consultative meetings were held with ULRC to discuss the review findings. Separate meetings were also held with the different MDAs to discuss the review findings. A focus group discussion, in form of a breakfast meeting was organised by the ULRC and the consultant. The group consisted of officers from professional regulatory bodies to discuss implementation of the CMP by these bodies, and in particular, the mutual recognition agreements required to be negotiated by professional bodies under the CMP. The recommendations of the meeting were considered in the draft Bills and also in the final assignment report.

Phase 3: Drafting of amendment Bills and Statutory instruments

Using the matrix of findings and the recommendations in the Matrix, the consultant drafted a single omnibus Bill that amends certain Acts of Parliament and four statutory instruments.

The draft legislation was discussed with ULRC, and changes proposed to the Drafts by ULRC were incorporated.

Phase 4: Project Completion and Wrap-Up

During this stage of the assignment, the consultant prepared a final assignment report. The report was discussed at a meeting comprising representatives from ULRC, TMEA and MEACA. Changes proposed to the report were incorporated and a final report was finalized and set to ULRC, MEACA and copied to TMEA. Annexes to the report include the laws drafted under the assignment and a draft cabinet Memorandum to be submitted to cabinet by MEACA

CHAPTER TWO: FINDINGS

This chapter presents the consultant's findings from a review of the literature, in-depth review of the laws and findings from the stakeholder consultations.

Our findings were obtained using a combination of methods as outlined in the methodology, including literature review, wide-ranging informant interviews, a consensus building workshop and a focus group discussion with professional regulatory bodies.

2.1. Findings from review of literature

Review of available literature reveals that steps have been taken, both at the EAC level and at national level to identify laws that require to be aligned with the EAC CMP.

2.1.1 Harmonisation and alignment of laws at the EAC Level

At the EAC level, the EAC Secretariat established a Sub-committee on Approximation of Municipal (National) Laws in the East African Context. The mandate of the sub-committee is to advise the Sectoral Council on Judicial and Legal Affairs on various aspects of the harmonisation of laws exercise. A Task Force on the Approximation of Municipal Laws was established to facilitate the mandate of the Sub Committee.

The laws so far harmonised by the Task Force include laws relating to companies, partnerships, insolvency, business names registration, immigration laws, labour laws, sale of goods, civil aviation and contracts². The sub-committee found that contract, sale of goods and labour laws across the EAC Partner States are aligned with the CMP.

With respect to Uganda, the Subcommittee has also made the following recommendations:

- (a) to expedite the implementation of Regulation 5(3) on the Annex on Free Movement of Persons;
- (b) to consider stamping the passports only once for the duration of the visitors' pass;

- (c) Uganda aligns the following provisions with the EAC CMP:
 - (i) sections 53, 54 and the Fourth Schedule to the Uganda Citizenship and Immigration Control Act, Cap 66
 - (ii) Regulations 6(2) and 10(1) of the Uganda Citizenship and Immigration Control Regulations, 2004.

- (d) Uganda was urged to issue National identity cards in order to enable smooth implementation of the CMP provision respecting free movement of persons.

Other efforts at the EAC level with regard to alignment of the laws with the EAC CMP include the following:

² Report EAC/TFAL/05/2011

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- (a) The EAC Sectoral Council of Ministers Responsible for EAC Affairs and Planning (SCEAP) constituted a Regional Working Group on the CMP comprising of four members from each Partner State. The Working Group reviewed the framework for monitoring the implementation of the CMP. It tasked Partner States to report progress on CMP implementation basing on the monitoring framework.
- (b) The Working Group reported that implementation of the CMP across all Partner States is not impressive; in particular, harmonisation of Partner States' laws to comply with the CMP is slow across the Partner States.
- (c) The SCEAP at its 15th meeting held in Kampala on 27 January 2012 directed the establishment of National Implementation Committees (NIC) in all the five EAC Partner States. To give effect to the SCEAP recommendation, Uganda constituted her National Implementation Committee (NIC). An inaugural meeting of the NIC was held from 23-25 August 2012. Uganda's proposed NIC members are representatives from key MDAs that are charged with the implementation of the CMP.
- (d) The SCEAP at its 16th meeting held in Arusha directed the Partner States to accomplish the harmonisation of their laws with the CMP by 30th June 2013.

2.1.2. Alignment of laws with the EAC CMP at National level

Common Market Implementation Plan (CMIP)

The implementation of the CMP in Uganda is coordinated by the Ministry of East African Community Affairs (MEACA). MEACA provides the link between the regional and national dimensions of the implementation process.

Through a consultative and participatory process with MDAs, the private sector and civil society in Uganda, MEACA developed a Common Market Implementation Plan (CMIP) in 2010.

The CMIP is structured to enable MEACA and MDAs to establish and follow up on key actions, responsibilities and timelines for implementation of the obligations of the CMP. Under the CMIP, implementation matrices were prepared.

The implementation structure proposed under the CMIP consists of Cabinet which is to provide political guidance to the process; National Coordination Committee to provide technical guidance to the implementation process; Technical Committee to provide technical coordination and monitoring of Part 1

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of the Protocol and five multi-sectoral experts sub-committees³. The CMIP has not been fully operationalised due to insufficient funds⁴.

Baseline Survey on Free Movement of Goods

The Baseline Survey on Free Movement of Goods (2012) notes that the implementation process with respect to free movement of goods is on course. Actions undertaken include the implementation of the EAC Common External Tariff (CET) across the board, elimination of all forms of non-tariff barriers, implementation of the EAC Customs law, implementation of the EAC Rules of Origin, the Anti-Dumping, Subsidies and Countervailing Measures law, implementation of the EAC SQMT Act 2006: The UNBS has so far developed 1,500 standards, Implementation of the EAC Competition Act and the Implementation of Harmonised Sanitary and Phyto-Sanitary Measures.

Baseline Study on Free Movement of Services

The Baseline Study on Free Movement of Services⁵ covers professional services, information technology enabled services, real estate services, courier services, telecommunication services, audio visual services, distribution services, education services, banking services and other financial services, tourism and travel related services and transport services.

The report indicates that under legal services, the existing restrictions to foreign practitioners are still in place. Foreign practitioners include East African nationals and are subject to the stringent professional and nationality requirements. There is a mutual recognition of legal qualifications to allow cross –border legal practice in the region that was reached in 1997 but consensus among the practitioners to support it has never been effected.

For the accountants, a Mutual Recognition Agreement (MRA) was agreed upon among the competent authorities in the region in September 2011. The MRA provides for simplified requirements for eligible members and automatic recognition for all members. This would facilitate cross border practice in this industry in the region.

Medical and Dental Services: The current legislation does not have restrictions that exclude nationals of other Partner States of EAC. There is an effort aimed at establishing a regional health professions authority as envisaged in the Draft Protocol on East African Community Regional Cooperation on Health.

Engineering services: The survey points out that the Engineers Registration Board and the Uganda Institute of Professional Engineers have a common understanding on a reciprocal basis to automatically

³ The sub committees are: 1. Free Movement of Goods 2. Free Movement of Services. 3. Free Movement of Capital. 4. Free Movement of Persons, Workers, the Right of Residence and the Right of Establishment. 5. Communication and Sensitization.

⁴ Information obtained from Mr. Niyonzima, Assistant Commissioner, MEACA.

⁵ Uganda's Implementation of the EAC Common Market Protocol: Draft Report June 2012 By George F. Walusimbi-Mpanga

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recognise registered engineers from Commonwealth countries with recognised institutions. This excludes Burundi. There is a memorandum of understanding that was concluded in October 2010 among the associations of consulting engineers in Tanzania, Kenya and Uganda to establish a common voice for consulting.

Architectural services: In July 2011 a Mutual Recognition Agreement for Architects in the East African Community was concluded taking into consideration the new dispensation of the East African Common Market.

Baseline Survey on Free Movement The Veterinary Services: The Uganda Veterinary Board is part of the nascent efforts to develop a Mutual Recognition Agreement framework for regional co-operation and practice together with Kenya and Tanzania Association.

The Baseline Survey on Free Movement of Persons, Labour, Right of Residence and Right of Establishment

The Baseline Survey on Free Movement of Persons, Labour, Right of Residence and Right of Establishment⁶ found the following:

- There are largely no restrictions on the movement of EAC nationals within Uganda.
- No visa restrictions apply for EAC nationals seeking entry, stay in and exit from Uganda.
- EAC nationals obtain automatic and at no cost up to 6 months visitors' passes to stay in the country; these are renewable upon justification for periods longer than 6 months.
- Uganda scrapped visa fees requirement for students from Partner States.
- Immigration laws have not yet been amended to reflect the changes.

Baseline Survey on Free Movement of Capital

Baseline Survey on Free Movement of Capital in Uganda⁷ notes that the institutions most central to capital mobility include Bank of Uganda, the Ministry of Finance, Planning and Economic Development, the Capital Markets Authority, the Uganda Securities Exchange and the Insurance Regulatory Authority. The Report further notes that these institutions have taken on a regional approach in the conduct of their work, which has significantly facilitated Uganda's progress in realising her commitments in respect to free movement of capital under the CMP.

With regard to the legal framework for free movement of capital, the Survey notes there are not many restrictions in the law to free movement of capital. In the banking space, most of the laws are in tandem with the rest of the member states and there is coordination at the technical level to ensure a harmonized approach in all the central bank's efforts. In the area of securities and capital markets for instance, there is a deliberate concerted effort to work from a regional perspective to put in place the necessary laws and regulations to harness integration of securities and capital markets in the region.

⁶ Draft Report, June 2012 by Robert Odedo and Charles Opuwa

⁷ By E.K Consulting Group, May 2013

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On-going Efforts by Ministry of East African Community Affairs to Draft a National Policy on EAC

The Technical Support Unit of MEACA is spearheading the process of drafting a National Policy on EAC Integration. Issues papers on key areas of integration are being developed and discussed to guide the Policy formulation process⁸. It is envisaged that once the Policy is in place, it will assist in fast tracking EAC integration processes generally, and the CMP in particular.

2.2 Findings from Stakeholder Consultations

Through all the phases of this assignment, the consultant carried out consultations with ULRC, MEACA, and representatives of selected members of the business community, private sector and MDAs. A list of persons and the institutions visited for information is attached as **Annex III**.

2.2.1 Private Sector and business community

There is low awareness by the general public on the benefits of EAC integration and CMP in particular. MEACA was variously faulted for not doing enough to sensitise Ugandans about the CMP. It was recommended that MEACA should also sensitise the public on the laws passed by the East African legislative Assembly.

A strong view expressed by the private sector and business persons interviewed is that all EAC Partner States should have a stake in the running of the Port of Mombasa. It was observed that business persons suffer a lot of inconveniences due to the bureaucracy of the Port management. They recommended that the governing body of Mombasa Port should consist of representatives from all EAC partner states.

Non Tariff Barriers (NTBs) continue to be the biggest impediment to full achievement of the objectives of the EAC Customs Union and the Common Market Protocol⁹. The numerous weighbridges on the roads and the attendant axle load fines were singled out as a big hindrance to the free movement of goods in the EAC Region.

The Uganda Freight Forwarders Association expressed the need to have a single customs bond and a single connected inland dry port rather than several scattered inland ports to enhance trade.

There is need to harmonise domestic taxes among Partner States such as Value Added Tax and not only the external tariffs since the objective of the Protocol is to allow free movement of persons, goods and the right of establishment. There should be uniform taxes to reduce on trade imbalances in the Region.

2.2.2 Uganda Registration Services Bureau (URSB)

URSB administers several of the laws regulating the establishment of businesses. The laws include the Partnership Act, Companies Act, Business Names Registration Act, Insolvency Act, etc. Some of the

⁸ Consultant was not availed the Issues Paper by MEACA because it is a confidential document and still under review.

⁹⁹ Statement made by Dr. Richard Sezibera, Secretary General EAC in his foreword to the EAC Publication "Status of Elimination of Non Tariff Barriers in the EAC. Volume 2 March 2012"

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business establishment laws reviewed under this assignment were found to be largely in compliance with the EAC CMP. On the issue of discrimination in companies' fees, foreign companies, including companies from EAC Partner States are charged higher company registration fees.

URSB is in the process of reviewing the entire Companies Fees Rules. The consultant was informed that the issue of discriminatory registration fees will be handled. The consultant has taken a proactive approach and drafted the amendment under this assignment- The Companies (Fees) (Amendment Rules) and submitted it to URSB.

2.2.3 Surveyors

The survey profession in Uganda is less developed than that of Kenya and Tanzania, but more developed than that of Burundi and Rwanda.

The Survey Act¹⁰ and the Surveyors Registration Act¹¹ are under review under the Second Private Sector Competitiveness Project (Review of the Legal framework for Land Administration). There is a draft bill (The Surveyors Registration (Amendment) Bill) in advanced stages which is intended to amend the Surveyors Registration Act. The drafting of the Bill has been ongoing for the last five years. There is urgent need for the Ministry responsible for lands to expedite the review of land legislation including legislation to regulate surveyors. The revised survey laws should cover all the disciplines of surveyors, and not only land surveyors as is proposed under the current Surveyors Registration (Amendment) Bill. This Bill will upgrade the surveyor's legislation to a level comparable with that of Kenya and Tanzania and hence facilitate free movement of surveyors in the EAC region.

On the specific issue of temporary registration for EAC surveyors, an issue that had been identified by the consultants in the Surveyors Registration Act as requiring discussion, SRB recommended that there is no need for temporary registration of EAC Surveyors (a provision that has stringent residence requirements for the surveyors who wish to temporarily register). SRB recommended that this provision could be amended so as not to apply to EAC Surveyors.

The consultant was informed that Tanzania is reluctant to freely allow other EAC surveyors to practice in Tanzania. SRB also reported that Ugandan surveyors do not find it easy to carry out work in Kenya due to the stringent registration requirements in Kenya. While the SRB has allowed Kenyan surveyors to undertake projects in Uganda, Kenya has not reciprocated in the same manner. Burundi and Rwanda are open because they lack personnel in this area.

SRB further reported that there are no efforts at negotiating mutual recognition agreements with surveyors in other EAC countries; they attributed this to the different levels of development in the survey profession.

¹⁰ Cap 232 Laws of Uganda

¹¹ Cap 275 Laws of Uganda

2.2.4 Allied Health Professionals Council

The Allied Health Professionals Council of Uganda (AHPC) is a part of the wider East African Health Professionals Council. AHPC participates in board meetings of the East African Health Professionals Council at the EAC Secretariat.

AHPC is currently working on harmonisation of training programmes, harmonisation of the allied health professionals curriculum, internship and internship centres and harmonisation of a checklist for inspection of training institutions.

There is a proposal to draft a bill to establish a National Health Professionals Regulatory Authority which is an umbrella body to regulate the different health councils and practitioners in Uganda. The draft Bill will take into account CMP issues dealing with free movement of medical and dental practitioners, paramedical practitioners and other related professions.

Allied health professionals are in the early stages of negotiating a mutual recognition agreement; the process has been bedeviled by quorum issues at the EAC level.

2.2.5 Architects

The Architects Registration Board (ARB) has participated in negotiations to conclude a Mutual Recognition Agreement (MRA) with other EAC Partner States. The MRA was concluded in 2011. Tanzania is not a party to the MRA.

The MRA, among other matters provides for the minimum academic qualifications for graduate architects; academic qualifications for architectural technicians, architectural technologists and assistants; mutual recognition of training institutions for graduate architects; mutual recognition of training institutions for architectural technicians, architectural technologists and assistants; internship requirements; professional examinations; membership in professional associations; temporary registration and permanent registration; establishment; practice requirements and standards and the scope of architectural practice.

On the issue of temporary registration, the MRA categorically provides that temporary registration shall not be applicable to EAC nationals but shall remain applicable to third parties.

The MRA was submitted to the EAC Secretariat for further action, but since then, the Architects Registration Board (ARB) does not know exactly what the next steps are. The ARB has been told that the MRA was sent to the Sectoral Council of Ministers to come up with a proper procedure for adoption of MRAs. The Sectoral Council took the MRA to EALA, but to date, no communication has been received as to what EALA has done with the MRA. The ARB is left wondering as to the authenticity of the MRA, especially after some Partner States raised the issue that the MRA shall only be authentic if it has the EAC stamp.

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It was noted in one of the consultative meetings that EAC has not put in place guidelines for the adoption of Mutual Recognition Agreements once submitted to the EAC for approval. The Trade Lawyer MEACA¹² agreed to raise a legal memorandum to follow up this matter.

2.2.6 Medical and Dental Practitioners

The medical and dental practitioners started the harmonisation process in 2006. There is a Protocol in place which provides for matters stated in the next paragraphs:

Mutual recognition of academic degrees for medical doctors and dental surgeons- East African doctors and dental surgeons who are registered as such in their respective countries are free to practice in the EAC Partner States without having to sit for examinations or without having their internships queried.

There is a generic curriculum on medical and dental syllabus that has to be followed by all the institutions that have been approved by the Council. Any institution that intends to open a medical school within the EAC Region must use the printed handbook for the curriculum. This is aimed at harmonising standards.

The East African Community Joint Inspection of Medical Training Schools is charged with the joint inspection of medical and dental institutions, whether old or new schools. The inspecting team is comprised of registrars, chairpersons of the medical and dental councils' of each Partner State, representatives from the East African Joint Medical Council (EACJMC), external persons for transparency and independence reasons. The East African Community Joint Inspection of Medical Training Schools has so far inspected and approved a number of Universities and has also disapproved others. The inspecting team however faces financial challenges because the sources of funds for inspection are not specified under any legislative instrument.

The East African Joint Medical Council is in the process of recognising internship centers. Recognised internship centres will be gazetted. The Council is also in the process of accrediting Continuous Professional Development (CPD) centers such that before a medical and dental practitioner renews a practicing licence, one needs to have undergone Continuous Professional Development in an approved CPD centre.

Another important aspect undertaken by the Council with regard is capacity building. The EACJMC encourages medical and dental practitioners' councils to participate in training workshops and conferences so as to learn from each other's different experiences. Rwanda and Burundi did not have the medical and dental practitioners' council but these are being formed to cater for reciprocal acknowledgment of qualifications, training institutes and experience.

Exchange of information is another area that is critical. The main objective is to regulate any malpractices. If a medical or dental practitioner is deregistered or is facing any disciplinary penalties in Uganda, the Ugandan Medical and Dental Practitioners Council will share such information with the other

¹² Ms. Clare Olaki

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councils of the Partner States such that persons who have been penalised in Uganda cannot purport to go and register in other Partner States.

There is a directive at the EAC Level for each Partner State to set up the National Health Professional Authority as an umbrella to monitor the different health councils in Uganda. A consultant has been hired to draft the necessary law. A Bill entitled the Uganda Health Professionals and Occupations Bill has been drafted to give effect to the directive but it is still in the early stages of negotiation and debate.

2.2.7 Engineers

The Engineers Registration Board of Uganda participated in the negotiation of a Mutual Recognition Agreement with engineers from the other EAC Partner States. The MRA was signed in December 2012 between Tanzania, Kenya and Uganda. Rwanda and Burundi participated in the discussions but are not party to the MRA because the two countries do not yet have in place regulatory bodies to regulate the profession of engineers. The MRA was forwarded to the EAC Secretariat for further action.

The MRA essentially provides for accreditation of engineering training institutions and recognition of engineering qualifications by the various engineering regulatory bodies.

The MRA's main objectives is to facilitate mobility of engineers and professional engineering services to enable the realisation of commitments made by Partner States for liberalisation of trade, to encourage, facilitate and establish mutual recognition of engineers qualifications and set up standards of education, practice and commitment to professional development and lastly to facilitate the exchange of information in order to adopt best practices on standards of engineering education , professional qualifications and professional practice and ethics. The MRA commits that an application for registration as an engineer in each of the Partner States that signed the MRA shall be finalised within a period of 30 days.

On the issue of temporary registration, the Engineers Registration Board (ERB) recommends that East African engineers who wish to be entered on the Uganda register should opt to apply for permanent registration just as Ugandan engineers and keep paying annual subscription. This is because registration under the Act does not require the applicant to be resident in Uganda as is the case under temporary registration.

The Engineers Registration Council Bill has been drafted to repeal the Engineers Registration Act. The drafting process has been ongoing since 2003. The Bill has largely retained the provisions of the current Engineers Registration Act, including the provision on temporary registration, which the consultant seeks to amend in order to align it with the CMP. It is evident that the drafters of the Bill are not taking into account the provisions of the CMP, nor the MRA for engineers, presumably because the drafting process started well before the adoption of the CMP. The consultant advised the registrar ERB that the Bill must take into account wider issues of CMP.

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We have recommended to amend section 21 of the Engineers Registration Act, Cap. 271 to form part of the Bill drafted under this assignment.

2.2.8 Ministry of Trade Industry and Cooperatives

The consultant had a discussion with officers from the Ministry responsible for trade in respect to the External Trade Act, Cap. 88. The consultant's findings were essentially to the effect that the Act is inconsistent with the East African Community Customs Management Act, (EAC CMA) 2004 in as far as it purports to give power to restrict imports and exports to the Minister, which power has, under the EAC Customs Management Act 2004, been given to the Council of Ministers. The officers from the Ministry consulted are in agreement with the consultant's findings. The officers however expressed fears that not all senior officers in the Ministry are in support of repealing the External Trade Act.

2.2.9 Veterinary Registration Board Secretariat

The procedure followed for registration purposes as a veterinary surgeon in Uganda as follows¹³:

The applicant submits an application to the Board. If the applicant is a non- citizen, he or she must show registration in their country of origin. If the applicant has qualifications from a University not recognised by the Veterinary Registration Board (VRB), that person will be subject to a written exam set by Makerere University Veterinary School or alternatively, practice under a qualified practicing veterinary doctor.

The applicant has to further provide certificates for degrees, a letter of good standing from the Veterinary Board from the applicant's country. The registration fees payable are different, currently foreigners pay One Hundred fifty Dollars (150\$) compared to Ugandans who pay Eighty Thousand Shillings (80,000/=)

The VRB has not entered into any MRA with veterinary surgeons from other EAC States. A meeting was held in December 2013, and it was resolved that VRB should consider negotiating an MRA for Veterinary surgeons across the East African Partner States. This has not yet happened.

There is in place a Draft Veterinary Amendment Bill which was submitted to the Ministry of Justice and Constitutional Affairs for consideration. The amendment Bill seeks to cover other disciplines like the Para-veterinary professionals for persons with diplomas, certificates like veterinary nurses, persons with degrees in animal production who are not provided for in the current law. The Draft amendment Bill was initiated in 2006, so it does not take into account CMP related matters. The Draft Bill has been on the shelf for the last 12 years. The registrar could not point out the reasons for the delay in enacting the amendment Bill into law.

¹³ Procedure outlined by Florence Kasirye, Secretary/Registrar Veterinary Registration Board and Margret Bakulu, a member of the Veterinary Registration Board.

2.2.10 Ministry of Finance, Planning and Economic Development (MFPED)

MFPED did not respond to the consultant's findings in respect to the proposed amendment of the investment Code Act which seeks to re-define a foreign investor to exclude all East African citizens.

2.2.11 Uganda Investment Authority (UIA)

There is an Investment Bill in progress. The Bill is intended to replace the Investment Code Act and to take into account the CMP provisions. The legal counsel could not however tell at what stage the Bill was. He also could not provide a copy of the Bill to the consultant.

The drafting office in the Justice Ministry is not in possession of the Investment Bill, implying that the Bill is still in formative stages.

2.2.12 Department of Immigration

The Ministry of Internal Affairs has put in place a task force to review immigration laws of Uganda.¹⁴ The task force was formed to identify gaps in the immigration laws generally (not only sections of the laws affected by the CMP). The task force has proposed wide ranging amendments to the immigration laws, including aligning the immigration laws with the CMP. The Ministry of Internal Affairs has submitted a Memorandum to Cabinet seeking Cabinet approval to amend the immigration laws.

The consultant submitted findings under this assignment in respect to the Uganda Citizenship and Immigration Control Act and the Regulations made under that Act, to the Commissioner legal. The consultant asked the Department of Immigration to consider the findings and have a discussion with the consultant, essentially to compare the consultant's findings with the task Force's findings and harmonise them.

By the time of writing this Report, the consultant was yet to receive input on the immigration laws review findings from the department of immigration.

2.3 Findings from review of the laws

This part presents findings from a review of the following laws:

1. Companies Act, 2012	22. The Workers Compensation(Appointment of officers to Act on Behalf of Workers) S.I 225-2
2. Companies Fees Rules 2005, S.I 57 of 2005	23. The Workers Compensation(Prescription of Fees) Regulations S.I 225-3
3. Business Names Registration Act, Cap. 109.	24. The Workers Compensation (Rules of Court) Rules S.I 225-4
4. Trade (Licensing) Act, Cap. 101,	25. Occupational Safety and Health Act, 2006 and Regulations made under the Act.
5. Trade Licensing (Amendment) Bill 2013.	
6. Investment Code Act, Cap.92.	
7. Partnerships Act, 2011.	

¹⁴ Ms. Josephine Ekwang, Commissioner Legal

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8. Uganda Citizenship and Immigration Control Act, Cap. 66,	26. Accountants Act, Cap 266
9. The Uganda Citizenship and Immigration Control Regulations, 2004, S.I 16 of 2004	27. Architects Registration Act, Cap. 269
10. The Uganda Citizenship and Immigration Control (Fees) Rules, 2009, S.I 53 of 2009	28. The Architects Registration (Prescription of Forms and Fees) regulations S.I 269-1
11. Employment Act, 2006	29. Engineers Registration Act, Cap. 271
12. Labour Unions Act, 2006	30. Medical and Dental Practitioners Act, Cap. 272
13. The Trade Unions (check off) Regulations S.I 223-3	31. Veterinary Surgeons Act, Cap. 277
14. The Trade Unions (Prescription of Balance Sheet) Instrument S.I 223-4	32. Nurses and Midwives Act, Cap. 274
15. The Trade Unions Regulations S.I 223-1.	33. Nurses and Midwives Rules ,S.I 274-1
16. The Trade Unions (Subscription to the National Organization) Order S.I 223-2	34. Nurses and Midwives (Election) Rules ,S.I 274-2
17. The Trade Unions (Arbitration and Settlement) (Form) Rules S.I 224-2	35. Allied Health Professionals Act, Cap. 268
18. The Trade Unions(Arbitration and Settlement) (Industrial Court) (Procedure) Rules S.I 224-3	36. The Surveyors Registration Act, Cap. 275
19. The Trade Unions (Arbitration and Settlement) (Arbitration Tribunal and Board of Inquiry) (Procedure) Rules S.I 224-1.	37. The Auctioneers Act, Cap. 270
20. Workers Compensation Act, Cap. 225.	38. The Auctioneers Rules S.I 270-1
21. The workers Compensation Regulations S.I 225-1	39. The Business Technical Vocational Education and Training Act, Act No. 12/2008
	40. The Education (Pre-Primary , Primary and Post Primary) Act, Act 13/2008
	41. External trade Act, Cap 88

The purpose of reviewing the laws was to identify any bottlenecks in the laws that might hamper the enjoyment of the rights and freedoms granted under the CMP and ultimately amend the laws so as to remove the bottlenecks. The laws reviewed in the assignment period do not constitute all the laws that required to be aligned with the EAC CMP. The laws reviewed in this Report are the laws that were considered as priority laws.

In reviewing each of the laws, the consultant sought to identify in each law any obstacles to the enjoyment of the rights and freedoms provided for in the EAC CMP.

2.3.1 General findings

A review of the laws (both Acts of Parliament and subsidiary legislation) reveals that the laws are substantially not in conflict with the CMP. In a number of laws reviewed, the consultant found totally no conflict, either direct or apparent with the CMP. In the laws where the Consultant found provisions that are in conflict with the CMP, the sections affected are minimal i.e. in the Uganda Citizenship and Immigration Control Act, Cap 66, we found only three sections that we believe have to be amended to

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bring that law in line with the CMP. This position holds true for the other laws reviewed. The Specific findings in each of the laws are attached as **Annex V**. The specific findings formed the basis of the draft amendment Bill and draft amendment instruments.

2.3.2 Laws recommended for amendment

The laws proposed to be amended include:

- (a) Companies Fees Rules
- (b) Investment Code Act
- (c) Uganda Citizenship and Immigration Control Act
- (d) Uganda Citizenship and Immigration Control Regulations
- (e) Uganda Citizenship and Immigration Control (Fees) Rules
- (f) Workers Compensation Act
- (g) Architects Registration Act
- (h) Architects Registration (Prescription of Forms and Fees) Rules
- (i) Engineers Registration Act
- (j) Surveyors Registration Act
- (k) External Trade Act

The Table below indicates the proposed amendments and the main objective of the amendment:

	Law	Purpose of amendment
1	Companies Fees Rules, 2005	To provide that companies already incorporated in other EAC countries that wish to register in Uganda shall pay same registration fees as Ugandan companies.
2	Investment Code Act, Cap. 92	Amends the definition of foreign investor. Foreign investor is defined in the amendment as a person who is not an East African citizen. The import of the amendment is to provide that an East African who invests in Uganda should not be treated as a foreign investor since under the CMP, there should not be discrimination against nationals of other Partner States.
3	Uganda Citizenship and Immigration Control Act, Cap. 66	<ul style="list-style-type: none">i. To replace the word “entry permit” with “work permit” so as to align with the terminology used in the Protocol;ii. Introduce new definitions in the Act i.e. “East African Citizen”, “Partner State”, “Protocol” and “worker”;iii. Amend section 53 of the Act so as to enable an East African citizen who wishes to be employed in Uganda to

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		<p>apply for work permits while they are already in Uganda, in accordance with Annex II of the CMP;</p> <p>iv. Provide that a work permit issued to an East African citizen shall be for an initial period of two years in accordance with Annex II of the CMP;</p> <p>v. Domesticating provisions of Annex I and Annex II of the CMP on denial of work permits to East African citizens, cancellation of work permits held by East African citizens and the circumstances under which the work permit may be cancelled, and the expulsion and deportation of East African workers.</p>
4	Uganda Citizenship and Immigration Control Regulations, 2004	The amended regulations provide for the procedure for acquiring passes and work permits for East African citizens as stipulated in the EAC Common Market (Free Movement of Workers) Regulations and the EAC Common Market (Free Movement of Workers) Regulations.
5	Uganda Citizenship and Immigration Control (Fees) Rules,	The amended regulations provide that East African citizens entering Uganda shall not pay visa and pass fees.
	Workers Compensation Act, Cap. 225	The purpose of the amendment is to include “Burundi” and “Rwanda” in section 36 of the Act.
6	Architects Registration Act, Cap. 269	<p>The amendment introduces a new definition of “East African citizen”; it exempts East African architects from applying for temporary registration as architects.</p> <p>The amendment also provides that an East African architect who wishes to practice architecture in Uganda shall not be issued with a practising certificate unless the architect is in possession of professional indemnity insurance. This provision gives effect to the commitment made to that effect in the MRA for architects.</p>
7	Architects Registration (Prescription of Forms and Fees) Rules	To provide that architects from other EAC Partner States who wish to register in Uganda shall pay same registration fees as Ugandan architects.

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8	Engineers Registration Act, Cap. 271	The amendment introduces a new definition of “East African citizen”; it exempts an East African engineer from applying for temporary registration as an engineer in Uganda.
9	Surveyors Registration Act, Cap. 275	The amendment introduces a new definition of “East African citizen”; it exempts an East African surveyor from applying for temporary registration as a surveyor in Uganda.
10	External Trade Act, Cap. 88	The external Trade Act is repealed; it conflicts with the East African Community Customs Management Act, 2004.

The Draft amendment legislation is attached as **Annex V**.

CHAPTER THREE: APPROACH TO AMENDMENT OF THE LAWS: PIECEMEAL VIS A VIS OMNIBUS.

This Chapter describes the two main approaches that may be used to amend the laws proposed for amendment to align them with the EAC CMP. The main advantages and disadvantages of each of the approaches are given.

3.1 Piecemeal approach

The piecemeal approach to amending the laws is where a relevant Ministry moves Cabinet to approve the drafting of a particular law usually touching a sector regulated by that Ministry. The piecemeal approach is the commonly used approach in Uganda when amending laws. In this assignment for example if the piecemeal approach is used, the consultant would draft seven amendment Bills namely:

- Investment Code (Amendment) Bill, to be moved by the Ministry responsible for finance;
- Uganda Citizenship and Immigration Control (Amendment) Bill to be moved by the Minister responsible for internal affairs
- Workers Compensation (Amendment) Bill, to be moved by the Minister responsible for labour
- Architects Registration (Amendment) Bill to be moved by the Minister responsible for housing
- Engineers Registration (Amendment) Bill, to be moved by the Minister responsible for housing
- Surveyors Registration (Amendment) Bill, to be moved by the Minister responsible for lands
- External Trade Act (Repeal) Bill, to be moved by the Minister responsible for trade.

This is a total of seven Bills involving seven Ministries.

The main disadvantage with the piecemeal approach is the likely delay in aligning laws with the EAC CMP. A number of Ministries would not find it beneficial to take only two or three sections of the law to be amended. Since the legislative process in Uganda (as elsewhere in the world) tends to be lengthy, a Ministry would rather use the opportunity to carry out a comprehensive amendment of its law, especially if the need already exists, than 'waste' the opportunity by tabling only a few sections in the name of aligning the law to the CMP.

As already observed in the findings, a number of MDAs are undertaking law reform processes with their laws. The Engineering Council Bill has been in the pipeline since 2003; the Surveyors Registration (Amendment)Bill has been in the pipeline since 2007; the Veterinary Surgeons Registration (Amendment) Bill has been in the pipeline since 2006.

It is essentially due to the protracted nature of the legislative process that the consultant has recommended the use of the omnibus Bill approach for the laws drafted to align with the CMP.

3.2 Omnibus approach

An omnibus approach to amendment of the laws is where a single Bill is used to amend a series of laws. In our case, for instance, instead of drafting the seven different Bills as outlined in the paragraph above, a single omnibus Bill is used to amend all the laws. An omnibus Bill would be introduced in both Cabinet

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and Parliament by one Ministry. In our case, MEACA or any other Ministry deemed fit by Cabinet, would be guided and facilitated to introduce the Omnibus Bill, both at Cabinet and at Parliament levels. Under Chapter Q-b 2 of the Uganda Standing Orders (Legislation), any Ministry may initiate the drafting of new or an amendment of existing legislation.

The main advantage with this approach is that only one Ministry would be seeking Cabinet approval to draft the amendment Bills. Consequently only one Cabinet Memorandum and one Bill would be drafted as opposed to drafting of several Cabinet Memoranda and several separate Bills if the piecemeal approach is used. The justification for the drafting of the Bills would be simple that is; to amend the identified laws so as to align their provisions with the EAC CMP.

As already noted earlier in this Report, the EAC Sectoral Council at its 16th meeting held in Arusha directed the Partner States to accomplish the harmonisation of their laws with the CMP by 30th June 2013. If this deadline is to be met, it is only if the omnibus approach is adopted that Uganda will attempt to align her laws with the CMP in an expeditious manner.

The omnibus approach can however, only achieve its objective of timeliness if the relevant MDAs provide input into the sector laws under amendment in time. This is because one law cannot move up in the legislative process since all the concerned laws have to “move together” under the omnibus Bill. The omnibus approach can only achieve the objective of timeliness if all the concerned MDAs move at the same pace in providing input. To overcome this challenge, the Ministry responsible for the omnibus Bill must put pressure on the relevant MDA.

Support of MEACA and MDAs necessary for Omnibus Bill to succeed

It is the consultant’s view that for this approach to succeed, MEACA must support the recommendation to amend the laws using the omnibus Bill approach. MEACA can then seek Cabinet’s approval to move the omnibus Bill and if the approval is granted, MEACA would rally all the other MDAs to provide timely input into their sectors under review. The consultant is yet to discuss this approach with MEACA.

Kenya adopted the omnibus approach while aligning her laws with the EAC CMP (though the Bill is not yet enacted into law).

CHAPTER FOUR: CONCLUSIONS AND RECOMMENADATIONS

4.1 Conclusions

There are a number of law reform processes being undertaken by various MDAs including the Immigration Department, veterinary Surgeons, engineer's registration Board, Surveyors registration Board, Health professionals and so forth. Some of the laws under reform, notably the reforms affecting free movement of professional services, have a bearing on the implementation of the CMP. However a number of the reforms commenced even before the coming into force of the CMP. Consequently, the focus of some of the reforms has not been CMP implementation. There is also no coordination in the law reform processes even among related MDAs that is; the professional regulatory bodies. The reform processes drag for years, with most of the reforms taking a minimum of 5 years.

There are no clear guidelines developed at the EAC level for the adoption of MRAs concluded by professional regulatory bodies. This has caused frustration among the professions who concluded the MRAs.

4.2 Recommendations

4.2.1 Finalise review of laws identified for alignment with CMP

There is need to review the laws that were recommended for review and alignment with the CMP, which have not been handled under this assignment. The laws are the following:

1. The Advocates Act, Cap 267
2. The Insolvency Act 14/2011
3. The Evidence (Banker's Books) Act Cap
4. The Vessels (Registration) Act Cap 362
5. The Sleeping Sickness Act Cap 282
6. The Warehouse Receipts Systems Act 2006
7. The Copyrights and Neighbouring Rights Act
8. The Trademarks Act 2010
9. The Trademarks Regulations 2011
10. The Patents Act Cap 216
11. The Contracts Act 2010
12. The Income Tax Act Cap 340
13. The Warehouse Receipts System Act, Act 14/2006
14. The Capital Authority Act , Cap 84
15. Bank of Uganda Act, Cap 51
16. The Public Procurement and Disposal of Public Assets Authority, 2003
17. National Social Security Fund Act, Cap 222
18. Food and Drugs Act, Cap 278
19. Uganda Bureau of Statistics Act, Cap 327
20. Weights and Measures Act, Cap 281

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21. Fish Act, Cap 197
22. Local Governments Act, Cap 243
23. Adulteration of Produce Act, Cap 27
24. Sale of Goods Act, Cap 82
25. Agricultural Chemicals Control Act, 2007, Act 1/2007
26. Public Health Act, Cap 281
27. National Environment Act , Cap 153
28. The Electronic Media Act Cap 104
29. Civil Aviation Act, Cap 354
30. The Uganda Communications Act, Cap 106
31. The Hire Purchase Act, Act No. 3/2009
32. The Uganda Tourism Act, Act No. 2/2008
33. The Financial Institutions Act, Act 2/2004
34. The Foreign Exchange Control Act, Act 5/2004
35. The Collective Investments Schemes Act, Act 4/2003
36. The Micro Finance Deposit Taking Institutions Act, Act5/2003
37. Securities Central Depositions Act, Act 1/2009

Trademark East Africa should consider funding the review of these laws so as to complete the whole review and realignment of laws process. In this way, Uganda would have completed review of her laws against the CMP. **4.2.2 Fast track the amendment of laws process by way of an omnibus Bill**

In order to fast track the Acts of Parliament recommended to be amended under this consultancy, the omnibus style of amending several laws using one Bill should be adopted. The consultant recommends that MEACA, as the Ministry responsible for coordination and implementation of the EAC affairs in the country should seek Cabinet approval to introduce in Cabinet, the omnibus Bill drafted under this assignment.

MEACA and ULRC should spearhead the process of drumming support for the omnibus Bill, first at Cabinet level and then among MDAs whose laws are to be amended under the omnibus Bill. This may be achieved by MEACA and ULRC sensitising MDAs on the importance of moving the Bill forward, as well as seeking their support.

MEACA should seek Cabinet approval for the introduction in Cabinet of the omnibus Bill. A Draft Cabinet Memorandum seeking Cabinet approval is attached as a Guide (**Annex VI**)

MEACA also needs the support of the Parliamentary Committee on EAC affairs to pass the omnibus Bill. The support of Parliament is critical especially when the Bill is before Parliament.

4.2.3 Adopt and sign statutory instruments into law

The statutory instruments drafted under this assignment should be adopted by the relevant Ministries and published in the Gazette. The Draft statutory instruments drafted under this assignment do not have to obtain parliamentary approval in order to become law. Once the relevant Minister signs the instrument, the instrument is published in the Gazette and henceforth becomes law. The instruments are:

- (a) The Draft Companies (Fees) (Amendment) Rules, 2013
- (b) The Draft Uganda Citizenship and Immigration Control (Amendment) Regulations, 2013
- (c) The Draft Uganda Citizenship and Immigration Control(Fees) (Amendment) Rules, 2013
- (d) The Architects Registration (Prescription of Forms and Fees) (Amendment) Regulations, 2013.

4.2.4 Need for review of laws to take into account ongoing reform processes at EAC

There will be need to review the laws that may be affected by ongoing reform processes to the CMP at the EAC Level. The reform processes include delinking of Annex II and Annex V of the EAC CMP; reforms in the area of social security benefits, etc.

4.2.5 Establish and publish clear guidelines for adoption of MRAs at EAC level

The MEACA trade lawyer should pursue this matter through the Permanent Secretary MEACA for the attention of the EAC Secretariat. Clear guidelines need to be published with respect to the procedure and timelines for adoption of MRAs by the EAC.

4.2.6 Sensitise MDAs, public on the CMP

Throughout the assignment, the issue of lack of sensitisation, insufficient knowledge about the CMP and its benefits kept cropping up. MEACA should be capacitated to develop an information, education and communication strategy for the sensitisation of the public about the benefits of the CMP.

4.2.7 Teach Swahili language to early learners

A number of stakeholders consulted strongly recommended the teaching of Swahili language from an early age in all Uganda's schools. Since Swahili is a de-facto official language for East Africa, Ugandans will easily integrate if they learn to speak the language commonly used by the rest of East Africa. We recommend that this matter be captured in the National EAC Integration Policy under formulation. However, care should be taken not to achieve the objective of promoting Swahili language at the expense of the English language.

4.2.8 New Bills and statutory instrument drafted should be checked for compliance with EAC CMP

In order to continuously take into account CMP provisions in laws being drafted, the consultant recommends that the institutions responsible for approval and drafting of laws should have a checklist to help them ensure that any new laws drafted are in tandem with the CMP. The Cabinet Secretariat should

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issue a circular instruction to all Ministries and Government Departments requiring them to take into account Uganda's obligations and Commitments under the CMP when formulating policy and drafting legislation.

At Parliamentary level, the legislative counsel at Parliament should also have a check list to vet all Bills forwarded to Parliament to ensure that there is compliance with the CMP provisions. This audit process if adopted, will ensure compliance from the onset of policy formulation and enactment of legislation.

4.2.9 Non tariff barriers

The existence of non-tariff barriers is one of the key bottlenecks to the free movement of goods in Uganda. The private sector emphasised that NTBs are hampering their businesses in the region and their continued existence de-motivates the different players and the population from embracing EAC integration and the implementation of the CMP. It is therefore critical that government eliminates NTBs and also rallies other Partner States to do the same. In addition to political means of eliminating non-tariff barriers, other means including legal means such as adjudication at the East Africa Court of Justice should be pursued. An EAC citizen who is aggrieved by a non tariff barrier should be able to sue the responsible government at the East African Court of Justice.

1.6.10 Continuous review of progress in harmonisation of laws required

Continuous review of Uganda's progress in harmonisation of its laws as required by the Common Market Protocol should form recurrent part of the agenda of the Meetings of the National Implementation Committees as convened by the Ministry of East African Affairs in Kampala. The National Implementation Committees (NICs) are the multi-institutional national level vehicles that have been charged with monitoring each EAC country's progress in domesticating the common market protocol.

ANNEXES

ANNEX I

THE TERMS OF REFERENCE: SCOPE OF WORK

The assignment will include the following:

- (a) Review laws identified as priority laws in the Report for the Needs Assessment Study for ULRC in supporting MDAs implementing the CMP (the ULRC Report) and identify provisions in those laws that are not CMP compliant.
- (b) Identify subsidiary legislation made under each of the priority laws specified under paragraph (a) and review provisions in each of the subsidiary legislation for CMP compliance.
- (c) Chart out a plan for the review of both the principal and subsidiary legislation;
- (d) Search and review reports of the EAC Partner States and EAC organs relating to the domestication of the CMP, including Reports of the EAC Sub Committee on Approximation of laws and assess their relevance to the assignment.
- (e) Carry out comparative studies to obtain the situation on harmonisation of laws with the CMP in other EAC Partner States
- (f) Conduct consultative meetings with ULRC, MEACA and relevant MDAs to discuss review findings.
- (g) Following the review findings and discussions with relevant MDAs and ULRC, draft the requisite CMP compliant amendment Bills, amendment statutory instruments or fresh Bills, where necessary.
- (h) Carry out targeted research to inform the draft amendment bills, fresh bills, amendment statutory instruments or fresh statutory instruments;
- (i) Discuss Draft legislation with the with relevant MDA's to ensure ownership by the MDAs.
- (j) In collaboration with MEACA, ULRC and the relevant MDA, conduct stakeholder workshops to discuss Draft Bills or Draft statutory instruments with private sector, civil society organisations and other relevant stakeholders;
- (k) Upon completing the drafting of amendment Bills, amendment statutory instruments or fresh Bills for the laws identified as priority laws in ULRC's report, before the end of the contractual period, identify other laws in the ULRC's report and prepare draft amendment Bills in consultation with relevant MDAs;

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- (l) Establish ongoing law reform efforts by different MDAs aimed at harmonizing the laws under their sectors with the CMP and provide support to the law reform process, depending on their needs;
- (m) Provide guidance to the relevant Ministries on the next steps in the legislative process to ensure that laws drafted under this assignment are moved to the enactment stages;
- (n) Attend bi-monthly meetings with ULRC to discuss review findings and/or draft Bills and statutory instruments;
- (o) Attend meetings with MEACA's National Steering Committee to update the Committee on progress and to discuss other matters relevant to the assignment;
- (p) Prepare monthly and quarterly reports highlighting the results achieved in every month and in every quarter.

ANNEX II

LIST OF REPORTS AND DOCUMENTS REVIEWED.

- (a) Treaty Establishing the East African Community
- (b) Protocol on the Establishment of the East African Community Customs Union
- (c) Protocol on the Establishment of the East African Community Common Market
- (d) East African Community Common Market Implementation Plan (Prepared by Ministry of East African Community, (MEACA)Uganda) November 2011
- (e) Uganda Report on the Implementation of the EAC Common Market Protocol (Prepared by MEACA, as at 31st August 2012)
- (f) Baseline Study on Free Movement of Services: Uganda's Implementation of the EAC Common Market Protocol, (Draft Report) June 2012.
- (g) Baseline Survey on Free Movement Of Capital in Uganda, February 2013
- (h) Baseline Survey on the Free Movement of Persons, Labour, Right of Residence and Right of Establishment, (Draft Report)June 2012
- (k) Baseline Survey on the Free Movement of Goods, Final Report, July 2012
- (i) The East African Community Common Market Protocol: Legal and regulatory Effects, July 2010
- (j) Economic Impact Assessment of the EAC Common Market Protocol
- (k)
- (l) Record of the Meeting of the Interim Task Force on Harmonisation of Laws (Uganda) held on 5th August 2010 in MEACA Boardroom
- (m)Concept Note: Support to Ministries, Departments and Agencies (MDAs) for Increased Implementation of CMP Related Laws. Prepared by Technical Support Unit (MEACA) Uganda, June 2012
- (n) Report for the Needs Assessment Study for Uganda Law Reform Commission in Supporting MDAs Implement the Common Market Protocol
- (o) Common Market Implementation Plan: Report of the Meeting of the Sub Committee on Free Movement of Goods: 28th September 2012, Imperial Royale Hotel, Kampala.

EAC Reports

- (p) Report of the Validation Workshop of East African Community Project on Harmonisation of Commercial Laws of EAC Partner States 7-11 February 2011.
- (q) East African Community: Report of the Meeting of the Sub-Committee on Approximation of National Laws in the East African Community Context: Session of the Task Force, Bujumbura-Burundi, 23rd -25th May, 2011, EAC/TFAL/05/2011
- (r) East African Community: Report of the Meeting of the Sub-Committee on Approximation of National Laws in the East African Community Context: Bujumbura, Burundi, 23-27 May, 2011: EAC/SC/05/2011)

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- (s) EAC: Harmonisation of Commercial Laws of the East African Community Partner States: Final Report of Phase 1, 24 May 2011
- (t) East African Community: Report of the Meeting of the Task Force on Approximation of National Laws in the East African Community Context: Session of the Task Force, Arusha, Tanzania, 26 – 30 September, 2011: EAC/TFAL/06/2011)
- (u) East African Community: Report of the Meeting of the Task Force on Approximation of National Laws in the East African Community Context: Session of the Task Force, Kigali-Rwanda, 6- 10 February, 2012: EAC/TFAL/07/2012
- (v) East African Community: Report of the Meeting of the Task Force on Approximation of National Laws in the East African Community Context: Kampala, Uganda, 10-15 September 2012: EAC/TFAL/09/2012)

ANNEX III

LIST OF PERSONS AND INSTITUTIONS CONSULTED.

No.	Name	Ministry, Department and Agency (MDA)	Designation
1	Angela Kiryabwire	Capital Markets Authority	Corporation Secretary
2	James Lutalo	Ministry of Tourism, Wildlife and Heritage	Commissioner, Wildlife Conservation
3	Agnes N. Wadda and Charles Mwebembezi	Uganda Freight Forwarders Association	Executive Committee Members of UFFA
4	Cornelia Kakooza Sabiiti	The Public Procurement and Disposal Authority	Executive Director
5	Mr. Werikhe	National Union of Traders in Uganda	General Secretary
6	Douglas Opio	Federation of Employers in Uganda	Policy and Research Officer
7	Mercy Kyomugasho Kentaro	Uganda Registration Services Bureau	Senior Registration Officer
8	Moses Ogwal	Private Sector Foundation	Director, Policy and Advocacy
9	Luyima Harriet	Ministry of Gender, Labour and Social Development	Ag. Director, Labour
10	Kalule Moses	Kampala City Traders Association	Chief Executive Officer
11	Harriet Lwabi	Ministry of Justice and Constitutional Affairs	Director, legislative Drafting/First Parliamentary Counsel
12	Sarah Mitanda Muwanga	Ministry of Justice and Constitutional Affairs	Commissioner, Legislative Drafting
13	L.J Chinery-Hesse	Ministry of Justice and Constitutional Affairs	Legislative Drafting Expert
14	Nsiyona Racheal Lutalo	Ministry of Justice and Constitutional Affairs	State Attorney
15	Lawrence Mujuni Mpitsi	MEACA	Director
16	Stephen Niyonzima	MEACA	Asst. Commissioner
17	Dr. Evarist Mugisa	Technical Support Unit, MEACA	Team Leader
18	Godfrey Ssali	Uganda Manufacturers Association	Policy and Advocacy Officer
19	Alexandra Nkonge	Uganda Law Reform Commission	Ag. Secretary
20	Patrick Nyakaana	Uganda Law Reform Commission	Commissioner, Law Reform
21	Harriet Gubira	Architects Registration Board	Registrar
22	Flora Runumi	Architects Registration Board	
23	Denise Lewis Nabachwa	Architects Registration Board	Administrator/ Legal officer

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24	Juliet Kasaija	Uganda Society of Architects	Executive Secretary
25	Claire Olaki	MEACA	Legal Trade Officer,
26	Salome	Uganda Investment Authority	Legal Officer
27	Muhumuza Joseph	Uganda Surveyors Registration Board	Registrar,
28	Kimera Sylvia	Engineers Registration Board	Administrative Officer
29	Mpima Kibirango Patrick	Allied Health Professionals Council	Registrar
30	Betty Nasenga	Ministry of Internal Affairs	Senior Immigration Officer
31	Cyprian Inyangat	Uganda Surveyors Registration Board	Chairman
32	Dr. Ssentogo Katumba	Medical and dental Practitioners Council	Registrar
33	Eng. Okiror James	Engineers Registration Board	Registrar
34	Dr. Kasirye Florence	Veterinary Registration Board	Secretary / Registrar
35	Bakulu Margret	Veterinary Registration Board	Board member
36	Josephine Ekwang	Ministry of Internal Affairs	Commissioner , Legal
37	Mr.Wakadi	Nurses and Midwives Council	Registrar

ANNEX IV

FINDINGS FROM REVIEW OF THE LAWS

1. Review of the Companies Fees Rules 2005, S.I 57 Of 2005 Against The EAC Common Market Protocol

Rule	Text of rule to be aligned	CMP Provision	Recommendation
4	Fees specified in the Second Schedule Head C- Fees to be Paid by a Company to which Part X of the Act Applies (<i>Part X applies to companies incorporated outside Uganda</i>). The fees paid under Head C are higher than those paid under Head A and B.	Right of establishment Article 13(6) Companies and firms established in accordance with the national laws of a Partner State and having their registered office and which undertake substantial economic activities in the Partner State shall, for purposes of establishment be accorded non-discriminatory treatment in other Partner States.	Amend rule 4 of S.I 57 of 2005 to exempt companies incorporated in Kenya, Tanzania, Rwanda or Burundi from paying fees specified in Head C of the Second Schedule to S.I 57 Of 2007 (fees paid by companies incorporated outside Uganda); provide that these companies shall pay fees specified in Heads A and B of the Schedule as though they are local companies.

2. Review of Investment Code Act Cap 92, Against the East African Community Common Market Protocol

No.	Section	Text of section	Relevant provisions of CMP	Analysis/recommendation
1	9 (1)	Defines a foreign investor as one who is not a citizen of Uganda, a company in which more than 50% of the shares are held by a non-citizen of Ugandan or a partnership in which majority of the partners are non-citizens of Uganda.	(1) Article 3(2) (a) Partner States are obliged to observe principle of Non Discrimination of nationals of other Partner States on grounds of nationality. (2) Articles 13 (2) & (5) non discrimination of nationals of other Partner States based on nationality.	<i>Definition captures investors from EAC Partner States as foreign investors. If this remains the case, provision would conflict with CMP provisions on non discrimination of PS nationals on grounds of nationality.</i> Recommendation Amend section 9(1) to omit EAC citizens from definition of foreign investor.
2	10(2)	Prohibits foreign investors from carrying on business in crop production, animal production or acquiring land for that purpose	(3) Article 17 Partner States shall accord services and service suppliers treatment no less favorable than that accorded to similar service and service suppliers of the Partner States.	If 9(1) is amended as proposed, it will cure the discrimination against EAC citizens inherent in 10(2).
3	10(5)	Foreign investor is required in addition to incorporating a company to deposit \$100,000 in Bank Of Uganda for the importation of goods	(4)	If 9(1) is amended as proposed, it will cure the discrimination against EAC citizens inherent in 10(5).

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4	22(1)(b) and (c)	To qualify for incentives under the Act, a foreign investor has to make a capital investment worth at least \$ 500,000 as opposed to a Ugandan citizen who is required to make a capital investment of at least \$50,000		If 9(1) is amended as proposed, it will cure the discrimination against EAC citizens inherent in 22(1) (b) and (c).
5	26(1) and (2)	A foreign investor who seeks to obtain credit from domestic financial institutions is limited by a limit determined by Bank of Uganda and the use of the credit shall be solely for activities in the investment licence.		If 9(1) is amended as proposed, it will cure the discrimination against EAC citizens inherent in 26(1) and (2).

3. Review of Trade Licensing Act, Cap 101 Against EAC Common Market Protocol

No.	Section	Text of section	Relevant provisions of Protocol	Analysis/Recommendation
1	3 (b)	The Minister may from time to time by statutory order declare any trading centre to be an area in which a person who is not a citizen of Uganda is prohibited from trading.	Article 3(2) (a) to observe principle of Non Discrimination of nationals of other Partner States on grounds of nationality. Art 3(2) (b) accord treatment to nationals of other Partner States not less favourable that treatment accorded to third parties.	<i>Sections 3 and 5 offend the non-discrimination provisions in the CMP.</i> They should be amended to exclude their application to EAC individuals, companies or firms which should receive treatment no less favorable as that accorded to Ugandan nationals, firms or companies.
2	5(1)	It is unlawful for a non-citizen to trade outside any city, municipality or town, trade in any trading centre in respect of which an order is made under section 3(b), trade in any area of any city, municipality or town which has not been declared, to trade in specified goods which are not endorsed on his or her licence.	Art. 13 (2) & (5) non discrimination of nationals of other Partner States Article 13 (6) companies and firms established in accordance with the national laws of a Partner State and having their registered office, central administration or principal place of business and which undertake substantial economic activities in the Partner State shall be accorded non discriminatory treatment in other Partner States.	

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**4. Review of Uganda Citizenship And Immigration Control Act, Cap 66,
Uganda Citizenship And Immigration Control Regulations 2004, S. I 16 Of 2004**

Uganda Citizenship And Immigration Control (Fees) Rules 2009, S. I 53 of 2009 against the EAC Common Market Protocol

No	section	Text/Import of section that requires alignment	Relevant Protocol Provision	Analysis/Recommendation
1.	53(4)	<p>A person intending to take on employment under entry permit class G in the Fourth Schedule to this Act <u>may only enter Uganda after his or her application for entry permit has been granted.</u></p> <p>Fourth Schedule: Class of Entry Permits</p> <p>“8. Class G (Employees)</p> <p>A person who satisfies the Board that he or she has accepted employment in</p>	<p><i>Free movement of workers</i></p> <p>Art. 10(1) The Partner States hereby guarantee the free movement of workers, who are citizens of the other Partner States, within their territories.</p> <p>Regulation 5(2) Annex II- Free Movement of Workers</p> <p>5. (2) “A citizen of a Partner State who seeks to enter the territory of another</p>	<p><i>Analysis:</i></p> <p><i>Section 53(4) implies that a person can only take on employment under an entry permit if he or she applied for the entry permit while outside Uganda. This contradicts the CMP (Annex II Reg. 5(2), 5(4),(6 (1) and (3)</i></p>

		<p>Uganda”</p>	<p>Partner State as a worker shall:</p> <ul style="list-style-type: none"> (a) Present to the immigration officer a valid common standard travel document or national identity card where a Partner State has agreed to use a machine readable and electronic national identity card as a travel document; (b) Declare all the information required for entry and exit; and (c) Present a contract of employment to the immigration officer. <p>Annex II 5(4) Upon fulfillment of the requirements in 5(2), a citizen to whom these regulations apply, shall be issued with a pass, which shall entitle the citizen to enter into the territory of the host Partner State and stay for a period of up to six months for purposes of completing the formalities for obtaining a work permit.</p> <p>Annex II 6(1) A worker who has a contract of employment of more than 90 days in the territory of another Partner State shall apply to the competent authority for a work permit within 15 working days from date of entry into the</p>	<p><i>EAC citizens coming to Uganda for employment who fulfill the requirements of regulation 5(2) of Annex II are to be issued a six months pass, free of charge.</i></p> <p>Recommendation Insert a new sub-section after section 53(4) to provide that EAC citizens entering Uganda for work may apply for work permits while in Uganda.</p>
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			territory of the host Partner State. Annex II 6(3) Notwithstanding regulation 5(2) (c) and 6(1) of Annex II, a citizen of a Partner State, who, while in the territory of another Partner State concludes a contract of employment shall, apply to the competent authority for a work permit within 15 working days from the date of concluding the contract.	
2.	54(1)	There shall be classes of entry permit as specified in the Fourth Schedule to this Act. Fourth Schedule: Classes of entry permits Class A (Government and diplomatic service) Class A2: (Government contractors)	Annex II Reg. 6(9) and Annex III regulation 6(10) The work permit or a special pass issued under these Regulations shall be issued in accordance with the harmonized classification of work permits and forms, fees and procedures as may be approved by the Council.	1. <i>The CMP under Annex II regulation 6(9) and Annex III regulation 6(10) envisage a need for Partner States to have a harmonized classification of work permit system. CMP is silent on the procedure for moving the Council to initiate the harmonised work permit classification process across Partner States.</i>

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		<p>Class B: Agriculturalists</p> <p>Class C: Miners</p> <p>Class D: Business and Trade</p> <p>Class E: Manufacturers</p> <p>Class F: Professionals</p> <p>Class G: Employees</p>		<p>2. <i>Current entry permits under Fourth Schedule to the Act i.e. Classes B, C, D and E relate to the right of establishment i.e. self employed persons who seek to enter Uganda for the purpose of starting business undertakings. Class F (professionals) relates to the free movement of services.</i></p> <p>Recommendation</p> <p>1. The Act needs to be amended to introduce a new Schedule after the current Fourth Schedule: (a) to provide for Work Permits for EAC citizens. This Schedule will take into account:</p> <p>(a) the conditions attached to work permits.</p> <p>(b) the harmonised</p>
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				<p>classification of work permits as recommended by the Council.</p> <p>2. Any of the Ministries responsible for EAC Affairs in Partner States should move the EAC Secretariat to recommend to the Council to initiate the process of harmonised classification of work permits across Partner States (See Annex II 6(9) and Annex III 6(10))</p>
	54(2)	Where a person other than a prohibited immigrant makes an application for an entry permit of a particular class and satisfies the Board that the conditions which must be fulfilled have been fulfilled in relation to the application, the board may issue an entry permit of that class to that person	Annex II Reg. 6 and Annex III regulation 6 of the CMP specify the requirements and conditions to be fulfilled before an EAC citizen intending to work or establish business in Uganda may be issued with a work permit.	Section 54 of the Act has to be amended to take into account new matters in relation to work permits for EAC citizens introduced by Annex II Reg. 6 and Annex III regulation 6 of the CMP.

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	76(1)	An alien shall not be a member of the executive committee of a trade union or a youth movement in Uganda.	<p>Art. 3(2) (a) Partner States undertake to observe the principle of non discrimination of nationals of other Partner States on grounds of nationality.</p> <p>Art. 10(1) The Partner States hereby guarantee the free movement of workers, who are citizens of the other Partner States, within their territories.</p> <p>Art 10(3) (e) ... the free movement of workers shall entitle a worker to enjoy the freedom of association and collective bargaining for better working conditions in accordance with the national laws of the host partner state.</p>	Amend section 76(1) to create a new subsection that allows EAC citizens to be members of executive committees of trade unions.
2.The Uganda Citizenship and Immigration Control Regulations, 2004, S.I 16 of 2004				
1.	Reg. 2	Defines East African Countries as “Uganda, Kenya and Tanzania”	Article 1 of CMP defines “Partner States” as the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, The United Republic of Tanzania, the Republic of Uganda, and any other country granted membership to the Community under Article 3 of the Treaty.	Amend regulation 2 to include Rwanda and Burundi.

2	Part II	<p>Passes</p> <p>Part II of the Uganda Citizenship and Immigration Regulations (regulations 3-14) provide for passes, different types of passes, duties of holders of passes and validity of entry permit).</p>	<p>Annex I of CMP- Free Movement of Persons:</p> <ul style="list-style-type: none"> (a) Regulation 5 (3)-(6) and 8 provide for visitor’s pass (b) Reg. 5(7) provides for transit pass; (c) Regulation 6 lays down the requirements and procedure for students’ passes including procedure for applying for students’ pass, information to be furnished in the application, period of the pass, etc (d) Reg. 7 provides for limitations on passes. <p>Annex II of CMP- Free Movement of Workers</p> <ul style="list-style-type: none"> (a) Reg. 5(4) –(4): issue of a pass to a person intending to apply for a work permit and for issue of a pass to that person’s spouse or child; (b) Reg. 6(4) and (5): special pass to a person employed for not more than 90 days (c) Reg. 6(6): issue of special pass 	<p>Amend S.I 16 of 2004 by creating a new Part after Part II to take into account the passes, and the procedure for acquiring the passes as specified in Annex II Reg. 6 and Annex III regulation 6 of the CMP.</p>
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			<p>pending the issue of a work permit</p> <p>(d) Reg. 6(13): application for a special pass following cessation of employment</p> <p>Annex III of CMP- Right of Establishment Regulations</p> <p>(a) Reg. 5(3)-(5): issue of a special pass to a self employed person to enable person complete formalities for establishment and for issue of a pass to that person's spouse or child</p> <p>(b) Reg. 6(2)-(3): special pass to self employed person</p>	
3		<p>Work Permits and procedure for work permits:</p> <p>Apart from providing for validity of entry permits in regulation 12, S.I 16 of 2004 does not provide a detailed procedure for application for, and issue of entry permits (work permits).</p>	<p>Annex II Reg. 6 and Annex III regulation 6 of the CMP provide the procedure for application for, issue, renewal and other matters to related with work permits.</p>	<p>Amend S.I 16 of 2004 by creating a new Part after Part II to take into account the procedure specified in Annex II Reg. 6 and Annex III regulation 6 of the CMP in respect of work permits for EAC citizens.</p>

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4	Reg. 15	Requirement for applicants for entry permits and passes to execute immigration bond.	<p>Annex I of CMP- Free Movement of Persons- Regulation 5 (8)- A pass issued under this regulation shall be issued without a fee.</p>	<p><i>Analysis</i></p> <p>In light of the fact that under the CMP, passes are issued without fees, would it not be contradictory to require EAC applicants to execute an immigration bond?</p> <p>Recommendation</p> <p>Amend S.I 16 of 2004 to remove the requirement to execute immigration bond from EAC citizens issued with passes.</p>
5	Reg. 21	Where a holder of an entry permit Class G (employee) ceases to engage in employment in respect of which the entry permit was issued, the employer specified in the entry permit shall, within 7 days from the date on which the holder ceases to engage in the employment, inform the immigration authority of the cessation of that employment.	<p>Annex II- Free Movement of Workers regulations</p> <p>Reg. 6(11) Where the holder of a work permit ceases to engage in employment in respect of which a work permit was issued, the employer specified in the work permit shall, within 15 days of the cessation of the employment in writing, inform the competent authority.</p> <p>Reg. 6(12) Where a worker changes</p>	<p>Amend S.I 16 of 2004 by inserting new sub regulations:</p> <p>(a) in regulation 21 to provide for 15 days within which to notify the immigration authority in case of EAC citizens</p> <p>(b) to take on board the provisions of article 6(12) providing for work permit in case of change of employment.</p>

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			employment in respect of which the work permit was issued, the worker shall within 15 days of the change of employment, in writing, notify the competent authority and shall apply to the competent authority for another work permit.	
The Uganda Citizenship and Immigration Control (Fees) Rules, 2009, S.I 53 of 2009				
	Reg. 3	Provides for payment of fees in respect of various matters including fees for work permits, visa fees, certificate of residence, dependant's pass, etc	Under the CMP, passes are issued without a fee. (See Annex II regulations 5(8)- visitors pass; 6(8)- student's pass. Annex II regulation 5(6)- pass to person coming in for work. Annex III regulation 5(3)- pass granted to self employed person and his or her spouse and child.	Amend S.I 53 of 2009 to provide that EAC citizens shall not pay visa fees and fees for passes (other than special passes)

5. Review of The Workers Compensation Act Cap 225 Against The EAC Common Market Protocol

No.	Section	Text of section to be aligned	CMP Provision	Recommendation
1	1(h)	Defines "Industrial Relations Charter" as a charter governing the relationship between national workers and	Article 3(2) (a) -Principle of non discrimination of nationals of other partner states on grounds	Amend section 1(h) to remove the word "national". The definition if amended as proposed will cover

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		employer organisations in Uganda	of nationality	workers from other EAC Partner States who are not “nationals”.
	36(1)	Compensation awarded under this Act to a worker or dependant who is resident and domiciled outside Kenya, Uganda or TZ shall be paid by the employer to the labour officer.	Article 1 “Partner states” means Uganda, Kenya, Rwanda, Tanzania and Burundi.	Amend section 36 (1) to include Rwanda and Burundi.

6. Review of The Surveyors Registration Act Cap 275 Against The EAC Common Market Protocol

No.	Section	Text of Section to be aligned	CMP Provision	Recommendations
1	15(1)(c)	15(1)(c) (ii) on qualification for registration, among others that land surveyors have to be holders of the East African Land survey certificate.	Article 1 on interpretation of partner states the interpretation of partner states to mean, Uganda, Kenya, Rwanda, Tanzania and Burundi.	Amend section 15 to recognise survey qualifications obtained from other recognised institutions. Note: <i>For this amendment to happen, there is need for Surveyors in the EAC Region to work out mutual recognition arrangements with</i>

Realignment of Relevant laws with the EAC Common Market Protocol

				<i>respect to qualifications and recognised institutions.</i>
2	15(1)	<p>Qualifications for registration.</p> <p>(1) Subject to this Act, a person shall be entitled, on making an application to the board in the prescribed manner and on payment to the board of the prescribed fee, to have his or her name entered in the register if ;</p> <p>(a) he or she is a fellow of the Association of Surveyors of Uganda or a corporate member of any other institution of surveyors, by whatever name called, recognised for the time being by the board as furnishing sufficient guarantee of academic knowledge of, and practical experience in, surveying;</p> <p>(b) he or she is the holder of a degree, diploma or certificate awarded by a university or school of surveying</p>	<p>Article 11 : is to the effect that for the purposes of ensuring the free movement of labour, the partners states shall undertake to mutually recognize the academic and professional qualifications granted , experience obtained etc in other partner states</p> <p>Annex 11 on free movement of workers , surveyors are listed as one of the categories</p>	<p>The Act in analysis does not restrict the free movement of Surveyors , however there is need to consult the council whether ;</p> <ul style="list-style-type: none"> i) It recognizes the training institutions /academic qualifications across the EAC Partner states ii) iii) There are any efforts undertaken to have an MRA with the different EAC partner states.

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		<p>or photogrammetry</p> <p>recognised for the time being by the board and has had no less</p> <p>than three years’ practical experience of such a nature as to</p> <p>satisfy the board as to his or her competence to practise as a</p> <p>professionally qualified surveyor; or</p> <p>(c) in the case of land surveyors, he or she is the holder of—</p> <p>(i) a licence to practise land surveying issued by any licensing</p> <p>body approved by the board;</p> <p>(ii) the East African Land Survey Certificate; or</p> <p>(iii) a class A licence issued under the Survey Act.</p>		
3	S. 16	<p>Temporary registration.</p> <p>(1) Where a person satisfies the board—</p> <p>(a) that he or she is not ordinarily</p>	<p>Free Movement of Services</p> <p>Article 16(1): The Partner States hereby guarantee the free movement of services supplied by nationals of</p>	<p><i>Analysis</i></p> <p>Section 16 ties temporary registration as a surveyor in Uganda to residence i.e. one is not ordinarily</p>

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	<p>resident in Uganda;</p> <p>(b) that he or she is, or intends to be, present in Uganda in the capacity of a professionally qualified surveyor for the express purpose of carrying out specific work for which he or she has been engaged; and</p> <p>(c) that he or she is, or immediately prior to entering Uganda was, in practice as a surveyor in such a capacity as to satisfy the board of his or her fitness to serve the public as a professionally qualified surveyor,</p> <p>the board may authorise the registrar to register that person only for the duration of the period of any specific work for which he or she has been engaged.</p>	<p>Partner States and the free movement of service suppliers who are nationals of the Partner States within the Community.</p> <p>Art. 16(2) The free movement of services shall cover the supply of services:</p> <ul style="list-style-type: none"> (a) From the territory of a Partner State into the Territory of another Partner State; (b) In the territory of a Partner State to service consumers from another Partner State; (c) By a service supplier of a Partner State through commercial presence of the of the service supplier in the territory of another Partner State; (d) By the presence of a service supplier who is a citizen of a Partner State, in the territory of another Partner State. <p>Annex II of CMP on Movement of Workers- Uganda committed to allow free movement of workers by 2010.</p>	<p>resident or he or she is or intends to be resident in Uganda.</p> <p>Note</p> <p><i>We note that section 15 which provides for qualification for registration does not have limits as regards residence or carrying out work with a registered surveyor. <u>What happens in practice?</u></i></p> <p>Recommendation</p> <p>Amend the Act to create a new section after section 15 to remove the limitations identified above for surveyors from other EAC countries who wish to temporarily register as surveyors in Uganda.</p>
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4	S. 26	On style of registered surveyor- every person whose name has been entered in the register shall, so long as his/her name remains in the register, be entitled to take and use style and title “Registered Surveyor of Uganda” or the letters “R.S.U” after his/her name .	Article 3(2) (a) -Principle of non discrimination of nationals of other partner states on grounds of nationality.	The word “Uganda” should be omitted from “Registered Surveyor of Uganda” should be done away with and left to read “Registered Surveyor”.
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7. Review of the Allied Health Professionals Act Cap 268 Against The EAC Common Market Protocol

No.	Section	Text of section to be reviewed	CMP Provision	Recommendation /Analysis
1	19(1)& (2)	<p>(1) The council may, taking into account the entrance requirements, the curriculum followed and, where possible, the professional standards exhibited by persons holding qualifications of the training institution awarding the qualification, recognize the institution and the qualification awarded by that training institution for purposes of registration under this Act.</p> <p>(2) The training institutions</p>	<p>Article 11 : is to the effect that for the purposes of ensuring the free movement of labour, the partners states shall undertake to mutually recognize the academic and professional qualifications granted , experience obtained etc in other partner states</p> <p>Article 16 guarantees the free movement o services supplied by nationals of the partner states and service suppliers</p> <p>Annex 11 on free movement of</p>	<p>The Act does not restrict the free movement of allied health practitioners however there is need to consult the council whether ;</p> <p>i) It recognizes the training institutions across the EAC Partner states</p> <p>ii) There are any efforts undertaken to have an MRA with the different EAC partner states.</p>

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		<p>recognised under subsection (1) shall be published in the Gazette as soon as the council recognises them...</p>	<p>workers , Para- medical personnel are listed as one of the categories</p> <p>Annex V on free movement of services, item (j) provides for Para-medical personnel is one of the professional services Uganda committed to liberalize by 2010</p>	
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8. Review of the Nurses And Midwives Act Cap 274 Against the EAC Common Market Protocol

No.	Section	Text of section to be reviewed	CMP Provision	Recommendation /Analysis
1	19	<p>Eligibility for registration or enrollment.</p> <p>A person holding any of the following minimum qualifications shall be eligible for registration or enrollment in the appropriate category to which the qualifications relate—</p> <p>(a) a degree of Bachelor of Science in nursing recognised</p>	<p>Article 11- mutual recognition of qualification</p> <p>Article 16 guarantees the free movement o services supplied by nationals of the partner states and service suppliers</p> <p>Annex 11 on free movement of workers , nurses and midwives are listed as one of the categories</p>	<p>The Act does not restrict the free movement of Nurses and Midwives however there is need to consult the council whether ;</p> <ul style="list-style-type: none"> i) It recognizes the training institutions across the EAC Partner states ii) There are any efforts undertaken to have an MRA with the different EAC partner states iii) The criteria used to determine whether the standards are not inferior with the one in Uganda

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		<p>by the council;</p> <p>(b) (b) a certificate or diploma in nursing issued by the council;</p> <p>(c) a person who produces evidence satisfactory to the council that he or she has been registered or enrolled as a nurse or midwife in any other country in which there is for the time being in force a law for registration or enrollment of nurses and midwives and in respect of which country the council is satisfied that the standard of training and examination is not inferior to the standard set by the council;</p> <p>(d) a nursing or midwifery qualification recognised by the council under section 20.</p>	<p>Annex V on free movement of services, item (j) nurses and midwives is one of the professional services Uganda committed to liberalize by 2010</p>	
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9. Review of the Engineers Registration Act Cap 271 Against The EAC Common Market Protocol

No.	Section	Text of section to be reviewed	CMP Provision	Recommendation /Analysis
1	20(1)	<p>Qualifications for registration of engineers.</p> <p>(1) Subject to this Act, a person shall be entitled, on making an application to the board in the</p>	<p>Article 11 is to the effect that for the purposes of ensuring the free movement of labour, the partners states shall undertake to mutually recognize the academic and professional qualifications granted , experience obtained etc in</p>	<p>The Act does not restrict the free movement of Engineers, however there is need to consult the council whether ;</p> <p>i) It recognizes the training institutions across the EAC Partner states</p>

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		<p>prescribed manner and on payment to the board of the prescribed fee, to be registered under this Act and to have his or her name entered in the register if he or she is—</p> <p>(a) a member of an institution of engineers the membership of which is recognised for the time being by the board as furnishing a sufficient guarantee of academic knowledge of, and practical experience in, engineering; or</p> <p>(b) a person who has attained the age of twenty-five years and who—</p> <p>(i) is the holder of a degree, diploma or licence of a university or school of engineering which may be recognised for the time being by the board as furnishing a sufficient guarantee of an adequate academic</p>	<p>other partner states</p> <p>Article 16 guarantees the free movement of services supplied by nationals of the partner states and service suppliers</p> <p>Annex 11 on free movement of workers , engineers are listed as one of the categories</p> <p>Annex V on free movement of services, item (e) engineering is one of the professional services Uganda committed to liberalize by 2010</p>	<p>There are any efforts undertaken to have an MRA with the different EAC partner states</p>
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		<p>training in engineering;</p> <p>(ii) has had at least two years' adequate postgraduate practical training as an engineer and has had at least two years' experience in a position involving responsibility as an engineer; but the board may, at its discretion, accept any additional period in a position of responsibility as an engineer in excess of two years in substitution for the two years' practical training; and</p> <p>(iii) is a member of the institution.</p> <p>The board may require an applicant for registration under this Act to satisfy it that his or her professional and general conduct has been such as, in the opinion of the board, to make him or her a fit and proper person to</p>		
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		<p>be</p> <p>registered under this Act, and the board may direct the registrar to postpone</p> <p>the registration of an applicant until so satisfied</p>		
2	S.21	<p>Temporary registration.</p> <p>(1) Where a person satisfies the board—</p> <p>(a) that he or she is not ordinarily resident in Uganda;</p> <p>(b) that he or she is, or intends to be, present in Uganda in the capacity of a professionally qualified engineer for the express purpose of carrying out specific work or works for which he or she has been engaged; and</p> <p>(c) that he or she is, or immediately prior to entering Uganda was, in practice as an engineer in such a</p>	<p>Free Movement of Services</p> <p>Article 16(1): The Partner States hereby guarantee the free movement of services supplied by nationals of Partner States and the free movement of service suppliers who are nationals of the Partner States within the Community.</p> <p>Art. 16(2) The free movement of services shall cover the supply of services:</p> <p>(a) From the territory of a Partner State into the Territory of another Partner State;</p> <p>(b) In the territory of a Partner State to service consumers from another Partner State;</p>	<p><i>Analysis</i></p> <p>Section 21 ties temporary registration as an engineer in Uganda to residence i.e. one is not ordinarily resident or he or she is or intends to be resident in Uganda.</p> <p>Note</p> <p><i>We note that section 20 which provides for qualification for registration does not have limits as regards residence or carrying out work with a registered engineer. <u>What happens in practice?</u></i></p> <p>Recommendation</p>

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	<p>capacity as to satisfy the board of his or her fitness to serve the public as a professionally qualified engineer,</p> <p>the board may, if it thinks fit, direct that that person shall be registered under this section either for a period not exceeding one year or for the duration of any specific work or works.</p>	<p>(c) By a service supplier of a Partner State through commercial presence of the of the service supplier in the territory of another Partner State;</p> <p>(d) By the presence of a service supplier who is a citizen of a Partner State, in the territory of another Partner State.</p> <p>Annex V of CMP Liberalization of Services- Uganda, sub paragraph (e) on Engineering services- Uganda committed to remove of market access and national treatment restrictions by 2010. There are also no restrictions on modes of supply of engineering l services i.e. a person does not have to be a resident to supply his or her services.</p>	<p>Amend the Act to create a new section after section 21 to remove the limitations identified above for engineers from other EAC countries who wish to temporarily register as engineers in Uganda.</p>
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10. Review of the External Trade Act Cap 88 Against The EAC Common Market Protocol

No	Section	Text/import of section that requires alignment	Relevant Protocol Provision infringed upon	Analysis/Recommendation
1.	Section 2, 3	Minister's power to delegate powers to prohibit import of restricted goods without a	Article 6(1) of the CMP provides that the free movement of goods shall be governed by the Customs law of the Community as specified in Article 39	All the sections highlighted under Column 2 (Sections 2,3,4,5,7,8,9 & 10 Cap 88) are inconsistent with the provisions of the EACCMA in as far they vest the power to

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	<p>Section 4</p> <p>Section 5</p>	<p>licence</p> <p>Minister’s power to prohibit the export of any class of goods except with a licence granted under the Act.</p> <p>Minister’s power to grant importation or exportation of restricted goods</p>	<p>of the EACCU Protocol.</p> <p>Section 19 (1) & (2) of the EACCMA grants the Council of Ministers the power to prohibit import of goods either generally or in relation to any Partner State the importation of any class of goods, save in accordance with conditions regulating their importation.</p> <p>Section 71 (1) EACCMA vests the power to determine prohibited and restricted exports in the Council of Ministers</p> <p>Sections 18, 19, 70 & 71 EACCMA vest in the Council of Ministers powers as highlighted above.</p> <p>Article 22 of the EACCU Protocol Partner States shall not exercise the right to introduce or continue to execute restrictions or prohibitions in</p>	<p>restrict the importation or exportation of goods in the Minister as opposed to the Council of Ministers</p> <p>Section 6 of Cap 88 contradicts Article 3(2)(a) and 13(2) & (5) of the CMP in as far as granting exemptions to government contractors to import restricted goods: such provision is discriminatory against contractors from other Partner States</p> <p>We recommend that Cap 88 be repealed pursuant to section 253 of the EACCMA which provides that the Act shall take precedence over the Partner States laws with respect to any matter to which its provisions relate. Additionally Cap 88 is hinged on the exercise of Ministers power to prohibit and restrict the importation and exportation of goods, which power is now vested in the Council of Ministers.</p>
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		<p>Power of the Minister to grant exemption to government contractors</p>	<p>the free movement of goods within the community.</p> <p>Article 3(2) (a) to observe principle of Non Discrimination of nationals of other Partner States on grounds of nationality.</p> <p>Art. 13 (2) & (5) non discrimination of nationals of other Partner States</p> <p>Further note that Section 19 EACCMA vests the power to deal with the import of restricted goods in the Council of Ministers</p>	
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	(3)			
	Section 8			
	Section 9			
	Section 10 & 11			
	Section 12			

11. Review of The Veterinary Surgeons Act Cap 277 Against The EAC Common Market Protocol

No.	Section	Text/import of section that requires alignment	Relevant Protocol Provision infringed upon	Analysis/Recommendation
1	S.1(d)	Defines partners states to include Uganda, Kenya and Tanzania	<p>Article 3 provides for non discrimination of members of partner states based on nationality</p> <p>Article 16 guarantees the free movement of services supplied by nationals of Partner States and service suppliers</p> <p>Annex II Free Movement of Workers Veterinarians are listed as one of the category of workers</p> <p>Annex V Free movement of Services item (i) veterinary services is one the professional services Uganda committed to liberalise by 2010</p>	<p>There is need to amend the interpretation section to include Rwanda and Burundi as partner states of EAC.</p> <p>Apart from that, the Act in our analysis does not restrict the free movement of veterinary practice or practitioners in Uganda, as it does not impose a nationality or residency requirement for the said practice.</p> <p>However consultations need to be carried out with the Veterinary Board to establish:-</p> <p>(a) whether the Board recognizes academic/professional qualifications of veterinarians from the other Partner States;</p> <p>(b) whether a mutual recognition agreement has been concluded between the regulatory boards in the EAC.</p>

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			Article 11 provides for the mutual recognition of academic and professional qualifications	NB: Further research will be undertaken to establish any contradictions in the regulations made under the Act.
	S. 5	Persons who hold a degree or diploma in veterinary science awarded by any university recognized by the board and complete internship for the prescribed period qualify for registration as veterinary surgeons		
	S. 11	Any veterinary officer or assistant veterinary officer in the service of the Government, of the EAC or other university college in a Partner State or such a retired person who is not entitled for registration may be issued a licence to practice veterinary surgery as a licensed veterinary practitioner.		

12. Review of the Medical and Dental Practitioners Act Cap 272 Against The EAC Common Market Protocol

No.	Section	Text/import of section that requires alignment	Relevant Protocol Provision infringed upon	Analysis/Recommendation
1.	18(1)	<p>Recognition of other qualifications</p> <p>The council may, taking into account the entrance requirements, the curriculum followed and, where possible, the professional standards exhibited by persons holding qualifications of the medical or dental school</p> <p>awarding the qualification under consideration, recognize qualifications other than qualifications awarded by a university established in Uganda by law, for purposes of registration under this Act.</p>	<p>Article 16 guarantees the free movement of services supplied by nationals of Partner States and service suppliers</p> <p>Annex II Free Movement of Workers, medical and dental are listed as one of the category of workers</p> <p>Annex V Free movement of Services item (h) medical and dental is one the professional services Uganda committed to liberalise by 2010</p> <p>Article 11 provides for the mutual recognition of academic and professional qualifications</p>	<p>The Act in analysis does not restrict the free movement of Medical and Dental practice or practitioners in Uganda, as it does not impose a nationality or residency requirement for the said practice.</p> <p>However consultations need to be carried out with the Medical and Dental Council to establish:-</p> <p>(c) whether the Board recognizes academic/professional qualifications of veterinarians from the other Partner States;</p> <p>(d) what criteria is used in recognition of professional /academic qualifications</p> <p>(e) whether a mutual recognition agreement has been concluded between the regulatory boards in the EAC.</p>

ANNEX V

LEGISLATION DRAFTED UNDER THE CONSULTANCY

DRAFT OF 16 MAY 2013

THE EAST AFRICAN COMMUNITY COMMON MARKET PROTOCOL (IMPLEMENTATION)
(MISCELLANEOUS AMENDMENTS) BILL, 2013

MEMORANDUM

1. Policies and Principles of the Bill

The Policy behind the Bill is the alignment of the laws of Uganda with the East African Common Market Protocol (the Protocol)

2. Provisions of the Bill

The Bill comprises of seven Parts.

PART I OF THE BILL- AMENDMENT OF THE UGANDA CITIZENSHIP AND IMMIGRATION CONTROL ACT

Part I of the Bill consisting of clauses 1-6 amends the Uganda Citizenship and Immigration Control Act, Cap 66.

Clause 1 replaces the word “entry permit” with “work permit” so as to align with the terminology used in the Protocol.

Clause 2 introduces new definitions used in the Bill. The definitions include “East African Citizen, Partner State, Protocol and worker.

Clause 3 amends section 53 so as to enable East African citizen who wish to be employed in Uganda to apply for work permits while they are already in Uganda. This is in accordance with Annex II of the Protocol.

Clause 4 of the Bill provides that a work permit issued to an East African citizen shall be for an initial period of two years in accordance with Annex II of the Protocol.

Clause 5 inserts new sections 54A to 54E. Section 54A provides for denial of work permits to East African citizens. Section 54B provides for cancellation of work permits held by East African citizens and the circumstances under which the work permit may be cancelled;

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Section 54C is to the effect that a spouse or child of a worker may be denied a work permit and that their work permit may be cancelled.

Sections 54D and 54E provide for expulsion and deportation of East African workers.

These provisions are lifted from Annex II of the Protocol.

PART II OF THE BILL- AMENDMENT OF INVESTMENT CODE ACT

Part II of the Bill amends the Investment Code Act, Cap 92, consisting of Clause 7 and Clause 8. Clause 7 defines an East African Citizen.

In order to recover the discrimination against non Uganda Nationals who are East AFRICAN citizens, Clause 8 amends section 9 of the Investment Code by defining a foreign investor to mean a person who is not an East African or a company in which more than 50 percent of the shares are held by a person who is not an East African citizen.

PART III OF THE BILL-AMENDMENT OF WORKERS COMPENSATION ACT.

Part III of the Bill consisting of Clause 9 amends the Workers Compensation Act, Cap 225.

Section 36 of the Workers Compensation Act is amended in subsection 117 to provide for all the EAC Partner States.

PART IV OF THE BILL- AMENDMENT OF ARCHITECTS REGISTRATION ACT

Part IV consisting of clauses 10-12 amends the Architects Registration Act Cap 269.

Clause 10 introduces the definition of an East African Citizen in the Act.

Clause 11 restricts temporary registration as architects in Uganda to only non-East African citizens.

Clause 12 of the Bill amends Section 14 of the Act which provides that an architect should not be issued with a practising certificate unless the architect is in possession of professional indemnity insurance. This is in accordance with paragraph 7.12.4 of the Mutual Recognition Agreement for the Profession of Architecture under the East African Community Common Market of July 2011.

PART V OF THE BILL- AMENDMENT OF ENGINEERS REGISTRATION ACT.

Part IV of the Bill consisting of Clauses 13 and 14 amends the Engineers Registration Act, Cap 271.

Clause I amending Section 1 introduces a definition of East Africa in the Engineers Registration Act. Section 21 of the Act is amended to restrict temporary registration as engineers in Uganda to only non-East African citizens.

PART VI OF THE BILL- AMENDMENT OF SURVEYORS ACT

Part VI of the Bill consisting of Clauses 15 and 16 amends the Surveyors Registration Act, Cap 275.

Clause I6 amending Section 1 introduces a definition of “East Africa” in the Surveyors Registration Act. Section 16 of the Act is amended to restrict temporary registration as surveyors in Uganda to only non-East African citizens.

PART VII-REPEAL OF EXTERNAL TRADE ACT

PART VIII repeals the External Trade Act, Cap 88. The Act is in contravention of the East African Community Customs Management Act, 2004.

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MINISTER OF STATE FOR EAST AFRICAN COMMUNITY AFFAIRS

DRAFT OF 28 MAY 2013

**THE EAST AFRICAN COMMUNITY COMMON MARKET PROTOCOL
(IMPLEMENTATION) (MISCELLANEOUS AMENDMENTS) BILL, 2013**

ARRANGEMENT OF CLAUSES

Clause

**PART I - AMENDMENT OF THE UGANDA CITIZENSHIP AND IMMIGRATION CONTROL
ACT**

1. Amendment of the Uganda Citizenship and Immigration Control Act.
2. Amendment of section 2 of the Uganda Citizenship and Immigration Control Act.
3. Amendment of section 53 of the Uganda Citizenship and Immigration Control Act.
4. Amendment of section 54 of the Uganda Citizenship and Immigration Control Act.
5. Insertion of sections 54A, 54B, 54C, 54D.
6. Amendment of section 76 of the Uganda Citizenship and Immigration Control Act.

PART II - AMENDMENT OF THE INVESTMENT CODE ACT.

7. Amendment of section 1 of the Investment Code Act.
8. Amendment of section 9 of the Investment Code Act.

PART III - AMENDMENT OF THE WORKERS COMPENSATION ACT

9. Amendment of section 36 of the Workers Compensation Act.

PART IV- AMENDMENT OF THE ARCHITECTS REGISTRATION ACT

10. Amendment of section 1 of the Architects Registration Act.
11. Amendment of section 11 of the Architects Registration Act.
12. Amendment of section 14 of the Architects Registration Act.

PART V- AMENDMENT OF THE ENGINEERS REGISTRATION ACT

13. Amendment of section 1 of the Engineers Registration Act.

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14. Amendment of section 21 of the Engineers Registration Act.

PART VI- AMENDMENT OF THE SURVEYORS REGISTRATION ACT

15. Amendment of section 1 of the Surveyors Registration Act.

16. Amendment of section 16 of the Surveyors Registration Act.

PART VII- REPEAL OF THE EXTERNAL TRADE ACT

17. Repeal of Cap 88.

A BILL For An Act

entitled

THE EAST AFRICAN COMMUNITY COMMON MARKET PROTOCOL (IMPLEMENTATION) (MISCELLANEOUS AMENDMENTS) BILL, 2013

An Act to provide for miscellaneous amendments to the Uganda Citizenship and Immigration Control Act, the Investment Code Act, the Workers Compensation Act, the Architects Registration Act, the Engineers Registration Act and the Surveyors Registration Act; and repeal of the External Trade Act in order to align identified sections in those laws with the East African Community Common Market Protocol provisions, notably provisions relating to the free movement of goods, the free movement of persons, the free movement of labour, the right of establishment, the right of residence, the free movement of services and the free movement of capital; and to provide other related matters.

WHEREAS The United Republic of Tanzania, the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda and the Republic of Uganda (the Partner States), are Parties to the Treaty for the Establishment of the East African Community (the Treaty);

AND WHEREAS by the provisions of paragraph 1 of Article 151 of the Treaty, the Partner States undertook to conclude such Protocols as may be necessary in each area of co-operation, which shall spell out the objectives and scope of, and institutional mechanisms for co-operation and integration;

AND WHEREAS:

(a) under the provisions of paragraph 2 of Article 2 and paragraph 2 of Article 5 of the Treaty, the Partner States undertook to, inter alia, establish among themselves a Common Market, as a transitional stage to, and an integral part of the Community;

(b) under the provisions of paragraph 2 of Article 76 of the Treaty, the Partner States have determined that the establishment of a Common Market shall be progressive;

(c) under the provisions of paragraph 4 of Article 76 of the Treaty, the Partner States agreed to conclude the Protocol on the establishment of a Common Market;

CONSIDERING that the objective of establishing a Common Market is the realisation of accelerated economic growth and development through the attainment of the free movement of goods, persons, labour, the rights of establishment and residence, the free movement of services and capital;

AND WHEREAS it is expedient that Uganda should amend her laws in order to align the laws with the provisions of the Protocol and fulfill her obligations under the Protocol; Now therefore,

BE IT ENACTED by Parliament as follows:

PART I- AMENDMENT OF THE UGANDA CITIZENSHIP AND IMMIGRATION CONTROL ACT,CAP 66

1. Amendment of the Uganda Citizenship and Immigration Control Act.

The Uganda Citizenship and Immigration Control Act is amended by substituting for the word “entry permit” wherever it occurs in the Act the word “work permit”.

2. Amendment of section 2 of the Uganda Citizenship and Immigration Control Act.

Section 2 of the Uganda Citizenship and Immigration Control Act is amended by inserting, in the appropriate alphabetical order, the following definitions-

- (a) “ East African citizen” means a national of Burundi, Kenya, Rwanda and Tanzania or a national of any other country granted membership to the East African Community under article 3 of the East African Community Treaty , recognised under the laws governing citizenship in the Partner State;
- (b) “Partner State” means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the United Republic of Tanzania, the Republic of Uganda, and any other country granted membership to the East African Community under article 3 of the East African Community Treaty;
- (c) “Protocol” means the Protocol of the East African Community Common Market made under the Treaty establishing the East African Community, and adopted by the East African Countries;
- (d) “worker” refers to any person listed in the schedule to this Act.”

3. Amendment of section 53 of the Uganda Citizenship and Immigration Control Act.

Section 53 of the Uganda Citizenship and Immigration Control Act is amended by inserting after subsection (4) the following-

“(5) Notwithstanding subsection (4), an East African citizen intending to take on employment under a work permit class G in the Fourth Schedule may apply for a work permit while in Uganda.”

4. Amendment of section 54 of the Uganda Citizenship and Immigration Control Act.

Section 54 of the Uganda Citizenship and Immigration Control Act is amended by inserting immediately after subsection (3) the following-

“(3) Notwithstanding subsection (3), a work permit shall, when issued to an East African citizen, be for an initial period of two years.”

5. Insertion of sections 54A, 54B, 54C, 54D,54E

“54A. Denial of work permit.

- (1) The Board may reject an application for a work permit by an East African citizen.
- (2) Where the Board rejects an application for a work permit, the Board shall in writing notify the applicant, stating the reasons for the rejection.
- (3) Where the Board rejects an application for a work permit or where an appeal is rejected, the Board shall give the applicant and his or her spouse, child or dependant, reasonable time to leave Uganda.

54B. Cancellation of work permit.

- (1) The Board shall cancel a work permit issued to a worker where the worker-
 - (a) is expelled or deported from Uganda;
 - (b) ceases to engage in or does not take up the employment for which the work permit was issued;
or
 - (c) obtained the work permit fraudulently.
- (2) Where a work permit is cancelled under sub section (1), the worker shall within thirty days of the cancellation regularise his or her status or leave Uganda.

54C. Employment of spouse and child.

- (1) The provisions of sections 54A and 54B shall apply to the spouse or child of a worker who is employed in the territory of the Partner State where the worker is employed.
- (2) A spouse or child of a worker who is not a citizen of a Partner State who seeks employment in Uganda shall apply for a work permit in accordance with the other provisions of the Act.

54D. Expulsion of worker.

- (1) The Board may expel a worker and the spouse, child and dependant of a worker from Uganda where the worker does not regularise his or her status or leave Uganda in accordance with section 54B (2).
- (2) Where the Board expels a worker, the Board shall give the worker and his or her spouse, child and dependant, reasonable time to leave Uganda.

54E. Deportation.

Where a worker who has been expelled does not leave within the time given by the Board, the Board shall deport the worker.

6. Amendment of section 76 of the Uganda Citizenship and Immigration Control Act.

Section 76 of the Uganda Citizenship and Immigration Control Act is amended by inserting immediately after subsection (1) the following-

“(1a) Notwithstanding subsection (1), an East African citizen may be a member of the executive committee of a trade union or a youth movement in Uganda.”

7. Insertion of a new Schedule.

The Uganda Citizenship and Immigration Control Act is amended by inserting immediately after the first Schedule the following-

“SCHEDULE 1A

PARTNER STATE	CATEGORY OF WORKERS				
	MAJOR GROUPS	SUB-GROUPS	MINOR GROUPS	OCCUPATION TITLES	IMPLEMENTATION DATE
UGANDA	ADMINISTRATOR AND MANAGER	Directors and Chief Executives	Managing Directors	Chairman, Company	2010
				Director-General, Corporation	
				Director, Managing/Company	
				Managing Director	
				Company Chief Executive	
			Executive Secretaries	Secretary, Executive/Company	
			University Vice Chancellor	University President	
				University President	
				University Rector	
				Vice Chancellor	
			Other School/Institutional Principals	Director, Educational Institution	
				Principal, Training College/	

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				Educational Institution	
			Company Secretaries	Secretary Company	
			University College Principals	Principal, University College	
		Specialized Department Managers	Finance Managers	Controller, Accounts	
				Controller, Finance Officer,	
				Manager, Accounting Manger, Budget	
				Manager, Finance	
				Manager, Finance and Administration	
				Purser, Ship	
			Administration Managers	Manager, Administration	
			Organization and Methods Managers	Manager, Organization and Methods	
			Sales and Marketing	Manager, Marketing Manager, Accounting Manager, Sales	
				Manager, Sales Promotion	
			Export – Import Managers	Manager, Export	
				Manager, Import	
				Manager, Export/Import	
			Public Relations Managers and Advertising Managers	Manager, Advertising	
			Supplies and	Manager, Public Relations Manager Distribution	
			Distribution Managers	Manager, Procurement	

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				Manager, Purchasing	
				Manager, Supplies	
				Manager, Warehouse	
			Information Technology Managers	Manager, Computing Services	
				Manager, Data Processing Operations	
				Manager, Data Processing System	
				Manager, Information System	
			Research, Planning and Development Managers	Manager, Planning and Development	
				Manager, Research	
				Manager, Research and Development	
			Production and Operations Managers,	Manager, Plant Operations	
				Manager, Quality Control	
				Manager, Workshop	
		Other Departmental Managers	Other Departmental Managers	Other Departmental Managers	
	PROFESSIO NALS	Science and Engineering	Civil Engineers,		2010
			Industrial and Production Engineers,		
			Mechanical Engineers		
			Chemical, Mining Engineers		
			Chemical, Mining Engineers		

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			Architects		
			Surveyors and Planners		
			Electronic Engineers.		
Health					
			Medical Doctors,		
			Nurses and Midwives, specialized Nurses,		
			Allied Health Professionals,		
			Veterinarians and Technicians		
Teaching Professionals					
			University and Higher Education Teachers,		
			Secondary, Vocational and Primary Teachers		
Business and Administration Professionals					
			Accountants, Financial and Investment Advisers, Financial Analysts.		
Computing Professionals					
			Systems Analysts, Software Developers, Web and Multimedia Developers, Applications Programmers.		
			Database Designers and Administrators , Systems Administrators , Computer		

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			Network Professionals		
		Legal Professionals	Lawyers, Judges		
		Writers and Creative or Performing Artists	Journalists, Translators, Interpreters,		
			Creative and Performing Artists, Musicians, Singers, Composers, Dancers, Choreographers, Film Stage Actors		
	CRAFT AND RELATED TRADE WORKERS	Air Traffic and ship Controllers and Technicians	Aircraft and Ship Controllers and Technicians	Aircraft and Ship Controllers and Technicians	2010
		Extraction and Building Trade Workers	Metal, Machinery and Related Trade Workers	Builder (Traditional House), Stonemason, Concrete Block Maker, Brick and	
				Tile Molder, Floor Layer, Carpenter, Plumber, Roofer, Glazier, Painter, Building Electrician	
		Metal Machinery and Related Trade Workers	Metal Molders, Welders, Structural Metal preparers and Related Trade Workers	Metal Molder, Core Maker, Welder, Sheet-Metal Maker, Sheet-Metal Maker, Tinsmith, Boiler Smith, Coach Builder, Panel Beater, Structural Metal	

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				Worker, Construction Steel Erector, Rigor Rope and Cable Splicer, Underwater Worker	
			Black Smiths, Tool- Maker and Related Trade Workers	Smith, Gunsmith, Metal Former, Tool and Die Maker, Metal Working Machine- Tool Setter, Lathe Setter, Milling Machine Setter, Drilling Machine Setter, Planning Machine, Grinding Machine Setter, Cutting Instrument Sharpener, Saw Doctor, Metal Spinner, Buffing and Polishing- Machine Operator Textile Card Grinder	
			Machinery Mechanics and Fitters	Motor Vehicles Mechanic, Diesel Engine Fitter, Motorcycle Mechanic, Aircraft Engine Fitter, Aircraft Engine Fitter, Airframe Fitter- Assembler, Marine Engine Fitter- Assembler, Turbine Fitter – Assembler, Metalworking Machine-Tool Fitter Assembler	
			Electrical Equipment Fitters and Installers	Electrical Fitter, Electrical Motor and Generator Fitter, Electrical Transformer Fitter, Electric Instrument Fitter, Maintenance Electrician, Vehicle Electrician, Electrical Repairman	

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			Electronics Equipment Fitters and Services	Electronics Fitter Assembler, Electronics Fitter (Radio – TV and Radar Equipment), Electronics Fitter (Medical Equipment), Computer and Related Equipment Fitter, Electronic Fitter (Industrial Equipment), Refrigeration and Air-Conditioning Fitter, Electronic Signaling System Fitter, Office Machine Mechanic,	
				Electronics Fitter Assembler, Electronics Fitter (Radio-TV and Radar Equipment), Electronics Fitter (Medical Equipment), Computer and Related Equipment Fitter, Electronic Fitter (Industrial Equipment), Refrigeration and Air-Conditioning Fitter, Electronic Signaling System Fitter, Office Machine Mechanic,	
				Electronic Products Inspector, Telephone and Telegraphic Equipment Installer, Telephone and Telegraphic Equipment Mechanic, Electronic Equipment Fitters and Services	
			Electrical Linesmen and Cable Jointers	Electrical Power Linesman, Electrical Traction Linesmen, Telephone and	

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				Telegraph Linesmen, Electrical Cable Jointer	
			Solar Equipment Fitters and Installers	Solar Equipment and Fitter and Installer	

PART II- AMENDMENT OF INVESTMENT CODE ACT

7. Amendment of section 1 of the Investment Code Act.

Section 1 of the Investment Code Act is amended by inserting immediately after the definition of “business enterprise” the following definition-

“ East African citizen” means a national of Burundi, Kenya, Rwanda, Tanzania and Uganda or a national of any other country granted membership to the East African Community under article 3 of the East African Community Treaty , recognised under the laws governing citizenship in the Partner State;”

8. Amendment of section 9 of the Investment Code Act.

Section 9 of the Investment Code Act is amended by substituting for subsection (1) the following-

“(1) In this Code, “foreign investor” means—

- (a) a person who is not an East African citizen;
- (b) a company, other than a company referred to in subsection (2), in which more than 50 percent of the shares are held by a person who is not an East African citizen;
- (c) a partnership in which the majority of partners are non East African citizens.”

PART II- AMENDMENT OF THE WORKERS COMPENSATION ACT

9. Amendment of section 36 of the Workers Compensation Act.

Section 36 of the Workers Compensation Act is amended by substituting for subsection (1) the following-

“(1) Compensation awarded under this Act to a worker or dependent who is resident and domiciled outside Uganda, Tanzania, Burundi, Kenya or Rwanda or any other country granted

membership to the East African Community under article 3 of the East African Community Treaty, shall be paid by the employer to the labour officer.”

PART III- AMENDMENT OF ARCHITECTS REGISTRATION ACT

10. Amendment of section 1 of the Architects Registration Act.

Section 1 of the Architects Registration Act is amended by inserting immediately after the definition of “chairperson” the following definition-

“ East African citizen” means a national of Burundi, Kenya, Rwanda, Tanzania and Uganda or a national of any other country granted membership to the East African Community under article 3 of the East African Community Treaty , recognised under the laws governing citizenship in the Partner State;

11. Amendment of section 11 of the Architects Registration Act.

Section 11 of the Architects Registration Act is amended by inserting after subsection (5) the following subsections-

“(6) An East African citizen shall not apply for registration under this section.”

(7) An East African citizen who seeks to work as an architect in Uganda shall obtain permanent registration under section 10 of the Act whether such person intends to practice as an architect temporarily or permanently in Uganda”.

12. Amendment of section 14 of the Architects Registration Act.

Section 11 of the Architects Registration Act is amended by inserting after subsection (3) the following subsection-

“(3a) An architect shall not be issued with a practising certificate unless he or she is in possession of professional indemnity insurance.”

PART V- AMENDMENT OF ENGINEERS REGISTRATION ACT

13. Amendment of section 1 of the Engineers Registration Act.

Section 1 of the Engineers Registration Act is amended by inserting immediately after the definition of “chairperson” the following definition-

“ East African citizen” means a national of Burundi, Kenya, Rwanda, Tanzania and Uganda or a national of any other country granted membership to the East African Community under article 3 of the East African Community Treaty , recognised under the laws governing citizenship in the Partner State;

14. Amendment of section 21 of the Engineers Registration Act.

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Section 21 of the Engineers Registration Act is amended by inserting after subsection (7) the following-

“(8) An East African citizen shall not apply for registration under this section.”

PART VI- AMENDMENT OF SURVEYORS REGISTRATION ACT

15. Amendment of section 1 of the Surveyors Registration Act.

Section 1 of the Surveyors Registration Act is amended by inserting immediately after the definition of “chairperson” the following definition-

“ East African citizen” means a national of Burundi, Kenya, Rwanda, Tanzania and Uganda or a national of any other country granted membership to the East African Community under article 3 of the East African Community Treaty , recognised under the laws governing citizenship in the Partner State;”

16. Amendment of section 16 of the Surveyors Registration Act.

Section 16 of the Surveyors Registration Act is amended by inserting after subsection (5) the following-

“(6) An East African citizen shall not apply for registration under this section.”

PART VII- REPEAL OF EXTERNAL TRADE ACT

17. Repeal of Cap 88.

The External Trade Act is repealed.

Cross References

1. Treaty Establishing the East African Community
2. East African Community Common Market Protocol
3. Uganda Citizenship and Immigration Control Act, Cap 66
4. Investment Code Act, Cap 92
5. Workers Compensation Act, Cap 225
6. Architects Registration Act, Cap 269
7. Engineers Registration Act, Cap 271
8. Surveyors Registration Act, Cap 275
9. External Trade Act Cap 88
10. The East African Community Customs Management Act, 2004

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DRAFT OF 28 MAY 2013

Statutory Instruments

2013 No.

The Uganda Citizenship and Immigration Control (Amendment) Regulations, 2013

ARRANGEMENT OF REGULATIONS

Regulation.

1. Citation
2. Amendment of regulation 2 of the principal Regulations
3. Insertion of new Part IIA and IIB consisting of regulations 14A to 14H
4. Amendment of regulation 15- execution of immigration bond
5. Amendment of regulation 21- notice on cessation of employment

DRAFT OF 28 MAY 2013

Statutory Instruments

2013 No.

Uganda Citizenship and Immigration Control (Amendment) Regulations, 2013

(Made under section 82 of the Uganda Citizenship and Immigration Control Act Cap 66)

IN EXERCISE of the powers conferred on the Minister by Section 82 of the Uganda Citizenship and Immigration Control Act, these Regulations are made this day of 2013.

1. Citation.

These Regulations may be cited as the Uganda Citizenship and Immigration Control (Amendment) Regulations, 2013, and shall be read as one with the Uganda Citizenship and Immigration Control Regulations, 2004, in these Regulations referred to as the “principal Regulations”.

2. Amendment of regulation 2 of principal Regulations.

Regulation 2 of the principal Regulations is amended-

(a) by substituting for the definition of “East African countries” the following-

“Partner State” means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the United Republic of Tanzania, the Republic of Uganda, and any other country granted membership to the East African Community under article 3 of the East African Community Treaty.”

(b) by inserting, in the appropriate alphabetical order the following definitions-

- (i) “East African citizen” means a national of Burundi, Kenya, Rwanda and Tanzania or a national of any other country granted membership to the East African Community under article 3 of the East African Community Treaty , recognised under the laws governing citizenship in the Partner State;
- (ii) “pass” means a pass to enter and remain temporarily in, or to re-enter the territory of Uganda issued by the Board, and includes any class or description of pass which may be so prescribed by the board;
- (iii) “Protocol” means the Protocol on the East African Community Common Market made under the Treaty establishing the East African Community, and adopted by the East African Countries;
- (iv) “self employed person” means a person engaged in an economic activity not under any contract of employment or supervision and who earns a living through this activity;
- (v) “spouse ” means a husband or a wife of a worker or a self employed person, in a legally recognised marriage in accordance with the laws of Uganda, who is a citizen;

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- (vi) “Treaty” means the Treaty for the Establishment of the East African Community;
- (vii) “worker” refers to any person listed in the Schedule 1A to the Act.”

3. Insertion of New Parts IIA and IIB consisting of regulations 14A to 14H.

The principal Regulations are amended by inserting after Part II the following new Parts-

“ PART IIA- PROCEDURE FOR ACQUIRING PASSES FOR EAST AFRICAN CITIZENS

14A. Scope of the application of Part.

This Part of the Regulations shall apply to the following categories of East African citizens who move to, stay in and exit Uganda-

- (a) visitors;
- (b) persons who seek to enter Uganda for the purpose of medical treatment;
- (c) persons in transit through the territory of Uganda;
- (d) persons who are admitted as students in training establishments in Uganda; and
- (e) persons entering Uganda for any other lawful purpose other than as a worker or as a self employed person.

14B. Entry, stay and exit.

- (1) An East African citizen of a Partner State who seeks to enter or exit Uganda shall do so at designated entry points and shall comply with the established immigration procedures.
- (2) An East African citizen of a Partner State who seeks to enter, transit or exit Uganda shall-
 - (a) present to the immigration officer a valid common standard travel document or a national identity card, where a Partner State has agreed to use machine readable and electronic national identity card as a travel document; and
 - (b) declare all the information required for entry or exit.
- (3) Upon fulfillment of the requirements in sub regulation (2), an East African citizen shall be issued with a pass which shall entitle the citizen to enter into Uganda and stay for a period of up to six months.
- (4) An East African citizen whose pass is due to expire and who wishes to stay in Uganda for a longer period shall, before the expiry of the pass, apply to the immigration officer for an extension of the pass.
- (5) The immigration officer shall renew the pass where the applicant provides justification for a longer period of stay.

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- (6) The duration of a pass issued under these Regulations shall not exceed the duration of the validity of the common standard travel document or national identity card, presented under sub regulation (2) (a).
- (7) An East African citizen transiting through Uganda shall be issued with a transit pass which shall entitle the citizen to transit within the period stated in the pass.
- (8) A pass issued under this regulation shall be issued without a fee.

14C. Stay of Students

- (1) An East African citizen who is admitted as a student in an approved training establishment in Uganda shall, within thirty days of entry, apply for a student's pass.
- (2) An East African citizen applying for a student's pass shall furnish the following information-
 - (a) a valid common standard travel document or a national identity card, in accordance with regulation 14B (2)
 - (b) a confirmation of admission in an approved training establishment in Uganda;
 - (c) a confirmation of sponsorship for the training to be pursued; and
 - (d) in the case of a child, the identification of the guardian to be responsible for the child while the child is in Uganda.
- (3) The immigration officer shall issue a student's pass to an applicant who satisfies the requirements in this regulation.
- (4) A student's pass shall be issued, subject to terms and conditions, for a period not exceeding one year and shall be renewable, annually, for the duration of the study.
- (5) An East African citizen who enters Uganda for the purpose of undergoing training for a period not exceeding two months shall be exempted from applying for a student's pass.
- (6) An immigration officer may cancel a student's pass if the East African citizen to whom the pass was issued fails to enter and undergo training in the establishment for which the student's pass was issued, or having entered the training establishment, ceases to be a student in that establishment.
- (7) A person in charge of a training establishment shall ensure that all the students from the other Partner States undergoing training in the establishment comply with this regulation.
- (8) A student's pass issued under this regulation shall be issued without a fee.

14D. Limitations

- (1) An East African citizen who is issued with a pass under these Regulations, shall not undertake any employment in Uganda except where the citizen is a student on internship or industrial training.

- (2) An immigration officer may cancel a pass issued under these Regulations, where the holder of the pass engages in an activity other than the activity specified in the pass.
- (3) Where an East African citizen issued a pass under these Regulations decides to change his or her status to a worker or a self employed person, he or she shall apply to the Board for recognition as a worker or a self employed person, in accordance with Part IIB of these Regulations.

PART IIB- PROCEDURE FOR ACQUIRING WORK PERMITS FOR EAST AFRICAN CITIZENS

14E. Scope of application of Part.

This Part of the Regulations shall apply to the following categories of citizens who move to, stay in, and exit Uganda-

- (a) workers;
- (b) a spouse of a worker; and
- (c) a child of a worker.

14F. Entry, stay and exit of worker.

- (1) An East African citizen of a Partner State who seeks to enter or exit Uganda as a worker shall do so at a designated entry or exit point and shall comply with the established immigration procedures.
- (2) An East African citizen who seeks to enter Uganda as a worker shall-
 - (a) present to the immigration officer a valid common standard travel document or a national identity card, where a Partner State has agreed to use machine readable and electronic national identity card as a travel document;
 - (b) declare all the information required for entry or exit;
 - (c) present a contract of employment.
- (3) Sub regulation (2) (c) shall not apply to the spouse and child of a worker.
- (4) Upon fulfillment of the requirements in sub regulation (2), an East African Citizen shall be issued with a pass which shall entitle the citizen to enter into Uganda and stay for a period of up to six months for the purposes of completing the formalities of obtaining a work permit.
- (5) The spouse or child of a worker shall be issued with a pass for a period not exceeding six months upon fulfillment of the requirements of sub regulation (2) (a) and (b) pending completion of formalities to obtain a dependant pass.

- (6) A pass issued under this regulation shall be issued without a fee.

14G. Procedure for acquiring work permit.

- (1) A worker who has a contract of employment for a period of more than ninety days in Uganda shall apply to the Board for a work permit within fifteen working days from the date of entry into Uganda.
- (2) The application for a work permit shall be supported by a valid common standard or a national identity card where that Partner State has agreed to use the national identity card as a travel document, the contract of employment and any other document the Board may require.
- (3) Notwithstanding regulations 14 F (2) (c) and 14G (1), a citizen of a Partner State who, while in Uganda, concludes a contract of employment shall apply to the Board for a work permit within fifteen working days from the date of concluding the contract.
- (4) Where a worker secures employment for a period of not more than ninety days, the worker shall apply for, and be issued with a special pass.
- (5) The special pass shall entitle the holder to enter, remain and work in Uganda for the period stated in the pass.
- (6) Where a worker secures employment for a period of more than ninety days, the worker may, before being issued with a work permit, apply for, and be issued with a special pass.
- (7) The Board shall, within thirty days of application for a work permit, issue a work permit for an initial period of up to two years which may be renewed upon application.
- (8) The duration of the work permit issued under these Regulations shall not exceed the duration of the validity of the common standard travel document presented under regulation 14F (2).
- (9) An employer shall furnish the Board with an annual return of the workers from another Partner State in the employer's establishment.
- (10) Where the holder of a work permit ceases to engage in the employment in respect of which the work permit was issued, the employer specified in the work permit shall, within fifteen days of the cessation of the employment in writing, inform the Board.
- (11) Where a worker changes employment in respect of which the work permit was issued, the worker shall within fifteen days of the change of employment, in writing, notify the Board and shall apply to the Board for another work permit.
- (12) A worker who ceases to engage in the employment in respect of which the work permit was issued shall within fifteen days of the cessation of the employment, in writing, notify the Board and apply for a pass or leave Uganda".

4. Amendment of regulation 15.

Regulation 15 of the principal Regulations is amended by inserting after subsection (5) the following new subsection-

“(5) This regulation shall not apply to East African citizens.”

5. Amendment of regulation 21-notice on cessation of employment

Regulation 21 of these Regulations is amended by inserting immediately after sub regulation (1) the following-

“(1a) Where the holder of an entry permit class G is an East African Citizen and he or she ceases to engage in the employment in respect of which the entry permit was issued, the employer specified in the entry permit shall, within fifteen days from the date on which the holder ceases to engage in the employment, inform the immigration authority of the cessation of that employment”

.....
Minister of Internal Affairs

DRAFT OF 28 MAY 2013

Statutory Instruments

2013 No.

The Uganda Citizenship and Immigration Control (Fees) (Amendment) Regulations, 2013

(Made under section 82 of the Uganda Citizenship and Immigration Control Act Cap 66)

IN EXERCISE of the powers conferred on the Minister by section 82 of the Uganda Citizenship and Immigration Control Act, these Regulations are made this day of 2013.

1. Citation.

These Regulations may be cited as the Uganda Citizenship and Immigration Control (Fees) (Amendment) Regulations, 2013, and shall be read as one with the Uganda Citizenship and Immigration Control (Fees) Regulations, 2004, in these Regulations referred to as the “principal Regulations”.

2. Amendment of regulation 3 of principal Regulations.

Regulation 3 of the principal Regulations is amended-

(a) renumbering the current regulation as (1);

(b) inserting a new sub regulation (2) as follows-

“(2) Notwithstanding sub regulation (1) an East African citizen shall not pay visa fees and fees in respect of passes, except a special pass.”

.....
Minister of Internal Affairs

DRAFT OF 28 MAY 2013

Statutory Instruments

2013 No.

The Companies (Fees) (Amendment) Rules, 2013

(Made under section 387 of the Companies Act, cap 110)

IN EXERCISE of the powers conferred on the Minister by section 387 of the Companies Act, these Rules are made this day of 2013.

1. Citation.

These Rules may be cited as the Companies (Fees) (Amendment) Rules, 2013, and shall be read as one with the Companies Fees Rules, 2005, in these Rules referred to as the “principal Rules”.

2. Amendment of rule 4 of Principal Rules.

Rule 4 of the principal Rules is amended by-

- (c) renumbering the current rule as (1);
- (d) inserting a new rule (2) as follows-

“(2) Notwithstanding sub-rule (1), a company incorporated in the Partner States of Burundi, Kenya, Tanzania or Rwanda or any other Partner State granted membership to the East African Community shall pay the fees specified in Heads A and B of the Second Schedule as though it is a company incorporated in Uganda.”

.....
Minister of Justice and Constitutional Affairs

DRAFT OF 28 MAY 2013

Statutory Instruments

2013 No.

The Architects Registration (Prescription of Forms and Fees) (Amendment) Regulations, 2013

(Made under section 35 of the Architects registration Act, Cap 269)

IN EXERCISE of the powers conferred on the Minister by section 35 of the Architects Registration Act, these Regulations are made this day of 2013.

1. Citation.

These Regulations may be cited as the Architects Registration (Prescription of Forms and Fees) (Amendment) Regulations, 2013, and shall be read as one with the Architects Registration (Prescription of Forms and Fees) Regulations, S.I 269-1, in these Regulations referred to as the “principal Regulations”.

2. Amendment of regulation 2 of the principal Regulations.

The principal Regulations are amended by substituting for regulation 2 the following-

“2. Interpretation.

(1) In these Regulations, unless the context otherwise requires-

“ “Act” means the Architects Registration Act, Cap 269;

“East African citizen” means a national of Burundi, Kenya, Rwanda, Tanzania and Uganda or a national of any other country granted membership to the East African Community under article 3

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of the East African Community Treaty , recognised under the laws governing citizenship in the Partner State;

“Partner State” means the Republic of Burundi, Republic of Kenya, Republic of Rwanda, the Republic of Tanzania, the Republic of Uganda or any other country granted membership to the East African Community.”

(2) Any other term defined in the Act shall have the meaning assigned to it in the Act.”

3. Amendment of Second Schedule to principal Regulations.

The Second Schedule to the principal Rules is amended by substituting for item 3 the following -

- | | |
|------------------------------|-----------|
| “(a) East African citizen | 50,000 |
| (b) Non-East African citizen | 500,000.” |

.....
Minister of Lands, Housing and Urban Development

ANNEX VI

DRAFT CABINET MEMORANDUM

SECRET

CABINET MEMORANDUM

SUBJECT: THE EAST AFRICAN COMMUNITY COMMON MARKET PROTOCOL (IMPLEMENTATION) (MISCELLANEOUS AMENDMENTS) BILL 2013

(Amending the Investment Code Act Cap 92, the Uganda Citizenship and Immigration Control Act Cap 66, the Workers Compensation Act Cap 225, the Architects Registration Act Cap 269, the Engineers Registration Act Cap 271, the Surveyors Registration Act Cap 275, the External Trade Act Cap 88)

1.0 INTRODUCTION AND BACKGROUND

Colleagues will recall that Uganda is a founding member of the East African Community and a signatory to the East African Community Common Market Protocol (EAC CMP). The establishment of the Common Market is in line with Article 76 of the EAC Treaty. The implementation of the Common Market Protocol (CMP) was launched on 1st July 2010.

The objectives of the Common Market are specified in Article 4 of the CMP, with the overall objective being to ‘widen and deepen cooperation among the Partner States in the economic and social fields for the benefit of the Partner States.

The Ministry of East African Affairs (MEACA) is charged with coordinating the policy formulation, negotiation and implementation process with respect to the East African Community agenda in Uganda. The Protocol among others provides for various rights and freedoms namely; free movement of goods; free movement of persons; free movement of labour, free movement of services, free movement of capital, right of residence and, right of establishment.

The EAC Sectoral Council of Ministers Responsible for EAC Affairs and Planning (SCEAP) constituted a Regional Working Group on the CMP comprising of four members from each Partner State. The Working Group reviewed the framework for monitoring the implementation of the CMP. It tasked Partner States to report progress on CMP implementation basing on the monitoring framework. The Working Group reported that implementation of the CMP across all Partner States was not impressive; in particular, harmonization of Partner State laws to comply with the CMP was slow across the Partner States.

Colleagues as you recall, the SCEAP at its 15th meeting held in Kampala on 27 January 2012 directed the establishment of National Implementation Committees (NIC) in all the five EAC Partner States. In addition, the SCEAP at its 16th meeting held in Arusha directed the Partner States to accomplish the harmonization of their laws with the CMP by 30th June 2013.

2.0 PROCESS FOR ALIGNMENT OF NATIONAL LAWS WITH THE COMMON MARKET PROTOCOL

In order to expedite the implementation of the Common Market Protocol, the Uganda Law Reform Commission together with the Ministry of East African Community Affairs and in the consultation with the various Ministries, Departments and Agencies, identified the priority laws that require immediate alignment/ harmonization to comply with the directive of the Sectoral Council of Ministers responsible for East African affairs and Planning.

In light of the above, Uganda Law Reform Commission with funding from TradeMark East Africa, an agency which is providing support for increased regional trade and integration to EAC Partner States hired a consultant to fast track the alignment of laws process.

The Consultant undertook a consultative process with the different Ministries, Departments and Agencies with respect to the laws that have been proposed for amendment by this Bill.

3.0 OBJECTIVE OF THE MEMORANDUM

The objective of this Memorandum is to seek the approval of Cabinet for drafting of the East African Community Common Market Protocol (Implementation) (Miscellaneous Amendments) Bill 2013 that seeks to amend the Investment Code Act Cap 92, the Uganda Citizenship and Immigration Control Act Cap 66, the Workers Compensation Act Cap 225, the Architects Registration Act Cap 269, the Engineers Registration Act Cap 271, the Surveyors Registration Act Cap 275, the External Trade Act Cap 88, so as to align the laws with the East African Community Common Market Protocol.

4.0 PRINCIPLES FOR THE PROPOSED LEGISLATION

The Bill seeks to amend the legislation specified under this part as follows;

- (a) Investment Code Act, Cap 92, to amend the definition of foreign investor. The import of the amendment is to provide that an East African who invests in Uganda should not be treated as a foreign investor since under the Common Market Protocol, there should not be discrimination against nationals of other Partner States.
- (b) Uganda Citizenship and Immigration Control Act, Cap 66 to amend certain terminologies, to introduce new definitions in the Act i.e. “East African Citizen”, “Partner State”, “Protocol” and “worker”, provide that a work permit issued to an East African citizen shall be for initial period of two years in accordance with Annex II of the Common Market Protocol and to domesticate provisions of Annex I and Annex II of the Common Market Protocol.
- (c) Workers Compensation Act, Cap 225, the purpose of the amendment is to include “Burundi” and “Rwanda” in section 36 of the Act.
- (d) Architects Registration Act, Cap 269, the amendment will introduce a new definition of “East African citizen”; it exempts an East African architects from applying for temporary registration as architects, the amendment also provides that an East African architect who wishes to practice architecture in Uganda shall not be issued with a practising certificate unless the architect is in

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possession of professional indemnity insurance, this provision gives effect to the commitment made to that effect in the Mutual Recognition Agreement for architects.

- (e) Engineers Registration Act, Cap 271, the amendment will introduce a new definition of “East African citizen”; it exempts an East African engineer from applying for temporary registration as an engineer in Uganda.
- (f) Surveyors Registration Act, Cap 275, the amendment will introduce a new definition of “East African citizen”; it exempts an East African surveyor from applying for temporary registration as a surveyor in Uganda.
- (g) To repeal the External Trade Act, Cap 88 as it conflicts with the East African Community Customs management Act, 2004

5.0 CONCLUSION

At the next convenient meeting of Cabinet, I shall request Cabinet:-

- a) To consider and approve the principles for the proposed East African Community Common Market Protocol (Implementation) (Miscellaneous Amendments) Bill in Paragraph 4 of this Memorandum,
- b) To direct the Attorney General to cause to be drafted the East African Community Common Market Protocol (Implementation) (Miscellaneous Amendments) Bill to give effect to the principles outlined in Paragraph 4 of this Memorandum.

The Minister of State for East African Community Affairs

P. O. Box 7343

Kampala -Uganda

28 May 2013