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MU RWANDA KU WA 21 WERURWE 2018

LAW N° 24/2018 OF 27/05/2018
APPROVING RATIFICATION OF THE
AGREEMENT ESTABLISHING THE
AFRICAN CONTINENTAL FREE TRADE
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PROTOCOL ON TRADE IN GOODS,
PROTOCOL ON TRADE IN SERVICES,
AND PROTOCOL ON RULES AND
PROCEDURES FOR SETTLEMENT OF
DISPUTES SIGNED IN KIGALI, RWANDA
ON 21 MARCH 2018

LOI N° 24/2018 DU 27/05/2018
APPROUVANT LA RATIFICATION DE
L'ACCORD PORTANT CRÉATION DE LA
ZONE DE LIBRE ÉCHANGE SUR LE
CONTINENT AFRICAÏN, LE PROTOCOLE
SUR LE COMMERCE DES
MARCHANDISES, LE PROTOCOLE SUR
LE COMMERCE DES SERVICES AINSI
QUE LE PROTOCOLE SUR LES RÈGLES
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Twebwe, KAGAME Paul,
Perezida wa Repubulika;

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

INTEKO ISHINGA AMATEGEKO:

Umutwe w'Abadepite, mu nama yawo yo kuwa 24 Mata 2018;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 64, iya 69, iya

LAW N° 24/2018 OF 27/05/2018 APPROVING RATIFICATION OF THE AGREEMENT ESTABLISHING THE AFRICAN CONTINENTAL FREE TRADE AREA TOGETHER WITH THE PROTOCOL ON TRADE IN GOODS, PROTOCOL ON TRADE IN SERVICES, AND PROTOCOL ON RULES AND PROCEDURES FOR SETTLEMENT OF DISPUTES SIGNED IN KIGALI, RWANDA ON 21 MARCH 2018

We, KAGAME Paul,
President of the Republic;

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

THE PARLIAMENT:

The Chamber of Deputies, in its session of 24 April 2018;

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

LOI N° 24/2018 DU 27/05/2018 APPROUVANT LA RATIFICATION DE L'ACCORD PORTANT CRÉATION DE LA ZONE DE LIBRE ÉCHANGE SUR LE CONTINENT AFRICAÏN, LE PROTOCOLE SUR LE COMMERCE DES MARCHANDISES, LE PROTOCOLE SUR LE COMMERCE DES SERVICES AINSI QUE LE PROTOCOLE SUR LES RÈGLES ET PROCÉDURES DE RÈGLEMENT DES DIFFÉRENDS SIGNÉ À KIGALI, AU RWANDA LE 21 MARS 2018

Nous, KAGAME Paul,
Président de la République;

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

LE PARLEMENT:

La Chambre des Députés, en sa séance du 24 avril 2018;

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

70, iya 88, iya 90, iya 91, iya 106, iya 120, iya 167, iya 168 n'ya 176;

Imaze gusuzuma Amasezerano ashiraho Agace k'ubucuruzi n'ubuhahirane butagira umupaka muri Afurika hamwe n'Amasezerano ku bucuruzi bw'ibicuruzwa, Amasezerano ku bucuruzi bwa serivisi, Amasezerano ku mategeko n'uburyo bwo gukemura amakimbirane yashyizweho umukono i Kigali mu Rwanda ku wa 21 Werurwe 2018;

After consideration of the Agreement establishing the African Continental Free Trade Area together with the Protocol on Trade in goods, Protocol on trade in services, and Protocol on rules and procedures for settlement of disputes signed in Kigali, Rwanda on 21 March 2018;

Après examen de l'Accord portant création de la Zone de Libre Échange sur le Continent Africain, le Protocole sur le commerce des marchandises, le Protocole sur le commerce des services ainsi que le Protocole sur les règles et procédures de règlement des différends signé à Kigali, au Rwanda le 21 mars 2018;

YEMEJE:

ADOPTS:

ADOpte:

Ingingo ya mbere: Kwemera kwemeza burundu

Article One: Approval for Ratification

Article Premier: Approbation pour ratification

Amasezerano ashiraho Agace k'ubucuruzi n'ubuhahirane butagira umupaka muri Afurika hamwe n'Amasezerano ku bucuruzi bw'ibicuruzwa, Amasezerano ku bucuruzi bwa serivisi, Amasezerano ku mategeko n'uburyo bwo gukemura amakimbirane yashyizweho umukono i Kigali mu Rwanda kuwa 21 Werurwe 2018, ari ku mugereka, yemerewe kwemezwa burundu.

The Agreement establishing the African Continental Free Trade Area together with the Protocol on trade in goods, Protocol on trade in services, and protocol on rules and procedures for settlement of disputes signed in Kigali, Rwanda on 21 March 2018, in appendix, is approved for ratification.

L'Accord portant création de la Zone de Libre Échange sur le Continent Africain, le Protocole sur le commerce des marchandises, le Protocole sur le commerce des services et le Protocole sur les règles et procédures de règlement des différends signé à Kigali, au Rwanda le 21 mars 2018, en annexe, est approuvé pour ratification.

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

Article 2: Drafting, consideration and adoption of this Law

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

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

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

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

Ingingo ya 3: Igihe iri tegeko ritangira gukurikizwa

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

Kigali, ku wa 27/05/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

**Bibonywe kandi bishyizweho Ikirango
cya Repubulika:**

(sé)
BUSINGYE Johnston
Minisitiri w'Ubutabera/IntumwaNkuruya
Leta

Article 3: Commencement

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

Kigali, on 27/05/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

**Seen and sealed with the Seal of the
Republic:**

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Article 3: Entrée en vigueur

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

Kigali, le 27/05/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

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

ITEGEKO N° 25/2018 RYO KU WA
28/05/2018 RYEMERA KWEMEZA
BURUNDU AMASEZERANO
Y'INYONGERA KU MASEZERANO
ASHYIRAHU UMURYANGO NYAFURIKA
W'UBUKUNGU YEREKEYE URUJYA
N'URUZA RW'ABANTU,
UBURENGANZIRA BWO KUBA NO
GUTURA MU BIHUGU BIGIZE
UMURYANGO YASHYIRIWEHO
UMUKONO I KIGALI MU RWANDA KU
WA 21 WERURWE 2018

LAW N° 25/2018 OF 28/05/2018
APPROVING THE RATIFICATION OF
THE PROTOCOL TO THE TREATY
ESTABLISHING THE AFRICAN
ECONOMIC COMMUNITY RELATING TO
FREE MOVEMENT OF PERSONS, RIGHT
OF RESIDENCE AND RIGHT OF
ESTABLISHMENT SIGNED IN KIGALI,
RWANDA ON 21 MARCH 2018

LOI N° 25/2018 DU 28/05/2018
APPROUVANT LA RATIFICATION DU
PROTOCOLE AU TRAITÉ INSTITUANT
LA COMMUNAUTÉ ÉCONOMIQUE
AFRICAINNE CONCERNANT LA LIBRE
CIRCULATION DES PERSONNES, LE
DROIT DE SÉJOUR ET LE DROIT
D'ÉTABLISSEMENT, SIGNÉ À KIGALI,
AU RWANDA LE 21 MARS 2018

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

Article 3: Entrée en vigueur

ITEGEKO N° 25/2018 RYO KU WA 28/05/2018 RYEMERA KWEMEZA BURUNDU AMASEZERANO Y'INYONGERA KU MASEZERANO ASHYIRAHU UMURYANGO NYAFURIKA W'UBUKUNGU YEREKEYE URUJYA N'URUZA RW'ABANTU, UBURENGANZIRA BWO KUBA NO GUTURA YASHYIRIWEHO UMUKONO I KIGALI MU RWANDA KUWA 21 WERURWE 2018

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

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

INTEKO ISHINGA AMATEGEKO:

Umutwe w'Abadepite, mu nama yawo yo kuwa 24 Mata 2018;

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

LAW N° 25/2018 OF 28/05/2018 APPROVING THE RATIFICATION OF THE PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND RIGHT OF ESTABLISHMENT, SIGNED IN KIGALI, RWANDA ON 21 MARCH 2018

We, KAGAME Paul,
President of the Republic;

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

THE PARLIAMENT:

The Chamber of Deputies, in its session of 24 April 2018;

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

LOI N° 25/2018 DU 28/05/2018 APPROUVANT LA RATIFICATION DU PROTOCOLE AU TRAITÉ INSTITUANT LA COMMUNAUTÉ ÉCONOMIQUE AFRICAINE CONCERNANT LA LIBRE CIRCULATION DES PERSONNES, LE DROIT DE SÉJOUR ET LE DROIT D'ÉTABLISSEMENT, SIGNÉ À KIGALI, RWANDA LE 21 MARS 2018

Nous, KAGAME Paul,
Président de la République;

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

LE PARLEMENT:

La Chambre des Députés, en sa séance du 24 avril 2018;

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

Imaze gusuzuma Amasezerano y'inyongera ku Masezerano ashiraho Umuryango Nyafurika w'Ubukungu yerekeye urujya n'uruza rw'abantu, uburenganzira bwo kuba no gutura yashyiriweho umukono i Kigali mu Rwanda kuwa 21 Werurwe 2018;

After consideration of the Protocol to the Treaty Establishing the African Economic Community relating to free movement of persons, right of residence and right of establishment, signed in Kigali, Rwanda on 21 March 2018;

Après examen du Protocole au Traité instituant la Communauté Économique Africaine concernant la libre circulation des personnes, le droit de séjour et le droit d'établissement, signé à Kigali, au Rwanda le 21 mars 2018;

YEMEJE:

ADOPTS:

ADOpte:

Ingingo ya mbere: Kwemera kwemeza burundu

Article One: Approval for ratification

Article premier: Approbation pour ratification

Amasezerano y'inyongera ku Masezerano ashiraho Umuryango Nyafurika w'Ubukungu yerekeye urujya n'uruza rw'abantu, uburenganzira bwo kuba no gutura yashyiriweho umukono i Kigali mu Rwanda kuwa 21 Werurwe 2018, ari ku mugereka, yemerewe kwemezwa burundu.

The Protocol to the Treaty Establishing the African Economic Community relating to free movement of persons, right of residence and right of establishment, signed in Kigali, Rwanda on 21 March 2018, in appendix, is approved for ratification.

Le Protocole au Traité instituant la Communauté Économique Africaine concernant la libre circulation des personnes, le droit de séjour et le droit d'établissement, signé à Kigali, au Rwanda le 21 mars 2018, en annexe, est approuvé pour ratification.

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

Article 2: Drafting, consideration and adoption of this Law

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

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

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

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

Ingingo ya 3: Igihe iri tegeko ritangira gukurikizwa

Article 3: Commencement

Article 3: Entrée en vigueur

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

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

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

Official Gazette n° 24 of 11/06/2018

Kigali, ku wa 28/05/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

**Bibonywe kandi bishyizweho Ikirango
cya Repubulika:**

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

Kigali, on 28/05/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

**Seen and sealed with the Seal of the
Republic:**

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Kigali, le 28/05/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

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

ITEKA RYA PEREZIDA N° 091/01 RYO KU
WA 27/05/2018 RYEMEZA BURUNDU
AMASEZERANO ASHYIRAHU AGACE
K'UBUCURUZI N'UBUHAHIRANE
BUTAGIRA UMUPAKA MURI AFURIKA
HAMWE N'AMASEZERANO
Y'INYONGERA KU BUCURUZI
BW'IBICURUZA, AMASEZERANO
Y'INYONGERA KU BUCURUZI BWA
SERIVISI, AMASEZERANO
Y'INYONGERA KU MATEGEKO
N'UBURYO BWO GUKEMURA
AMAKIMBIRANE, YASHYIRIWEHO
UMUKONO I KIGALI, MU RWANDA, KU
WA 21 WERURWE 2018

PRESIDENTIAL ORDER N° 091/01 OF
27/05/2018 RATIFYING THE AGREEMENT
ESTABLISHING THE AFRICAN
CONTINENTAL FREE TRADE AREA
TOGETHER WITH THE PROTOCOL ON
TRADE IN GOODS, PROTOCOL ON
TRADE IN SERVICES, AND PROTOCOL
ON RULES AND PROCEDURES FOR
SETTLEMENT OF DISPUTES SIGNED AT
KIGALI, IN RWANDA, ON 21 MARCH 2018

ARRETE PRESIDENTIEL N° 091/01 DU
27/05/2018 PORTANT RATIFICATION DE
L'ACCORD PORTANT CREATION DE LA
ZONE DE LIBRE ECHANGE SUR LE
CONTINENT AFRICAIN AVEC LE
PROTOCOLE SUR LE COMMERCE DES
MARCHANDISES, LE PROTOCOLE SUR
LE COMMERCE DES SERVICES AINSI
QUE LE PROTOCOLE SUR LES REGLES
ET PROCEDURES DE REGLEMENT DES
DIFFERENDS, SIGNES A KIGALI, AU
RWANDA, LE 21 MARS 2018

ISHAKIRO

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PRESIDENTIAL ORDER N° 091/01 OF 27/05/2018 RATIFYING THE AGREEMENT ESTABLISHING THE AFRICAN CONTINENTAL FREE TRADE AREA TOGETHER WITH THE PROTOCOL ON TRADE IN GOODS, PROTOCOL ON TRADE IN SERVICES, AND PROTOCOL ON RULES AND PROCEDURES FOR SETTLEMENT OF DISPUTES SIGNED AT KIGALI, IN RWANDA, ON 21 MARCH 2018

ARRETE PRESIDENTIEL N° 091/01 DU 27/05/2018 PORTANT RATIFICATION DE L'ACCORD PORTANT CREATION DE LA ZONE DE LIBRE ECHANGE SUR LE CONTINENT AFRICAIN AVEC LE PROTOCOLE SUR LE COMMERCE DES MARCHANDISES, LE PROTOCOLE SUR LE COMMERCE DES SERVICES AINSI QUE LE PROTOCOLE SUR LES REGLES ET PROCEDURES DE REGLEMENT DES DIFFERENDS, SIGNES A KIGALI, AU RWANDA, LE 21 MARS 2018

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 122, iya 167, iya 168 n'ya 176;

Dushingiye ku Itegeko n° 24/2018 ryo ku wa 27/05/2018. ryemera kwemeza burundu Amasezerano ashyiraho Agace k'ubucuruzi n'ubuhahirane butagira umupaka muri Afurika hamwe n'Amasezerano y'inyongera ku bucuruzi bw'ibicuruzwa, Amasezerano y'inyongera ku bucuruzi bwa serivisi, Amasezerano y'inyongera ku mategeko n'uburyo bwo gukemura amakimbirane yashyiriweho umukono i Kigali, mu Rwanda, ku wa 21 Werurwe 2018;

We, KAGAME Paul,
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 122, 167, 168 and 176;

Pursuant to Law n° 24/2018 of 27/05/2018. approving the Ratification of the Agreement Establishing the African Continental Free Trade Area together with the Protocol on Trade in Goods, Protocol on Trade in Services, and Protocol on Rules and Procedures For Settlement of Disputes, signed at Kigali, Rwanda, on 21 March 2018;

Nous, KAGAME Paul,
Président de la République;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 122, 167, 168 et 176;

Vu la Loi n° 24/2018 du 27/05/2018. approuvant la ratification de l'Accord portant création de la Zone de Libre Echange sur le Continent Africain avec le Protocole sur le commerce des marchandises, Protocole sur le commerce des services ainsi que le Protocole sur les règles et procédures de règlement des différends, signés à Kigali, au Rwanda, le 21 mars 2018 ;

Tumaze kubona Amasezerano ashyiraho agace k'ubucuruzi n'ubuhahirane butagira umupaka muri Afurika hamwe n'Amasezerano y'inyongera ku bucuruzi bw'ibicuruzwa, Amasezerano y'inyongera ku bucuruzi bwa serivisi, Amasezerano y'inyongera ku mategeko n'uburyo bwo gukemura amakimbirane, yashyiriweho umukono i Kigali, mu Rwanda, ku wa 21 werurwe 2018;

Bisabwe na Minisitiri w'Ubucuruzi n'Inganda;

TWATEGETSE KANDI DUTEGETSE:

Ingingo ya mbere: Kwemeza burundu

Amasezerano ashyiraho Agace k'ubucuruzi n'ubuhahirane butagira umupaka muri Afurika, hamwe n'Amasezerano y'inyongera ku bucuruzi bw'ibicuruzwa, Amasezerano y'inyongera ku bucuruzi bwa serivisi, Amasezerano y'inyongera ku mategeko n'uburyo bwo gukemura amakimbirane, yashyiriweho umukono i Kigali, mu Rwanda, ku wa 21 Werurwe 2018, ari ku mugereka w'iri teka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Minisitiri w'Intebe, Minisitiri w'Ubucuruzi n'Inganda, Minisitiri w'Ububanyi n'Amahanga, Ubutwererane n'Umuryango w'Ibihugu bya Afurika y'Iburasirazuba, na Minisitiri w'Imari

Considering the Agreement Establishing the African Continental Free Trade Area together with the Protocol on Trade in Goods, Protocol on Trade in Services, and Protocol on Rules and Procedures for Settlement of Disputes, signed at Kigali, in Rwanda, on 21 March 2018;

On Proposal by the Minister of Trade and Industry;

HAVE ORDERED AND ORDER:

Article One: Ratification

The Agreement Establishing the African Continental Free Trade Area, together with the Protocol on Trade in Goods, Protocol on Trade in Services, and Protocol on Rules and Procedures For Settlement of Disputes, signed at Kigali, in Rwanda, on 21 March 2018, annexed to this Order, are ratified and become fully effective.

Article 2: Authorities Responsible for the Implementation of this Order

The Prime Minister, the Minister of Trade and Industry, the Minister of Foreign Affairs, Cooperation and East African Community Affairs, and the Minister of Finance and

Considérant l'Accord portant création de la Zone de Libre Echange sur le Continent Africain avec le Protocole sur le commerce des marchandises, Protocole sur le commerce des services ainsi que le Protocole sur les règles et procédures de règlement des différends signés à Kigali, au Rwanda, le 21 mars 2018;

Sur proposition du Ministre du Commerce et de l'Industrie;

AVONS ARRETE ET ARRETONS :

Article premier: Ratification

L'Accord portant création de la Zone de Libre Echange sur le Continent Africain, avec le Protocole sur le commerce des marchandises, Protocole sur le commerce des services et Protocole sur les règles et procédures de règlement des différends, annexé au présent Arrêté, signés à Kigali, au Rwanda, le 21 mars 2018, sont ratifiés et sortent leurs pleins et entiers effets.

Article 2: Autorités chargées de l'exécution du présent arrêté

Le Premier Ministre, le Ministre du Commerce et de l'Industrie, le Ministre des Affaires Etrangères, de la Coopération et de la Communauté de l'Afrique de l'Est, et le Ministre des Finances et de

Official Gazette n° 24 of 11/06/2018

n'Igenamigambi bashinzwe gushyira mu bikorwa iri teka.

Economic Planning are entrusted with the implementation of this order.

la Planification économique sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iteka ritangira gukurikizwa

Article 3: Commencement

Article 3: Entrée en vigueur

Iri teka ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

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

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, ku wa 27/05/2018

Kigali, on 27/05/2018

Kigali, le 27/05/2018

(sé)

KAGAME Paul
Perezida wa Repubulika

(sé)

KAGAME Paul
President of the Republic

(sé)

KAGAME Paul
Président de la République

(sé)

Dr NGIRENTE Edouard
Minisitiri w'Intebe

(sé)

Dr NGIRENTE Edouard
Prime Minister

(sé)

Dr NGIRENTE Edouard
Premier Ministre

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

Seen and sealed with the Seal of the Republic:

Vu et scellé du Sceau de la République:

(sé)

BUSINGYE Johnston
Minisitiri w'Ububabera/Intumwa Nkuruya Leta

(sé)

BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)

BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

**UMUGEREKA W'ITEKA RYA PEREZIDA
N° 091/01 RYO KU WA 27/05/2018
RYEMEZA BURUNDU AMASEZERANO
ASHYIRAHU AGACE K'UBUCURUZI
N'UBUHAHIRANE BUTAGIRA UMUPAKA
MURI AFURIKA HAMWE
N'AMASEZERANO KU BUCURUZI
BW'IBICURUZA, AMASEZERANO KU
BUCURUZI BWA SERIVISI,
AMASEZERANO KU MATEGEKO
N'UBURYO BWO GUKEMURA
AMAKIMBIRANE YASHYIRIWEHO
UMUKONO I KIGALI, MU RWANDA, KU
WA 21 WERURWE 2018**

**ANNEX TO PRESIDENTIAL ORDER
N°091/01 OF 27/05/2018 RATIFYING THE
AGREEMENT ESTABLISHING THE
AFRICAN CONTINENTAL FREE TRADE
AREA TOGETHER WITH THE
PROTOCOL ON TRADE IN GOODS,
PROTOCOL ON TRADE IN SERVICES,
AND PROTOCOL ON RULES AND
PROCEDURES FOR SETTLEMENT OF
DISPUTES SIGNED AT KIGALI, IN
RWANDA, ON 21 MARCH 2018**

**ANNEXE A L'ARRETE PRESIDENTIEL
N°091/01 DU 27/05/2018 PORTANT
RATIFICATION DE L'ACCORD PORTANT
CREATION DE LA ZONE DE LIBRE
ECHANGE SUR LE CONTINENT
AFRICAIN AVEC LE PROTOCOLE SUR LE
COMMERCE DES MARCHANDISES, LE
PROTOCOLE SUR LE COMMERCE DES
SERVICES AINSI QUE LE PROTOCOLE
SUR LES REGLES ET PROCEDURES DE
REGLEMENT DES DIFFERENDS, SIGNES
A KIGALI, AU RWANDA, LE 21 MARS 2018**



AGREEMENT ESTABLISHING THE AFRICAN CONTINENTAL FREE TRADE AREA



PREAMBLE

We, Member States of the African Union,

DESIROUS to implement the Decision of the Assembly of Heads of State and Government during its Eighteenth Ordinary Session held in Addis Ababa, Ethiopia from 29th-30th January, 2012 (Assembly/AU/Dec. 394(XVIII)) of the Framework, Road Map and Architecture for Fast Tracking the establishment of the African Continental Free Trade Area and the Action Plan for Boosting Intra-African Trade;

COGNISANT of the launch of negotiations for the establishment of the Continental Free Trade Area aimed at integrating Africa's markets in line with the objectives and principles enunciated in the *Abuja Treaty* during the Twenty-Fifth Ordinary Session of the Assembly of Heads of State and Government of the African Union held in Johannesburg, South Africa from 14-15 June 2015 (Assembly/AU/Dec. 569(XXV));

DETERMINED to strengthen our economic relationship and build upon our respective rights and obligations under the *Constitutive Act of the African Union of 2000*, the *Abuja Treaty* and, where applicable, the *Marrakesh Agreement Establishing the World Trade Organization* of 1994;

HAVING REGARD to the aspirations of Agenda 2063 for a continental market with the free movement of persons, capital, goods and services, which are crucial for deepening economic integration, and promoting agricultural development, food security, industrialisation and structural economic transformation;

CONSCIOUS of the need to create an expanded and secure market for the goods and services of State Parties through adequate infrastructure and the reduction or progressive elimination of tariffs and elimination of non-tariff barriers to trade and investment;

ALSO CONSCIOUS of the need to establish clear, transparent, predictable and mutually-advantageous rules to govern Trade in Goods and Services, Competition Policy, Investment and Intellectual Property among State Parties, by resolving the challenges of multiple and overlapping trade regimes to achieve policy coherence, including relations with third parties;

RECOGNISING the importance of international security, democracy, human rights, gender equality and the rule of law, for the development of international trade and economic cooperation;

REAFFIRMING the right of State Parties to regulate within their territories and the State Parties' flexibility to achieve legitimate policy objectives in areas



including public health, safety, environment, public morals and the promotion and protection of cultural diversity;

FURTHER REAFFIRMING our existing rights and obligations with respect to each other under other agreements to which we are parties; and

ACKNOWLEDGING the Regional Economic Communities (RECs) Free Trade Areas as building blocs towards the establishment of the African Continental Free Trade Area (AfCFTA),

HAVE AGREED AS FOLLOWS:

PART I DEFINITIONS

Article 1 DEFINITIONS

For the purpose of this Agreement,

- (a) **“Abuja Treaty”** means the *Treaty Establishing the African Economic Community of 1991*;
- (b) **“Agreement”** means this Agreement Establishing the African Continental Free Trade Area and its Protocols, Annexes and Appendices which shall form an integral part thereof;
- (c) **“Annex”** means an instrument attached to a Protocol, which forms an integral part of this Agreement;
- (d) **“Appendix”** means an instrument attached to an Annex which forms an integral part of this Agreement;
- (e) **“Assembly”** means the Assembly of Heads of State and Government of the African Union;
- (f) **“AU”** means the African Union;
- (g) **“AfCFTA”** means the African Continental Free Trade Area;
- (h) **“Commission”** means the African Union Commission;
- (i) **“Constitutive Act”** means the Constitutive Act of the African Union of 2000;



- (j) **“Continental Customs Union”** means the Customs Union at the continental level by means of adopting a common external tariff, as provided by the Treaty Establishing the African Economic Community of 1991;
- (k) **“Council of Ministers”** means the Council of African Ministers of State Parties responsible for Trade;
- (l) **“Dispute Settlement Body”** means the body established to administer the provisions of the Protocol on Rules and Procedures on the Settlement of Disputes except as otherwise provided in this Agreement;
- (m) **“Executive Council”** means the Executive Council of Ministers of the Union;
- (n) **“GATS”** means the WTO General Agreement on Trade in Services of 1994;
- (o) **“GATT”** means the WTO General Agreement on Tariffs and Trade of 1994;
- (p) **“Instrument”** unless otherwise specified in this Agreement refers to Protocol, Annex or Appendix;
- (q) **“Member States”** means the Member States of the African Union;
- (r) **“Non-Tariff Barriers”** means barriers that impede trade through mechanisms other than the imposition of tariffs;
- (s) **“Protocol”** means an instrument attached to this Agreement, which forms an integral part of the Agreement;
- (t) **“RECs”** means the Regional Economic Communities recognised by the African Union, namely, the Arab Maghreb Union (UMA); the Common Market for Eastern and Southern Africa (COMESA); the Community of Sahel-Saharan States (CEN-SAD); the East African Community (EAC); the Economic Community of Central African States (ECCAS); the Economic Community of West African States (ECOWAS); the Intergovernmental Authority on Development (IGAD) and the Southern African Development Community (SADC);
- (u) **“Secretariat”** means the Secretariat established pursuant to Article 13 of this Agreement;



- (v) **“State Party”** means a Member State that has ratified or acceded to this Agreement and for which the Agreement is in force;
- (w) **“Third Party”** means a State(s) that is not a party to this Agreement except as otherwise defined in this Agreement; and
- (x) **“WTO”** means the World Trade Organization, as established in terms of the *Marrakesh Agreement Establishing the World Trade Organization* of 1994.

PART II ESTABLISHMENT, OBJECTIVES, PRINCIPLES AND SCOPE

Article 2 Establishment of the African Continental Free Trade Area

The African Continental Free Trade Area (hereinafter referred to as “the AfCFTA”) is hereby established.

Article 3 General Objectives

The general objectives of the AfCFTA are to:

- (a) create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of “An integrated, prosperous and peaceful Africa” enshrined in Agenda 2063;
- (b) create a liberalised market for goods and services through successive rounds of negotiations;
- (c) contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and RECs;
- (d) lay the foundation for the establishment of a Continental Customs Union at a later stage;
- (e) promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties;
- (f) enhance the competitiveness of the economies of State Parties within the continent and the global market;



- (g) promote industrial development through diversification and regional value chain development, agricultural development and food security; and
- (h) resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes.

Article 4

Specific Objectives

For purposes of fulfilling and realising the objectives set out in Article 3, State Parties shall:

- (a) progressively eliminate tariffs and non-tariff barriers to trade in goods;
- (b) progressively liberalise trade in services;
- (c) cooperate on investment, intellectual property rights and competition policy;
- (d) cooperate on all trade-related areas;
- (e) cooperate on customs matters and the implementation of trade facilitation measures;
- (f) establish a mechanism for the settlement of disputes concerning their rights and obligations; and
- (g) establish and maintain an institutional framework for the implementation and administration of the AfCFTA.

Article 5

Principles

The AfCFTA shall be governed by the following principles:

- (a) driven by Member States of the African Union;
- (b) RECs' Free Trade Areas (FTAs) as building blocs for the AfCFTA;
- (c) variable geometry;
- (d) flexibility and special and differential treatment;
- (e) transparency and disclosure of information;



- (f) preservation of the acquis;
- (g) Most-Favoured-Nation (MFN) Treatment;
- (h) National Treatment;
- (i) reciprocity;
- (j) substantial liberalisation;
- (k) consensus in decision-making; and
- (l) best practices in the RECs, in the State Parties and International Conventions binding the African Union.

Article 6 **Scope**

This Agreement shall cover trade in goods, trade in services, investment, intellectual property rights and competition policy.

Article 7 **Phase II Negotiations**

1. In pursuance of the objectives of this Agreement, Member States shall enter into Phase II negotiations in the following areas:
 - (a) intellectual property rights;
 - (b) investment; and
 - (c) competition policy.
2. The negotiations referred to in paragraph 1 of this Article shall commence after the adoption of this Agreement by the Assembly and shall be undertaken in successive rounds.

Article 8 **Status of the Protocols, Annexes and Appendices**

1. The Protocols on Trade in Goods, Trade in Services, Investment, Intellectual Property Rights, Competition Policy, Rules and Procedures on the Settlement of Disputes and their associated Annexes and Appendices shall, upon adoption, form an integral part of this Agreement.



2. The Protocols on Trade in Goods, Trade in Services, Investment, Intellectual Property Rights, Competition Policy, Rules and Procedures on the Settlement of Disputes and their associated Annexes and Appendices shall form part of the single undertaking, subject to entry into force.
3. Any additional instruments, within the scope of this Agreement, deemed necessary, shall be concluded in furtherance of the objectives of the AfCFTA and shall, upon adoption, form an integral part of this Agreement.

PART III ADMINISTRATION AND ORGANISATION

Article 9 Institutional Framework for the Implementation of the AfCFTA

The institutional framework for the implementation, administration, facilitation, monitoring and evaluation of the AfCFTA shall consist of the following:

- (a) the Assembly;
- (b) the Council of Ministers;
- (c) the Committee of Senior Trade Officials; and
- (d) the Secretariat.

Article 10 The Assembly

1. The Assembly, as the highest decision-making organ of the AU, shall provide oversight and strategic guidance on the AfCFTA, including the Action Plan for Boosting Intra-African Trade (BIAT).
2. The Assembly shall have the exclusive authority to adopt interpretations of this Agreement on the recommendation of the Council of Ministers. The decision to adopt an interpretation shall be taken by consensus.

Article 11 The Composition and Functions of the Council of Ministers

1. The Council of Ministers is hereby established and shall consist of the Ministers responsible for Trade or such other ministers, authorities, or officials duly designated by the State Parties.
2. The Council of Ministers shall report to the Assembly through the Executive Council.



3. The Council of Ministers shall within its mandate:

- (a) take decisions in accordance with this Agreement;
- (b) ensure effective implementation and enforcement of the Agreement;
- (c) take measures necessary for the promotion of the objectives of this Agreement and other instruments relevant to the AfCFTA;
- (d) work in collaboration with the relevant organs and institutions of the African Union;
- (e) promote the harmonisation of appropriate policies, strategies and measures for the effective implementation of this Agreement;
- (f) establish and delegate responsibilities to ad hoc or standing committees, working groups or expert groups;
- (g) prepare its rules of procedure and those of its subsidiary bodies created for the implementation of the AfCFTA and submit them to the Executive Council for approval;
- (h) supervise the work of all committees and working groups it may establish pursuant to this Agreement;
- (i) consider reports and activities of the Secretariat and take appropriate actions;
- (j) make regulations, issue directives and make recommendations in accordance with the provisions of this Agreement;
- (k) consider and propose for adoption by the Assembly, the staff and financial regulations of the Secretariat;
- (l) consider the organisational structure of the Secretariat and submit for adoption by the Assembly through the Executive Council;
- (m) approve the work programs of the AfCFTA and its institutions;
- (n) consider the budgets of the AfCFTA and its institutions and submit them to the Assembly through the Executive Council;
- (o) make recommendations to the Assembly for the adoption of authoritative interpretation of this Agreement; and



- (p) perform any other function consistent with this Agreement or as may be requested by the Assembly.
- 4. The Council of Ministers shall meet twice a year in ordinary session and may meet as and when necessary in extraordinary sessions.
- 5. Decisions taken by the Council of Ministers, while acting within its mandate, shall be binding on State Parties. Decisions that have legal, structural or financial implications shall be binding on State Parties upon their adoption by the Assembly.

The State Parties shall take such measures as are necessary to implement the decisions of the Council of Ministers.

Article 12

Committee of Senior Trade Officials

- 1. The Committee of Senior Trade Officials shall consist of Permanent or Principal Secretaries or other officials designated by each State Party.
- 2. The Committee of Senior Trade Officials shall:
 - (a) implement the decisions of the Council of Ministers as may be directed;
 - (b) be responsible for the development of programmes and action plans for the implementation of the Agreement;
 - (c) monitor and keep under constant review and ensure proper functioning and development of the AfCFTA in accordance with the provisions of this Agreement;
 - (d) establish committees or other working groups as may be required;
 - (e) oversee the implementation of the provisions of this Agreement and for that purpose, may request a Technical Committee to investigate any particular matter;
 - (f) direct the Secretariat to undertake specific assignments; and
 - (g) perform any other function consistent with this Agreement or as may be requested by the Council of Ministers.



3. Subject to directions given by the Council of Ministers, the Committee of Senior Trade Officials shall meet at least twice a year and shall operate in accordance with the rules of procedures as adopted by the Council of Ministers.
4. The Committee shall submit its report, which may include recommendations, to the Council of Ministers following its meetings.
5. The RECs shall be represented in the Committee of Senior Trade Officials, in an advisory capacity.

Article 13 The Secretariat

1. The Assembly shall establish the Secretariat, decide on its nature, location and approve its structure and budget.
2. The Commission shall be the interim Secretariat, until it is fully operational;
3. The Secretariat shall be a functionally autonomous institutional body within the African Union system with an independent legal personality;
4. The Secretariat shall be autonomous of the African Union Commission;
5. The Funds of the Secretariat shall come from the overall annual budgets of the African Union;
6. The roles and responsibilities of the Secretariat shall be determined by the Council of Ministers of Trade.

Article 14 Decision-Making

1. Decisions of the AfCFTA institutions¹ on substantive issues shall be taken by consensus.
2. Notwithstanding paragraph 1, the Committee of Senior Trade Officials shall refer, for consideration by the Council of Ministers, matters on which it has failed to reach consensus. The Council of Ministers shall refer the matters to the Assembly where consensus could not be reached.

¹ The Assembly, the Council of Ministers and the Committee of Senior Trade Officials.



3. Decisions on questions of procedure shall be taken by a simple majority of State Parties, eligible to vote.
4. Decisions on whether or not a question is one of procedure shall also be determined by a simple majority of State Parties, eligible to vote.
5. Abstention by a State Party eligible to vote shall not prevent the adoption of decisions.

Article 15 **Waiver of Obligations**

1. In exceptional circumstances, the Council of Ministers may waive an obligation imposed on a State Party to this Agreement, upon request by a State Party, provided that any such decision shall be taken by three fourths² of the States Parties, in the absence of consensus.
2. A request for a waiver from a State Party concerning this Agreement shall be submitted to the Council of Ministers for consideration pursuant to the practice of decision-making by consensus. The Council of Ministers shall establish a time period, which shall not exceed ninety (90) days, to consider the request. If consensus is not reached during the time period, any decision to grant a waiver shall be taken by three fourths of the State Parties.
3. A decision by the Council of Ministers granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one (1) year shall be reviewed by the Council of Ministers not later than one (1) year after it is granted, and thereafter annually until the waiver terminates. In each review, the Council of Ministers shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Council of Ministers, on the basis of the annual review, may extend, modify or terminate the waiver.

² A decision to grant a waiver in respect of any obligation subject to a transition period or a period for staged implementation that the requesting State Party has not performed by the end of the relevant period shall be taken only by consensus.



PART IV TRANSPARENCY

Article 16 Publication

1. Each State Party shall promptly publish or make publicly available through accessible mediums³ its laws, regulations, procedures and administrative rulings of general application as well as any other commitments under an international agreement relating to any trade matter covered by this Agreement.
2. The provisions of this Agreement shall not require any State Party to disclose confidential information which would impede law enforcement or otherwise be contrary to public interest or will prejudice the legitimate commercial interest of particular enterprises, public or private.

Article 17 Notification

1. Laws, regulations, procedures and administrative rulings of general application as well as any other commitments under an international agreement relating to any trade matter covered by this Agreement adopted after the entry into force of this Agreement shall be notified by State Parties in one (1) of the African Union working languages to other State Parties through the Secretariat.
2. Each State Party shall notify, through the Secretariat, in accordance with this Agreement, the other State Parties of any actual or proposed measure that the State Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other State Party's interests under this Agreement.
3. At the request of another State Party, a State Party, through the Secretariat, shall promptly provide information and respond to questions pertaining to an actual or proposed measure, irrespective of whether or not the other State Party was previously notified of that measure.
4. Any notification or information provided pursuant to this Article is without prejudice to whether the measure is consistent with this Agreement.

³ "For example through Gazette, newsletter, Hansard, or websites in one of the African Union languages."



**PART V
CONTINENTAL PREFERENCES**

**Article 18
Continental Preferences**

1. Following the entry into force of this Agreement, State Parties shall, when implementing this Agreement, accord each other, on a reciprocal basis, preferences that are no less favourable than those given to Third Parties.
2. A State Party shall afford opportunity to other State Parties to negotiate preferences granted to Third Parties prior to entry into force of this Agreement and such preferences shall be on a reciprocal basis. In the case where a State Party is interested in the preferences in this paragraph, the State Party shall afford opportunity to other State Parties to negotiate on a reciprocal basis, taking into account levels of development of State Parties.
3. This Agreement shall not nullify, modify or revoke rights and obligations under pre-existing trade agreements that State Parties have with Third Parties.

**Article 19
Conflict and Inconsistency with Regional Agreements**

1. In the event of any conflict and inconsistency between this Agreement and any regional agreement, this Agreement shall prevail to the extent of the specific inconsistency, except as otherwise provided in this Agreement.
2. Notwithstanding the provisions of Paragraph 1 of this Article, State Parties that are members of other regional economic communities, regional trading arrangements and custom unions, which have attained among themselves higher levels of regional integration than under this Agreement, shall maintain such higher levels among themselves.



**PART VI
DISPUTE SETTLEMENT**

**Article 20
Dispute Settlement**

1. A Dispute Settlement Mechanism is hereby established and shall apply to the settlement of disputes arising between State Parties.
2. The Dispute Settlement Mechanism shall be administered in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.
3. The Protocol on Rules and Procedures on the Settlement of Disputes shall establish, *inter alia*, a Dispute Settlement Body.

**PART VII
FINAL PROVISIONS**

**Article 21
Exceptions**

No provision of this Agreement shall be interpreted as derogating from the principles and values contained in other relevant instruments for the establishment and sustainability of the AfCFTA, except as otherwise provided for in the Protocols to this Agreement.

**Article 22
Adoption, Signature, Ratification and Accession**

1. This Agreement shall be adopted by the Assembly.
2. This Agreement shall be open for signature and ratification or accession by the Member States, in accordance with their respective constitutional procedures.



Article 23

Entry into Force

1. This Agreement and the Protocols on Trade in Goods, Trade in Services, and Protocol on Rules and Procedures on the Settlement of Disputes shall enter into force thirty (30) days after the deposit of the twenty second (22nd) instrument of ratification.
2. The Protocols on Investment, Intellectual Property Rights, Competition Policy and any other Instrument within the scope of this Agreement deemed necessary, shall enter into force thirty (30) days after the deposit of the twenty second (22nd) instrument of ratification.
3. For any Member State acceding to this Agreement, the Protocols on Trade in Goods, Trade in Services, and the Protocol on Rules and Procedures on the Settlement of Disputes shall enter into force in respect of that State Party on the date of the deposit of its instrument of accession.
4. For Member States acceding to the Protocols on Investment, Intellectual Property Rights, Competition Policy, and any other Instrument within the scope of this Agreement deemed necessary, shall enter into force on the date of the deposit of its instrument of accession.
5. The Depositary shall inform all Member States of the entry into force of this Agreement and its Annexes.

Article 24

Depositary

1. The Depositary of this Agreement shall be the Chairperson of the Commission.
2. This Agreement shall be deposited with the Depositary, who shall transmit a certified true copy of the Agreement to each Member State.
3. A Member State shall deposit an instrument of ratification or accession with the Depositary.
4. The Depositary shall notify Member States of the deposit of the instrument of ratification or accession.

Article 25

Reservation

No reservations shall be made to this Agreement.



Article 26
Registration and Notification

1. The Depositary shall upon the entry into force of this Agreement, register it with the United Nations Secretary General in conformity with Article 102 of the Charter of the United Nations.
2. State Parties shall, where applicable notify this Agreement to the WTO individually or collectively.

Article 27
Withdrawal

1. After five (5) years from the date of entry into force in respect of a State Party, a State Party may withdraw from this Agreement by giving written notification to State Parties through the Depositary.
2. Withdrawal shall be effective two (2) years after receipt of notification by the Depositary, or on such later date as may be specified in the notification.
3. Withdrawal shall not affect any pending rights and obligations of the withdrawing State Party prior to the withdrawal.

Article 28
Review

1. This Agreement shall be subject to review every five (5) years after its entry into force, by State Parties, to ensure effectiveness, achieve deeper integration, and adapt to evolving regional and international developments.
2. Following the process of review, State Parties may make recommendations for amendments, in accordance with Article 29 taking into account experience acquired and progress achieved during the implementation of this Agreement.

Article 29
Amendments

1. Any State Party may submit proposal(s) for amendment to this Agreement to the Depositary.
2. The Depositary shall within thirty (30) days of receipt of the proposal, circulate the proposal to State Parties and the Secretariat.



3. A State Party that wishes to comment on the proposal may do so within sixty (60) days from the date of circulation and submit the comments to the Depositary and the Secretariat.
4. The Secretariat shall circulate the proposal and comments received to members of the appropriate AfCFTA committees and sub-committees for consideration.
5. The relevant committees and sub-committees shall present, through the Secretariat, recommendations to the Council of Ministers, for consideration, following which a recommendation may be made to the Assembly through the Executive Council.
6. Amendments to the Agreement shall be adopted by the Assembly.
7. The amendments to this Agreement shall enter into force in accordance with Article 23 of this Agreement.

Article 30

Authentic Texts

This Agreement is drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all of which are equally authentic.



PROTOCOL ON TRADE IN GOODS

PREAMBLE

We, Member States of the African Union,

DESIROUS to implement the Decision of the Assembly of Heads of State and Government during its Eighteenth Ordinary Session held in Addis Ababa, Ethiopia from 29th-30th January, 2012 (Assembly/AU/Dec. 394(XVIII)) of the Framework, Road Map and Architecture for Fast Tracking the establishment of the African Continental Free Trade Area and the Action Plan for Boosting Intra-African Trade;

COGNISANT of the launch of negotiations for the establishment of the Continental Free Trade Area aimed at integrating Africa's markets in line with the objectives and principles enunciated in the *Abuja Treaty* during the Twenty-Fifth Ordinary Session of the Assembly of Heads of State and Government of the African Union held in Johannesburg, South Africa from 14-15 June 2015 (Assembly/AU/Dec. 569(XXV));

DETERMINED to take the necessary measures for reducing the cost of doing business and creating a conducive environment for private sector development and thereby boosting intra-African trade;

RESOLVED to enhance competitiveness at the industry and enterprise level through exploiting opportunities for economies of scale, continental market access and an efficient allocation of resources;

CONFIDENT that a comprehensive Protocol on Trade in Goods will deepen economic efficiency and linkages, improve social welfare, progressively eliminate trade barriers, increase trade and investment with greater opportunities for economies of scale for the businesses of State Parties;

COMMITTED to expanding intra-African trade through the harmonisation, coordination of trade liberalisation and implementation of trade facilitation instruments across Africa, and cooperation in the area of quality infrastructure, science and technology, the development and implementation of trade related measures; and

RECOGNISING the different levels of development among the State Parties and the need to provide flexibilities, special and differential treatment and technical assistance to State Parties with special needs,

HAVE AGREED AS FOLLOWS:



PART I DEFINITIONS, OBJECTIVES AND SCOPE

Article 1 Definitions

For purposes of this Protocol, the following definitions shall apply:

- (a) **“Anti-dumping Agreement”** means the WTO Agreement on the implementation of Article VI of the GATT 1994;
- (b) **“Committee”** means the Committee for Trade in Goods established in Article 31 of this Protocol;
- (c) **“Customs duty”** means a duty or charge of any kind imposed on or in connection with the importation or exportation of a good, including any form of surtax or surcharge imposed on or in connection with such importation or exportation;
- (d) **“Harmonised System”** means the Harmonised Commodity Description and Coding System established by the International Convention on the Harmonised Commodity Description and Coding System;
- (e) **“Non-Tariff Barriers”** means barriers that impede trade through mechanisms other than the imposition of tariffs;
- (f) **“Originating products”** means goods that qualify as originating products under the rules of origin set out in Annex 2 on Rules of Origin;
- (g) **“Preferential Trade Arrangements”** means any trade arrangement by which a State Party grants preferences to imports from another State Party or a Third Party and includes non-reciprocal preferential scheme granted by way of waiver;
- (h) **“Safeguards Agreement”** means the WTO Agreement on Safeguards;
- (i) **“Schedule of tariff concessions”** means a list of negotiated specific tariff concessions and commitments by each State Party. It sets out, transparently, the terms, conditions and qualifications under which goods may be imported under the AfCFTA;
- (j) **“TBT”** means Technical Barriers to Trade; and
- (k) **“TBT Agreement”** means the WTO Agreement on Technical Barriers to Trade.



Article 2 Objectives

1. The principal objective of this Protocol is to create a liberalised market for trade in goods in accordance with Article 3 of the Agreement.
2. The specific objective of this Protocol is to boost intra-African trade in goods through:
 - (a) progressive elimination of tariffs;
 - (b) progressive elimination of non-tariff barriers;
 - (c) enhanced efficiency of customs procedures, trade facilitation and transit;
 - (d) enhanced cooperation in the areas of technical barriers to trade and sanitary and phytosanitary measures;
 - (e) development and promotion of regional and continental value chains; and
 - (f) enhanced socio-economic development, diversification and industrialisation across Africa.

Article 3 Scope

1. The provisions of this Protocol shall apply to trade in goods between the State Parties.
2. Annex 1 on Schedules of Tariff Concessions, Annex 2 on Rules of Origin, Annex 3 on Customs Cooperation and Mutual Administrative Assistance, Annex 4 on Trade Facilitation, Annex 5 on Non-Tariff Barriers, Annex 6 on Technical Barriers to Trade, Annex 7 Sanitary and Phytosanitary Measures, Annex 8 on Transit and Annex 9 on Trade Remedies shall, upon adoption form an integral part of this Protocol.



PART II NON-DISCRIMINATION

Article 4 Most-Favoured-Nation Treatment

1. State Parties shall accord Most-Favoured-Nation Treatment to one another in accordance with Article 18 of the Agreement.
2. Nothing in this Protocol shall prevent a State Party from concluding or maintaining preferential trade arrangements with Third Parties, provided that such trade arrangements do not impede or frustrate the objectives of this Protocol, and that any advantage, concession or privilege granted to a Third Party under such arrangements is extended to other State Parties on a reciprocal basis.
3. Nothing in this Protocol shall prevent two or more State Parties from extending to one another preferences which aim at achieving the objectives of this Protocol among themselves, provided that such preferences are extended to the other State Parties on a reciprocal basis.
4. Notwithstanding the provisions of paragraphs 2 and 3 of this Article, a State Party shall not be obliged to extend to another State Party, trade preferences extended to other State Parties or Third Parties before the entry into force of the Agreement. A State Party shall afford opportunity to the other State Parties to negotiate the preferences granted therein on a reciprocal basis, taking into account levels of development of State Parties.

Article 5 National Treatment

A State Party shall accord to products imported from other State Parties treatment no less favourable than that accorded to like domestic products of national origin, after the imported products have been cleared by customs. This treatment covers all measures affecting the sale and conditions for sale of such products in accordance with Article III of GATT 1994.

Article 6 Special and Differential Treatment

In conformity with the objective of the AfCFTA in ensuring comprehensive and mutually beneficial trade in goods, State Parties shall, provide flexibilities to other State Parties at different levels of economic development or that have individual specificities as recognised by other State Parties. These flexibilities shall include,



among others, special consideration and an additional transition period in the implementation of this Agreement, on a case by case basis.

PART III LIBERALISATION OF TRADE

Article 7 Import Duties

1. State Parties shall progressively eliminate import duties or charges having equivalent effect on goods originating from the territory of any other State Party in accordance with their Schedules of Tariff Concessions contained in Annex 1 to this Protocol.
2. For products subject to liberalisation, State Parties shall not impose any new import duties or charges having equivalent effect on goods originating from the territory of any other State Party, except as provided for under this Protocol.
3. An import duty shall include any duty or charge of any kind imposed on or in connection with the importation of goods consigned from any State Party to a consignee in another State Party, including any form of surtax or surcharge, but shall not include any:
 - (a) charges equivalent to internal taxes imposed consistently with Article III(2) of GATT 1994 and its interpretative notes in respect of like or directly competitive or substitutable goods of the State Party or in respect of goods from which imported goods have been manufactured or produced in whole or in part;
 - (b) antidumping or countervailing duties imposed in accordance with Articles VI, and XVI of GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures and Article 17 of this Protocol;
 - (c) duties or levies imposed in relation to safeguards, in accordance with Articles XIX of GATT 1994, the WTO Agreement on Safeguards and Articles 18 and 19 of this Protocol; and
 - (d) other fees or charges imposed consistently with Article VIII of GATT 1994.



Article 8

Schedules of Tariff Concessions

1. Each State Party shall apply preferential tariffs to imports from other State Parties in accordance with its Schedule of Tariff Concessions contained in Annex 1 to this Protocol and in conformity with the adopted tariff modalities. The Schedules of Tariff Concessions, the adopted tariff modalities and outstanding work on tariff modalities to be negotiated and adopted, shall be an integral part of this Protocol.
2. Notwithstanding the provisions of this Protocol, State Parties that are members of other RECs, which have attained among themselves higher levels of elimination of customs duties and trade barriers than those provided for in this Protocol, shall maintain, and where possible improve upon, those higher levels of trade liberalisation among themselves.

Article 9

General Elimination of Quantitative Restrictions

The State Parties shall not impose quantitative restrictions on imports from or exports to other State Parties except as otherwise provided for in this Protocol, its Annexes and Article XI of GATT 1994 and other relevant WTO Agreements.

Article 10

Export Duties

1. State Parties may regulate export duties or charges having equivalent effect on goods originating from their territories.
2. Any export duties or taxes, imposed on or in connection with, the exportation of goods, applied pursuant to this Article shall be applied to goods exported to all destinations on a non-discriminatory basis.
3. A State Party that introduces export duties or taxes on, or in connection with, the exportation of goods in accordance with paragraph 2 of this Article, shall notify the Secretariat ninety (90) days from the introduction of the said export duties or taxes.



Article 11

Modification of Schedules of Tariff Concessions

1. In exceptional circumstances, a State Party may request for modification of its Schedules of Tariff Concessions.
2. In such exceptional circumstances, a State Party (hereinafter referred to as the “modifying State Party”) shall submit to the Secretariat, a written request, together with evidence of the exceptional circumstances for such a request.
3. Upon receipt of the request, the Secretariat shall immediately circulate the request to all State Parties.
4. Where a State Party considers that it has a substantial interest (hereinafter referred to as the “State Party with substantial interest”) in the tariff schedule of the modifying State Party, it should communicate in writing, with supporting evidence, to the modifying State Party through the Secretariat within thirty (30) days. The Secretariat shall immediately circulate all such requests to all State Parties.
5. The modifying State Party and any State Party with substantial interest, as determined under paragraph 3, shall enter into negotiations to be coordinated by the Secretariat with a view to reaching an agreement on any necessary compensatory adjustment. In such negotiations and agreement, the State Parties shall maintain a general level of commitments not less favourable than the initial commitments.
6. The outcome of the negotiations and the subsequent modification of the tariff schedule and any compensation thereof, shall only be effected upon approval by State Parties with substantial interest and notification to the Secretariat which shall transmit to other State Parties. The compensatory adjustments shall be made in accordance with Article 4 of this Protocol.
7. The modifying State Party shall not modify its commitment until it has made compensatory adjustments as provided for in paragraph 6 and endorsed by the Council of Ministers. The outcome of the compensatory adjustment shall be notified to State Parties.

Article 12

Elimination of Non-Tariff Barriers

Except as may be provided for in this Protocol, the identification, categorisation, monitoring and elimination of Non-Tariff Barriers by State Parties shall be in accordance with the provisions of Annex 5 on Non-Tariff Barriers.



Article 13
Rules of Origin

Goods shall be eligible for preferential treatment under this Protocol, if they are originating in any of the State Parties in accordance with the criteria and conditions set out in Annex 2 on Rules of Origin, and in accordance with the Appendix to be developed on General and Product Specific Rules.

PART IV
CUSTOMS COOPERATION, TRADE FACILITATION AND TRANSIT

Article 14
Customs Cooperation and Mutual Administrative Assistance

State Parties shall take appropriate measures including arrangements regarding customs cooperation and mutual administrative assistance in accordance with the provisions of Annex 3 on Customs Cooperation and Mutual Administrative Assistance.

Article 15
Trade Facilitation

State Parties shall take appropriate measures including arrangements regarding trade facilitation in accordance with the provisions of Annex 4 on Trade Facilitation.

Article 16
Transit

State Parties shall take appropriate measures including arrangements regarding transit in accordance with the provisions of Annex 8 on Transit.

PART V
TRADE REMEDIES

Article 17
Anti-dumping and Countervailing Measures

1. Subject to the provisions of this Protocol, nothing in this Protocol shall prevent State Parties from applying anti-dumping and countervailing measures.
2. In applying this Article, State Parties shall be guided by the provisions of Annex 9 on Trade Remedies and the AfCFTA Guidelines on Implementation of Trade Remedies in accordance with relevant WTO Agreements.



Article 18
Global Safeguard Measures

The implementation of this Article shall be in accordance with Annex 9 on Trade Remedies and Guidelines on Implementation of Trade Remedies, Article XIX of GATT 1994 and the WTO Agreement on Safeguards.

Article 19
Preferential Safeguards

1. State Parties may apply safeguard measures to situations where there is a sudden surge of a product imported into a State Party, under conditions which cause or threaten to cause serious injury to domestic producers of like or directly competing products within the territory.
2. The implementation of this Article shall be in accordance with the provisions of Annex 9 on Trade Remedies and AfCFTA Guidelines on Implementation of Trade Remedies.

Article 20
Cooperation relating to Anti-dumping, Countervailing and Safeguards Investigations

State Parties shall cooperate in the area of trade remedies in accordance with the provisions of Annex 9 on Trade Remedies and AfCFTA Guidelines on Implementation of Trade Remedies.

PART VI
PRODUCT STANDARDS AND REGULATIONS

Article 21
Technical Barriers to Trade

The implementation of this Article shall be in accordance with the provisions of Annex 6 on Technical Barriers to Trade.

Article 22
Sanitary and Phytosanitary Measures

The implementation of this Article shall be in accordance with the provisions of Annex 7 on Sanitary and Phytosanitary Measures.



**PART VII
COMPLEMENTARY POLICIES**

**Article 23
Special Economic Arrangements/Zones**

1. State Parties may support the establishment and operation of special economic arrangements or zones for the purpose of accelerating development.
2. Products benefiting from special economic arrangements or zones shall be subject to any regulations that shall be developed by the Council of Ministers. Regulations under this paragraph shall be in support of the continental industrialisation programmes.
3. The trade of products manufactured in special economic arrangements or zones within the AfCFTA shall be subject to the provisions of Annex 2 on Rules of Origin.

**Article 24
Infant Industries**

1. For the purposes of protecting an infant industry having strategic importance at the national level, a State Party may, provided that it has taken reasonable steps to overcome the difficulties related to such infant industry, impose measures for protecting such an industry. Such measures shall be applied on a non-discriminatory basis and for a specified period of time.
2. Council of Ministers shall adopt guidelines for implementation of this Article as an integral part of this Protocol.

**Article 25
Transparency and Notification requirements for State Trading Enterprises**

1. In order to ensure the transparency of the activities of State Trading Enterprises (STE), State Parties shall notify such enterprises to the Secretariat for transmission to other State Parties.
2. For the purpose of this Article, STE refers to governmental, non-governmental enterprises, including Marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports with reference to provisions of Article XVII of GATT 1994.

PART VIII EXCEPTIONS

Article 26 General Exceptions

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

- (a) necessary to protect public morals or to maintain public order;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to the importations and exportations of gold or silver;
- (d) relating to the products of prison labour;
- (e) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Protocol, including those relating to customs enforcement, the protection of patents, trademarks and copyrights, and the prevention of deceptive practices;
- (f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
- (h) undertaken in pursuance of obligations under any intergovernmental commodity agreement approved by the State Parties;
- (i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilisation plan, provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Protocol relating to non-discrimination; and
- (j) essential to the acquisition or distribution of foodstuffs or any other products in general or local short supply, provided that any such measures shall be consistent with the principle that all State Parties are entitled to an

equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Protocol shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

Article 27

Security Exceptions

Nothing in this Protocol shall be construed to:

- (a) require any State Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or
- (b) prevent any State Party from taking any action which it considers necessary for the protection of its essential security interests:
 - i. relating to fissionable materials or the materials from which they are derived;
 - ii. relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials taking place either directly or indirectly for the purpose of supplying a military establishment; and
 - iii. taken in time of war or other emergency in international relations; or
- (c) prevent any State Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article 28

Balance of Payments

1. Where a State Party is in critical balance of payments difficulties, or under imminent threat thereof, or has the need to safeguard its external financial position difficulties and that has taken all reasonable steps to overcome the difficulties, may adopt appropriate restrictive measures in accordance with international rights and obligations of the State Party concerned, including those under the WTO Agreement, the Articles of Agreement of the International Monetary Fund and the African Development Bank respectively. Such measures shall be equitable, non-discriminatory, in good faith, of limited duration and may not go beyond what is necessary to remedy the balance of payments situation.

2. The State Party concerned, having adopted or maintained such measures shall inform the other State Parties forthwith and submit, as soon as possible, a time schedule for their removal.

PART IX

TECHNICAL ASSISTANCE, CAPACITY BUILDING AND COOPERATION

Article 29

Technical Assistance, Capacity Building and Cooperation

1. The Secretariat, working with State Parties, RECs and partners, shall coordinate and provide technical assistance and capacity building in trade and trade related issues for the implementation of this Protocol.
2. State Parties agree to enhance cooperation for the implementation of this Protocol.
3. The Secretariat shall explore avenues to secure resources required for these programmes.

PART X

INSTITUTIONAL PROVISIONS

Article 30

Consultation and Dispute Settlement

Except as otherwise provided in this Protocol, the relevant provisions of the Protocol on Rules and Procedures on the Settlement of Disputes shall apply to consultations and the settlement of disputes under this Protocol.

Article 31

Implementation, Monitoring and Evaluation

1. The Council of Ministers in accordance with Article 11 of the Agreement shall establish the Committee on Trade in Goods, which shall carry out such functions as may be assigned to it by the Council of Ministers to facilitate the operation of this Protocol and further its objectives. The Committee may establish such subsidiary bodies as it considers appropriate for the effective discharge of its functions.
2. This Committee and its subsidiary bodies, shall be open to participation by representatives of all State Parties unless otherwise decided.

3. The Chairperson of the Committee shall be elected by the State Parties.
4. In accordance with Article 13(5) of the Agreement, the Secretariat shall, in consultation with State Parties, prepare annual factual reports to facilitate the process of implementation, monitoring and evaluation of this Protocol.
5. These reports should be considered and adopted by the Council of Ministers.

Article 32

Amendment

Amendment to this Protocol shall be in accordance with Article 29 of the Agreement.

PROTOCOL ON TRADE IN SERVICES

PREAMBLE

WE, Member States of the African Union,

DETERMINED to establish a continental framework of principles and rules for trade in services with a view to boosting intra-African trade in line with the objectives of the African Continental Free Trade Area (AfCFTA) and promoting economic growth and development within the continent;

DESIROUS to create, on the basis of progressive liberalisation of trade in services, an open, rules based, transparent, inclusive and integrated single services market which provides economic, social and welfare-enhancing opportunities across all sectors for the African people;

MINDFUL of the urgent need to consolidate and build on achievements in services liberalisation and regulatory harmonisation at the Regional Economic Community (REC) and continental levels;

DESIRING to harness the potential and capacities of African services suppliers, in particular at the micro, small and medium levels, to engage in regional and global value chains;

RECOGNISING the right of State Parties to regulate in pursuit of national policy objectives, and to introduce new regulations, on the supply of services, within their territories, in order to meet legitimate national policy objectives, including competitiveness, consumer protection and overall sustainable development with respect to the degree of the development of services regulations in different countries, the particular need for State Parties to exercise this right, without compromising consumer protection, environmental protection and overall sustainable development;

COGNISANT of the serious difficulty of the least developed, land locked, island states and vulnerable economies in view of their special economic situation and their development, trade and financial needs;

ACKNOWLEDGING the African Union Assembly Decision Assembly/AU/666 (XXX) adopted at the 30th Ordinary Session of the Assembly of Heads of State and Government of the AU, in Addis Ababa, Ethiopia on 28 January 2018 on the Establishment of a Single African Air Transport Market through the Implementation of the Yamoussoukro Decision;

FURTHER RECOGNISING the potentially significant contribution of air transport services and, in particular, the Single African Air Transport Market to boost intra-African trade and fast track the African Continental Free Trade Area (AfCFTA),

HAVE AGREED AS FOLLOWS:

PART I

DEFINITIONS

Article 1

Definitions

For the purposes of this Protocol:

- (a) **"Commercial presence"** means any type of business or professional establishment, including through:
 - i. the constitution, acquisition or maintenance of a juridical person, or
 - ii. the creation or maintenance of a branch or a representative office, within the territory of a State Party for the purpose of supplying a service;
- (b) **"Direct taxes"** comprise all taxes on total income, on total capital or on elements of **income** or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation;
- (c) **"Juridical person"** means any legal entity duly constituted or otherwise organised under applicable law of State Parties, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;
- (d) **A juridical person is:**
 - i. **"Affiliated"** with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;
 - ii. **"Controlled"** by persons of a State Party if such persons have the power to name a majority of its directors or otherwise to legally direct its actions; and
 - iii. **"Owned"** by persons of a State Party if more than 50 per cent of the equity interest in it is beneficially owned by persons of that State Party;

- (e) **"Juridical person of another State Party"** means a juridical person which is either:
- i. constituted or otherwise organised under the law of that other State Party, and is engaged in substantive business operations in the territory of that State Party or any other State Party; or
 - ii. in the case of the supply of a service through commercial presence, owned or controlled by:
 1. natural persons of that State Party; or
 2. juridical persons of that other State Party identified under subparagraph (i);
- (f) **"Measure"** means any measure by a State Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;
- (g) **"Measures by State Parties affecting trade in services"** include measures in respect of:
- i. the purchase, payment or use of a service;
 - ii. the access to and use of, in connection with the supply of a service, services which are required by those State Parties to be offered to the public generally;
 - iii. the presence, including commercial presence, of persons of a State Party for the supply of a service in the territory of another State Party;
- (h) **"Monopoly supplier of a service"** means any person, public or private, which in the relevant market of the territory of a State Party operates as or is authorised or established formally or in effect by that State Party as the sole supplier of that service;
- (i) **"Natural person of another State Party"** means a natural person who resides in the territory of that other State Party or any other State Party and who under the law of that other State Party:
- i. is a national; or
 - ii. has the right of permanent residence;
- (j) **"Person"** means either a natural person or a juridical person;
- (k) **"Sector"** of a service means:
- i. with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a State Party's schedule of specific commitments;

- ii. otherwise, the whole of that service sector, including all of its subsectors;
- (l) **"Service of another State Party"** means a service which is supplied:
- i. from or in the territory of that other State Party, or in the case of maritime transport, by a vessel registered under the laws of that other State Party, or by a person of that other State Party which supplies the service through the operation of a vessel and/or its use in whole or in part; or
 - ii. in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other State Party;
- (m) **"Service consumer"** means any person that receives or uses a service;
- (n) **"Service supplier"** means any person that supplies a service⁴;
- (o) **"Supply of a Service"** includes the production, distribution, marketing, sale and delivery of a service;
- (p) **"Trade in services"** means the supply of service:
- i. from the territory of one State Party into the territory of any other State Party;
 - ii. in the territory of one State Party to the service consumer of any other State Party;
 - iii. by a service supplier of one State Party, through commercial presence in the territory of any other State Party;
 - iv. by a service supplier of one State Party, through presence of natural persons of a State Party in the territory of any other State Party.

⁴ Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under the agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside of the territory where the service is supplied.

PART II

SCOPE OF APPLICATION

Article 2

Scope of Application

1. This Protocol applies to measures by State Parties affecting trade in services.
2. For the purposes of this Protocol, trade in services is based on the four modes of supply of a service as defined in Article 1(p) of this Protocol.
3. For the purposes of this Protocol:

(a) **"Measures by State Parties"** means measures taken by:

- i. State Parties' central, regional or local governments and authorities; and
- ii. Non-governmental bodies in the exercise of powers delegated by State Parties' central, regional or local governments or authorities.

In fulfilling its obligations and commitments under the Protocol, each State Party shall take such reasonable measures as may be available to it to ensure their observance by regional and local governments and authorities and non-governmental bodies within its territory;

(b) **"Services"** includes any service in any sector except services supplied in the exercise of governmental authority; and

(c) **"A service supplied in the exercise of governmental authority"** means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

4. Procurement by governmental agencies purchased for governmental purposes and not with a view to commercial re-sale are excluded from the scope of this Protocol.
5. This Protocol shall not apply to measures affecting:
 - (a) air traffic rights, however granted; and
 - (b) services directly related to the exercise of air traffic rights;

6. This Protocol shall apply to measures affecting:

- (a) aircraft repair and maintenance services;
- (b) the selling and marketing of air transport services; and
- (c) computer reservation system (CRS) services.

PART III

OBJECTIVES

Article 3 Objectives

1. The principal objective of this Protocol is to support the objectives of the AfCFTA, as set out in Article 3 of the Agreement particularly to create a single liberalised market for trade in services.
2. The specific objectives of this Protocol are to:
 - (a) enhance competitiveness of services through: economies of scale, reduced business costs, enhanced continental market access, and an improved allocation of resources including the development of trade-related infrastructure;
 - (b) promote sustainable development in accordance with the Sustainable Development Goals (SDGs);
 - (c) foster domestic and foreign investment;
 - (d) accelerate efforts on industrial development to promote the development of regional value chains;
 - (e) progressively liberalise trade in services across the African continent on the basis of equity, balance and mutual benefit, by eliminating barriers to trade in services;
 - (f) ensure consistency and complementarity between liberalisation of trade in services and the various Annexes in specific services sectors;
 - (g) pursue services trade liberalisation in line with Article V of the GATS by expanding the depth and scope of liberalisation and increasing, improving and developing the export of services, while fully preserving the right to regulate and to introduce new regulations;

- (h) promote and enhance common understanding and cooperation in trade in services amongst State Parties in order to improve the capacity, efficiency and competitiveness of their services markets; and
- (i) promote research and technological advancement in the field of services to accelerate economic and social development.

PART IV

GENERAL OBLIGATIONS AND DISCIPLINES

Article 4

Most-Favoured-Nation Treatment

1. With respect to any measure covered by this Protocol, each State Party shall, upon entry into force, accord immediately and unconditionally to services and service suppliers of any other State Party treatment no less favourable than that it accords to like services and service suppliers of any Third Party.
2. Nothing in this Protocol shall prevent a State Party from entering into a new preferential agreement with a Third Party, in accordance with Article V of the GATS provided such agreements do not impede or frustrate the objectives of this Protocol. Such preferential treatment shall be extended to all State Parties on a reciprocal and non-discriminatory basis.
3. Notwithstanding paragraph 1, two (2) or more State Parties may conduct negotiations and agree to liberalise trade in services for specific sectors or sub-sectors in accordance with the objectives in this Protocol. Other State Parties shall be afforded opportunity to negotiate the preferences granted therein on a reciprocal basis.
4. Notwithstanding the provisions of paragraph 2, a State Party shall not be obliged to extend preferences agreed with any Third Party prior to the entry into force of this Protocol, of which that State Party was a member or a beneficiary. A State Party may afford opportunity to the other State Parties to negotiate the preferences granted therein on a reciprocal basis.
5. The provisions of this Protocol shall not be so construed as to prevent any State Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.
6. A State Party may maintain a measure which is inconsistent with paragraph 1, provided it is listed in the Most Favoured Nation (MFN) exemption list. The agreed list of MFN exemptions shall be annexed to this Protocol. States

Parties shall regularly review MFN exemptions, with a view to determining which MFN exemptions can be eliminated.

Article 5

Transparency

1. Each State Party shall, in a medium⁵ that is accessible, publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to or affect the operation of this Protocol. International and regional agreements pertaining to or affecting trade in services to which a State Party is a signatory shall also be published.
2. Each State Party shall notify the Secretariat of any international and regional agreements pertaining to or affecting trade in services with Third Parties to which they are signatory prior to or after entry into force of this Protocol.
3. Each State Party shall promptly and at least annually notify the Secretariat of the introduction of any new, or any changes to, existing laws, regulations or administrative guidelines which significantly affect trade in services under this Protocol.
4. Where a State Party submits a notification to the Secretariat, the latter shall promptly circulate the said notification to all State Parties.
5. Each State Party shall respond promptly to all requests by any other State Party for specific information on any of its measures of general application or international and/or regional agreements within the meaning of paragraph 1. State Parties shall also reply to any question from any other State Party relating to an actual or proposed measure that might substantially affect the operation of this Protocol.
6. Each State Party shall designate the relevant enquiry points to provide State Parties with specific information, upon request, on all such matters related to trade in services as well as those subject to the notification requirement above.

Article 6

Disclosure of Confidential Information

Nothing in this Protocol shall require any State Party to disclose confidential information and data, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

⁵ For example through Gazette, newsletter, Hansard, or websites in one of the African Union languages.

Article 7

Special and Differential Treatment

In order to ensure increased and beneficial participation in trade in services by all parties, State Parties shall:

- (a) provide special consideration to the progressive liberalisation of service sectors commitments and modes of supply which will promote critical sectors of growth, social and sustainable economic development;
- (b) take into account the challenges that may be encountered by State Parties and may grant flexibilities such as transitional periods, within the framework of action plans, on a case by case basis, to accommodate special economic situations and development, trade and financial needs in implementing this Protocol for the establishment of an integrated and liberalised single market for trade in services; and
- (c) accord special consideration to the provision of technical assistance and capacity-building through continental support programmes.

Article 8

Right to Regulate

Each State Party may regulate and introduce new regulations on services and services suppliers within its territory in order to meet national policy objectives, in so far as such regulations do not impair any rights and obligations arising under this Protocol.

Article 9

Domestic Regulation

1. In sectors where specific commitments are undertaken, each State Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective, transparent and impartial manner.
2. Each State Party shall maintain or institute, as soon as practicable, judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the State Party shall ensure that the procedures in fact provide for an objective and impartial review.

3. Where authorisation is required for the supply of a service liberalised under this Protocol, the competent authorities of a State Party shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the State Party shall provide, without undue delay, information concerning the status of the application.

Article 10

Mutual Recognition

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of services suppliers, and subject to the requirements of paragraph 3 of this Article, a State Party may recognise the education or experience obtained, requirements met, or licenses or certifications granted in another State Party. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with the State Party concerned or may be accorded autonomously.
2. A State Party that is a party to an agreement or arrangement of the type referred to in paragraph 1 of this Article, whether existing or future, shall afford adequate opportunity for other interested State Parties to negotiate their accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a State Party accords recognition autonomously, it shall afford adequate opportunity for any other State Party to demonstrate that education, experience, licenses, or certifications obtained or requirements met in that other State Party's territory should be recognised.
3. A State Party shall not accord recognition in a manner which would constitute a means of discrimination between State Parties in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction on trade in services.
4. Each State Party shall:
 - (a) within twelve (12) months from the date on which the Agreement enters into force for it, inform the Secretariat of its existing recognition measures and state whether such measures are based on agreements or arrangements of the type referred to in paragraph 1 of this Article;

- (b) promptly inform the State Parties through the Secretariat as far in advance as possible of the opening of negotiations on an agreement or arrangement of the type referred to in paragraph 1 of this Article in order to provide adequate opportunity to any other State Party to indicate their interest in participating in the negotiations before they enter a substantive phase; and
 - (c) promptly inform the States Parties through the Secretariat when it adopts new recognition measures or significantly modifies existing ones and state whether the measures are based on an agreement or arrangement of the type referred to in paragraph 1 of this Article.
5. Wherever appropriate, recognition should be based on AfCFTA agreed criteria by State Parties. In appropriate cases, State Parties shall work in cooperation with relevant intergovernmental and non-governmental organisations towards the establishment and adoption of common continental standards and criteria for recognition and common continental standards for the practice of relevant services trades and professions.

Article 11

Monopolies and Exclusive Service Suppliers

1. Each State Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that State Party's obligations and specific commitments under this Protocol.
2. Where a State Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that State Party's specific commitments, the State Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.
3. A State Party which has a reason to believe that a monopoly supplier of a service of any other State Party is acting in a manner inconsistent with paragraphs 1 and 2 of this Article, may request the State Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.
4. If, after the date of entry into force of this Protocol, a State Party grants monopoly rights regarding the supply of a service covered by its specific commitments, that State Party shall notify the Secretariat no later than three (3) months before the intended implementation of the grant of monopoly rights and the provisions concerning modification of specific commitments will apply.

5. The provisions of this Article shall also apply to cases of exclusive service suppliers where a State Party, formally or in effect:
 - (a) authorises or establishes a small number of service suppliers; and
 - (b) substantially prevents competition among those suppliers in its territory.

Article 12

Anti-competitive Business Practices

1. State Parties recognise that certain business practices of service suppliers, other than those concerning monopolies and exclusive service suppliers, may restrain competition and thereby restrict trade in services.
2. Each State Party shall, at the request of any other State Party, enter into consultations with a view to eliminating practices referred to in paragraph 1 of this Article. The State Party addressed shall respond to such a request and shall cooperate through the supply of publicly available non-confidential information of relevance to the matter in question. The State Party addressed shall also provide other information available to the requesting State Party, subject to its domestic law and to the conclusion of a satisfactory agreement concerning the safeguarding of its confidentiality by the requesting State Party.

Article 13

Payments and Transfers

1. Except under the circumstances envisaged in Article 14 of this Protocol, a State Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.
2. Nothing in this Protocol shall affect the rights and obligations of the members of the International Monetary Fund under the Articles of Agreement of the Fund, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a State Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except as provided under Article 14 of this Protocol, or at the request of the Fund.

Article 14

Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance of payments and external financial difficulties or threat thereof, a State Party may adopt or maintain restrictions on trade in services on which it has undertaken specific commitments, including on payments or transfers for transactions related to such commitments. It is recognised that particular pressures on the balance of payments of a State Party in the process of economic development or economic transition may necessitate the use of restrictions to ensure, inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.
2. The restrictions referred to in paragraph 1 of this Article shall:
 - (a) not discriminate among State Parties;
 - (b) be consistent with the Articles of Agreement of the International Monetary Fund;
 - (c) avoid unnecessary damage to the commercial, economic and financial interests of any other State Party;
 - (d) not exceed those necessary to deal with the circumstances described in paragraph 1 of this Article; and
 - (e) be temporary and be phased out progressively as the situation specified in paragraph 1 of this Article improves.
3. In determining the incidence of such restrictions, State Parties may give priority to the supply of services which are more essential to their economic or development programmes. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.
4. Any restrictions adopted or maintained under paragraph 1 of this Article, or any changes therein, shall be promptly notified to the Secretariat.
5. State Parties applying the provisions of this Article shall consult promptly within the Committee on Trade in Services on restrictions adopted under this Article.
6. The Committee on Trade in Services shall establish procedures for periodic consultations with the objective of enabling such recommendations to be made to the State Party concerned as it may deem appropriate.
7. Such consultations shall assess the balance-of-payment situation of the State Party concerned and the restrictions adopted or maintained under this Article, taking into account, inter alia, such factors as:

- (a) the nature and extent of the balance-of-payments and the external financial difficulties;
 - (b) the external economic and trading environment of the consulting State Party; and
 - (c) alternative corrective measures which may be available.
8. The consultations shall address the compliance of any restrictions with paragraph 2 of this Article, in particular the progressive phase-out of restrictions in accordance with paragraph 2(e) of this Article.
9. In such consultations, all findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments, shall be accepted and conclusions shall be based on the assessment by the Fund of the balance-of-payments and the external financial situation of the consulting State Party.
10. If a State Party which is not a member of the International Monetary Fund wishes to apply the provisions of this Article, the Council of Ministers shall establish a review procedure and any other procedures necessary.

Article 15

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between State Parties where like conditions prevail, or a disguised restriction on trade in services, nothing in this Protocol shall be construed to prevent the adoption or enforcement by any State Party of measures:

- (a) necessary to protect public morals or to maintain public order⁶;
- (b) necessary to protect human, animal or plant life or health;
- (c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Protocol including those relating to:
 - i. the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;

⁶ The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

- ii. the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
 - iii. safety;
- (d) inconsistent with National Treatment, provided that the difference in treatment is aimed at ensuring the equitable or effective imposition or collection of direct taxes in respect of services or service suppliers of other States Parties; and⁷
- (e) inconsistent with the Most Favoured Nation obligation provided that the difference in treatment is the result of an agreement on avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the State Party is bound.

Article 16

Security Exceptions

1. Nothing in this Protocol shall be construed:

- (a) to require any State Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or
- (b) to prevent any State Party from taking any action which it considers necessary for the protection of its essential security interests:

⁷Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a State Party under its taxation system which:

- a. Apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the State Party's territory; or
- b. Apply to non-residents in order to ensure the imposition or collection of taxes in the State Party's territory; or
- c. Apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or
- d. Apply to consumers of services supplied in or from the territory of another State Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the State Party's territory; or
- e. Distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or
- f. Determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the State Party's tax base.

Tax terms or concepts in paragraph (d) of Article 15 and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the State Party taking the measure.

- i. relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment;
 - ii. relating to fissionable and fusionable materials or the materials from which they are derived; and
 - iii. taken in time of war or other emergency in international relations; or
 - (c) to prevent any State Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.
2. The Secretariat shall be informed, to the fullest extent possible, of measures taken under paragraphs 1(b) and 1(c) of this Article, and of their termination.

Article 17

Subsidies

1. Nothing in this Protocol shall be construed to prevent State Parties from using subsidies in relation to their development programmes.
2. State Parties shall decide on mechanisms for information exchange and review of all subsidies related to trade in services that State Parties provide to their domestic service suppliers.
3. Any State Party which considers that it is adversely affected by a subsidy of another State Party may request consultations with that State Party on such matters. Such requests shall be accorded sympathetic consideration.

PART V

PROGRESSIVE LIBERALISATION

Article 18

Progressive Liberalisation

1. State Parties shall undertake successive rounds of negotiations based on the principle of progressive liberalisation accompanied by the development of regulatory cooperation, and sectoral disciplines, taking into account the objectives of the 1991 Abuja Treaty that aim to strengthen integration at the regional and continental levels in all fields of trade, and in line with the general principle of progressivity towards achievement of the ultimate goal of the African Economic Community.
2. State Parties shall negotiate sector specific obligations through the development of regulatory frameworks for each of the sectors, as necessary, taking account of the best practices and *acquis* from the

RECs, as well as the negotiated agreement on sectors for regulatory cooperation. State Parties agree that negotiations for continuing the process shall commence following the establishment of the AfCFTA, based on the work programme to be agreed by the Committee on Trade in Services.

3. The liberalisation process shall focus on the progressive elimination of the adverse effects of measures on trade in services as a means of providing effective market access with a view to boosting intra-African trade in services.
4. The list of Priority Sectors and the Modalities on Trade in Services shall be annexed to this Protocol and shall form an integral part hereof.
5. The Transitional Implementation Work Programme developed by Member States shall guide the finalisation of outstanding Phase I negotiations on this Protocol, before the entry into force of the Agreement.

Article 19

Market Access

1. With respect to market access through the modes of supply identified in Article 1(p) of this Protocol, each State Party shall accord services and service suppliers of any other State Party treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule.⁸
2. In sectors where market-access commitments are undertaken, the measures which a State Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule, are defined as:
 - (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

⁸If a State Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply defined in Article 1(p) and if the cross-border movement of capital is an essential part of the service itself, that State Party is thereby committed to allow such movement of capital. If a State Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in Article 1(p) (iii), it is thereby committed to allow related transfers of capital into its territory.

- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;⁹
- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;
- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and
- (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

Article 20

National Treatment

1. In all sectors inscribed in the schedule, and subject to any conditions and qualifications set out therein, each State Party shall accord to services and service suppliers of any other State Party treatment no less favourable than that it accords to its own like services and service suppliers, subject to the conditions and qualifications agreed and specified in its Schedule of Specific Commitments.
2. A State Party may meet the requirement of paragraph 1 of this Article, by according to services and service suppliers of any other State Party either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the State Party compared to like services or service suppliers of any other State Party.

⁹ Article 1(g) (iii) does not cover measures of a State Party which limit inputs for the supply of services.

Article 21

Additional Commitments

The State Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 19 or 20 of this Protocol, including but not limited to those regarding qualification, standards or licensing matters. Such commitments shall be inscribed in a State Party's Schedule of Specific Commitments.

Article 22

Schedules of Specific Commitments

1. Each State Party shall set out in a schedule, the specific commitments that it undertakes under Articles 19, 20 and 21 of this Protocol.
2. With respect to sectors where such commitments are undertaken, each Schedule of Specific Commitments shall specify:
 - (a) terms, limitations and conditions on market access;
 - (b) conditions and qualifications on national treatment;
 - (c) undertakings relating to additional commitments; and
 - (d) where appropriate the time-frame for implementation of such commitments, including their date of entry into force.
3. Measures inconsistent with both Articles 19 and 20 of this Protocol shall be inscribed in the column relating to Article 19 of this Protocol. In this case the inscription will be considered to provide a condition or qualification to Article 20 of this Protocol as well.
4. The Schedules of Specific Commitments, the Modalities for Trade in Services and the list of Priority Sectors shall, upon adoption, form an integral part of this Protocol.
5. The Transitional Implementation Work Programme developed by Member States shall guide the finalisation of outstanding Phase I negotiations on this Protocol, before the entry into force of the Agreement.

Article 23

Modification of Schedules of Specific Commitments

1. A State Party (referred to in this Article as the "modifying State Party") may modify or withdraw any commitment in its schedule, at any time after

three years have elapsed from the date on which that commitment entered into force, in accordance with the provisions of this Article.

2. A modifying State Party shall notify its intent to modify or withdraw a commitment pursuant to this Article to the Secretariat no later than three (3) months before the intended date of implementation of the modification or withdrawal. The Secretariat shall promptly circulate this information to State Parties.
3. At the request of any State Party the benefits of which under this Protocol may be affected (referred to in this Article as an "affected State Party"), by a proposed modification or withdrawal notified under paragraph 2 of this Article, the modifying State Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment. In such negotiations and agreement, the State Parties concerned shall endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in commitments prior to such negotiations.
4. Compensatory adjustments shall be made on a most-favoured-nation basis.
5. If agreement is not reached between the modifying State Party and any affected State Party before the end of the period provided for negotiations, such affected State Party may refer the matter to dispute settlement. Any affected State Party that wishes to enforce a right that it may have to compensation must participate in the dispute process.
6. If no affected State Party has requested dispute settlement, the modifying State Party shall be free to implement the proposed modification or withdrawal, within a reasonable period of time.
7. The modifying State Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the dispute settlement.
8. If the modifying State Party implements its proposed modification or withdrawal and does not comply with the findings of the arbitration, any affected State Party that participated in the dispute settlement may modify or withdraw substantially equivalent benefits in conformity with those findings. Notwithstanding the obligations under Article 4 of this Protocol, such a modification or withdrawal may be implemented solely with respect to the modifying State Party.
9. The Committee on Trade in Services shall facilitate such negotiations and establish related appropriate procedures.

Article 24

Denial of Benefits

Subject to prior notification and consultation, a State Party may deny the benefits of this Protocol to service suppliers of another State Party where the service is being supplied by a juridical person of a non-State Party, without real and continuous link with the economy of the State Party or with negligible or no business operations in the territory of the other State Party or any other State Party.

PART VI

INSTITUTIONAL PROVISIONS

Article 25

Consultation and Dispute Settlement

The provisions of the Protocol on the Rules and Procedures on the Settlement of Disputes shall apply to consultations and the settlement of disputes under this Protocol.

Article 26

Implementation, Monitoring and Evaluation

1. The Council of Ministers in accordance with Article 11 of the Agreement shall establish the Committee on Trade in Services, which shall carry out such functions as may be assigned to it by the Council of Ministers to facilitate the operation of this Protocol and further its objectives. The Committee may establish such subsidiary bodies as it considers appropriate for the effective discharge of its functions.
2. The Chairman of the Committee shall be elected by the State Parties.
3. The Committee shall prepare annual reports for State Parties to facilitate the process of implementation, monitoring and evaluation of this Protocol.

Article 27

Technical Assistance, Capacity Building and Cooperation

1. State Parties recognise the importance of technical assistance, capacity building and cooperation in order to complement the liberalisation of services, to support State Parties' efforts to strengthen their capacity in the supply of services and to facilitate implementation and attainment of the objectives of this Protocol.

2. State Parties agree, where possible, to mobilise resources, in collaboration with development partners, and implement measures, in support of the domestic efforts of State Parties, with a view to, *inter alia*:
 - (a) building capacity and training for trade in services;
 - (b) improving the ability of service suppliers to gather information on and to meet regulations and standards at international, continental, regional and national levels;
 - (c) supporting the collection and management of statistical data on trade in services;
 - (d) improving the export capacity of both formal and informal service suppliers, with particular attention to micro, small and medium size; women and youth service suppliers;
 - (e) supporting the negotiation of mutual recognition agreements;
 - (f) facilitating interaction and dialogue between service suppliers of State Parties with a view to promotion of information sharing with respect to market access opportunities, peer learning and the sharing of best practices;
 - (g) addressing quality and standards needs in those sectors where State Parties have undertaken commitments under this Protocol with a view to supporting the development and adoption of standards; and
 - (h) developing and implementing regulatory regimes for specific services sectors at continental, regional and national levels, in particular in those sectors in which State Parties have undertaken specific commitments.
3. The Secretariat, working with State Parties, RECs and partners, shall coordinate the provision of technical assistance.

Article 28
Annexes to this Protocol

1. Member States may develop annexes for the implementation of this Protocol relating, *inter alia*, to:
 - (a) Schedules of Specific Commitments;
 - (b) MFN Exemption(s);
 - (c) Air Transport Services;
 - (d) List of Priority Sectors; and
 - (e) A framework document on Regulatory Cooperation.

2. Upon adoption by the Assembly, such annexes shall form an integral part of this Protocol.
3. State Parties may develop additional annexes for the implementation of this Protocol for adoption by the Assembly. Upon adoption by the Assembly, such annexes shall form an integral part of this Protocol.

Article 29

Amendment

This Protocol shall be amended in accordance with the provisions of Article 29 of the Agreement.

PROTOCOL ON RULES AND PROCEDURES ON THE SETTLEMENT OF DISPUTES

WE Member States of the African Union,

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

- (a) **“AB”** means the Appellate Body established under Article 20 of this Protocol;
- (b) **“Complaining Party”** means a State Party that has initiated a dispute settlement procedure under the Agreement;
- (c) **“Consensus”** means if no State Party present at the meeting of the DSB when a decision is taken, formally objects to the decision;
- (d) **“Days”** means working days save for cases involving perishable goods where Days shall mean calendar days;
- (e) **“Dispute”** means a disagreement between State Parties regarding the interpretation and/or application of the Agreement in relation to their rights and obligations;
- (f) **“DSB”** means the Dispute Settlement Body established under Article 5 of this Protocol;
- (g) **“Panel”** means a Dispute Settlement Panel established under Article 9 of this Protocol;
- (h) **“Party to a dispute or proceedings”** means a State Party to a dispute or proceedings;
- (i) **“State Party concerned”** is a State Party to which rulings and recommendations of the DSB are directed; and
- (j) **“Third Party”** means a State Party with a substantial interest in a dispute,

Article 2

Objective

This Protocol provides for the administration of the Dispute Settlement Mechanism established in accordance with Article 20 of the Agreement and aims at ensuring that the dispute settlement process is transparent, accountable, fair, predictable and consistent with the provisions of the Agreement.

Article 3

Scope of Application

1. This Protocol shall apply to disputes arising between State Parties concerning their rights and obligations under the provisions of the Agreement.
2. This Protocol shall apply subject to such special and additional rules and procedures on dispute settlement contained in the Agreement. To the extent that there is a difference between the rules and procedures of this Protocol and the special or additional rules and procedures in the Agreement, the special or additional rules and procedures shall prevail.
3. For the purposes of this Article, a dispute settlement proceeding shall be considered to have been initiated in accordance with this Protocol when the Complaining Party requests consultations pursuant to Article 7 of this Protocol.
4. A State Party which has invoked the rules and procedures of this Protocol with regards to a specific matter, shall not invoke another forum for dispute settlement on the same matter.

Article 4

General Provisions

1. The dispute settlement mechanism of the AfCFTA is a central element in providing security and predictability to the regional trading system. The dispute settlement mechanism shall preserve the rights and obligations of State Parties under the Agreement and clarify the existing provisions of the

Agreement in accordance with customary rules of interpretation of public international law.

2. Recommendations or rulings made by the DSB shall be aimed at achieving a satisfactory settlement of a dispute in accordance with rights and obligations under the Agreement.
3. Mutually agreed solutions to matters formally raised in accordance with the consultation and dispute settlement provisions of this Protocol shall be notified to the DSB, where any State Party may raise any point relating thereto.
4. All resolutions to matters formally raised in accordance with the consultations and dispute settlement provisions of this Protocol, including arbitration awards, shall be consistent with the Agreement.
5. Requests for conciliation, good offices, mediation and the use of dispute settlement procedures should not be intended or considered as contentious acts. If a dispute arises, State Parties will engage in these procedures in good faith in an effort to resolve the dispute. Further, complaints and counter-complaints in regard to separate matters should not be linked.
6. In their findings and recommendations, the Panel and AB shall not add to or diminish the rights and obligations of State Parties pursuant to the Agreement.

Article 5

Dispute Settlement Body

1. The Dispute Settlement Body is hereby established in accordance with Article 20 of the Agreement to administer the provisions of this Protocol except as otherwise provided for in the Agreement.
2. The DSB shall be composed of representatives of the State Parties.
3. The DSB shall have the authority to:
 - (a) establish Dispute Settlement Panels and an Appellate Body;
 - (b) adopt Panel and Appellate Body reports;

- (c) maintain surveillance of implementation of rulings and recommendations of the Panels and Appellate Body; and
 - (d) authorise the suspension of concessions and other obligations under the Agreement.
4. The DSB shall have its own Chairperson and shall establish such rules of procedure as it deems necessary for the fulfilment of its responsibilities. The DSB Chairperson shall be elected by the State Parties.
 5. The DSB shall meet as often as necessary to discharge its functions as provided for in this Protocol.
 6. Where the rules and procedures of this Protocol provide for the DSB to take a decision, it shall do so by consensus.
 7. The DSB shall inform the Secretariat of any dispute related to the provisions of the Agreement.

Article 6

Procedures under the Dispute Settlement Mechanism

1. Where a dispute arises between or among the State Parties, in the first instance, recourse shall be had to consultations, with a view to finding an amicable resolution to the dispute.
2. Where an amicable resolution is not achieved, any party to the dispute shall, after notifying the other parties to the dispute, refer the matter to the DSB, through the Chairperson and request for the establishment of a Dispute Settlement Panel, (hereinafter referred to as the “Panel”) for purposes of settling the dispute.
3. The DSB shall adopt Rules of Procedure for the selection of the Panel, including the issues of conduct, to ensure impartiality.
4. The Panel shall set in motion the process of a formal resolution of the dispute as provided for in this Protocol and the parties to the dispute shall, in good faith, observe in a timely manner, any directions, rulings and stipulations that

may be given to them by the Panel in relation to procedural matters and shall make their submissions, arguments and rebuttals in a format prescribed by the Panel.

5. The DSB shall make its determination of the matter and its decision shall be final and binding on the parties to a dispute.
6. Where the parties to a dispute consider it expedient to have recourse to arbitration as the first dispute settlement avenue, the parties to a dispute may proceed with arbitration as provided for in Article 27 of this Protocol.

Article 7

Consultations

1. State Parties with a view to encouraging amicable resolution of disputes, affirm their resolve to strengthen and improve the effectiveness of consultation procedures employed by State Parties.
2. Each State Party undertakes to accord consideration to, and afford adequate opportunity for consultations regarding any representation made by another State Party concerning measures affecting the operation of the Agreement.
3. Requests for consultations shall be notified to the DSB through the Secretariat in writing, giving the reasons for the request, including identification of the issues and an indication of the legal basis for the complaint.
4. Where a request for consultations is made pursuant to this Protocol, the State Party to which the request is made shall, unless otherwise mutually agreed, reply to the request within ten (10) days after the date of its receipt and shall enter into consultations in good faith within a period not exceeding thirty (30) days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution.
5. Where a State Party to which the request is made does not respond within ten (10) days after the date of receipt of the request, or does not enter into consultations within a period of thirty (30) days, or a period otherwise mutually agreed, after the date of receipt of the request, the State Party that requested for the consultations may refer the matter to the DSB requesting for the establishment of a Panel.

6. In the course of consultations and before resorting to further action under this Protocol, State Parties shall attempt to obtain satisfactory settlement of the dispute.
7. Consultations shall be:
 - (a) confidential; and
 - (b) without prejudice to the rights of any State Party in any further proceedings.
8. Where State Parties to a dispute fail to settle a dispute through consultations within sixty (60) days after the date of receipt of the request for consultations, the complaining party may refer the matter to the DSB, for establishment of a Panel. Consultations may be held in the territory of the party complained against unless the Parties agree otherwise. Unless State Parties to a dispute agree to continue or suspend consultations, consultations shall be deemed concluded within the sixty (60) days.
9. In cases of urgency, including cases of perishable goods:
 - (a) the State Party shall within ten (10) days after the date of receipt of the request enter into consultations;
 - (b) where the parties fail to settle the dispute through consultations within twenty (20) days after the date of receipt of the request, the complaining party may refer the matter to the DSB for establishment of a Panel;
 - (c) pursuant to the provisions of Annex 5 on Non-Tariff Barriers (Appendix 2: Procedures for Elimination and Cooperation in the Elimination of Non-Tariff Barriers), where a State Party fails to resolve an NTB after a mutually agreed solution was reached and after issuing the factual report, the requesting State Party shall resort to the dispute settlement panel stage. Notwithstanding the provisions herein, the above Parties to a dispute may agree to submit the matter to arbitration in accordance with the provisions of Article 27 of this Protocol; and
 - (d) the parties to the dispute, the DSB and the Panel and Appellate Body shall make every effort to expedite the proceedings to the greatest extent possible.

10. Where a State Party that is not party to a dispute considers that it has substantial trade interest in consultations, that State Party may, within ten (10) days of the circulation of the request for consultations, request the Parties to a dispute to be joined in the consultations.
11. Where the Parties to the dispute agree that the claim of substantial interest is well founded, the Third Party shall be so joined to the consultations. If the request to join the consultations is not accepted, the disputing State Party shall inform the DSB and in this event the applicant State Party shall be free to request consultation.

Article 8

Good Offices, Conciliation and Mediation

1. State Parties to a dispute may at any time voluntarily undertake good offices, conciliation, or mediation. Proceedings that involve good offices, conciliation, or mediation shall be confidential and be without prejudice to the rights of the State Parties in any other proceedings.
2. Good offices, conciliation or mediation may be requested at any time by any State Party to a dispute. They may begin at any time and be terminated at any time by any of the State Parties to the dispute. Once procedures for good offices, conciliation or mediation are terminated, a Complaining Party may then proceed with a request for the establishment of a panel.
3. When good offices, conciliation or mediation are entered into after the date of receipt of a request for consultations, the Complaining Party must allow for a period of sixty (60) days after the date of receipt of the request for consultations before requesting the establishment of a panel. The Complaining Party may request for the establishment of a Panel during the sixty (60) day period, if the State Parties to the dispute jointly consider that the good offices, conciliation or mediation process has failed to settle the dispute.
4. State Parties participating in proceedings under this Article may suspend or terminate those proceedings, at any time, if they consider that the good offices, conciliation or mediation process has failed to settle the dispute.

5. If the State Parties to a dispute agree, the procedures for good offices, conciliation or mediation may continue while the Panel process proceeds.
6. The Head of the Secretariat may be requested by any State Party to a dispute to facilitate the process of good offices, conciliation or mediation, including offering the same. Such a request shall be notified to the DSB and the Secretariat.

Article 9

Establishment of Panels

1. Where an amicable resolution is not achieved through consultations, the Complaining Party shall, in writing refer the matter to the DSB and request for the establishment of a Panel. Parties to a dispute shall be informed promptly of the composition of the Panel.
2. The request referred to in paragraph 1 of this Article shall indicate whether consultations were held, identify the specific measures at issue and provide a summary of the legal basis of the complaint sufficient to present the problem clearly.
3. In case the applicant requests the establishment of a Panel with terms of reference other than the standard terms, the written request shall include the proposed text of special terms of reference.
4. A meeting of the DSB shall be convened within fifteen (15) days of the request to establish a Panel, provided that at least ten (10) days advance notice of the meeting is given to the DSB.
5. The Panel shall be constituted within ten (10) days of the meeting of the DSB referred to in paragraph 4 of this Article.

Article 10

Composition of the Panel

1. The Secretariat shall, upon entry into force of the Agreement, establish and maintain an indicative list or roster of individuals who are willing and able to serve as Panellists.

2. Each State Party may annually nominate two (2) individuals to the Secretariat for the inclusion in the indicative list or roster, indicating their area (s) of expertise related to the Agreement. The indicative list or roster of individuals shall be submitted by the Secretariat for consideration and approval by the DSB.
3. Individuals listed on the indicative list or roster shall:
 - (a) have expertise or experience in law, international trade, other matters covered by the Agreement or the resolution of disputes arising under international trade agreements;
 - (b) be chosen strictly on the basis of objectivity, reliability and sound judgment;
 - (c) be impartial, independent of, and not be affiliated to or take instructions from, any Party; and
 - (d) comply with a code of conduct to be developed by the DSB and adopted by Council of Ministers.
4. The Panellists shall be selected with a view to ensuring their independence and integrity and shall have a sufficiently diverse background and a wide spectrum of experience in the subject matter of the dispute, unless the Parties to the dispute agree otherwise.
5. In order to ensure and preserve the impartiality and independence of the Panellists, nationals of the disputing State Parties shall not serve on a Panel concerned with that dispute, unless the Parties to the dispute agree otherwise.
6. The Secretariat, shall propose nominations for the Panel to the Parties to the dispute. The Parties to the dispute shall not oppose nominations except for compelling reasons.
7. If no agreement is reached on the composition of a Panel within thirty (30) days after the date of the establishment of a Panel, at the request of either Party, the Head of the Secretariat, in consultation with the Chairperson of the DSB and with the consent of the disputing State Parties, shall determine the

composition of the Panel by appointing the Panellists considered to be most appropriate.

8. The Chairperson of the DSB shall inform the State Parties of the composition of the Panel no later than ten (10) days after the date the Chairperson receives such a request.
9. Where there are two (2) disputing State Parties, the Panel shall comprise three (3) members. Where there are more than two (2) disputing State Parties, the Panel shall comprise five (5) members.
10. Panellists shall serve in their individual capacities and not as Government representatives, nor as representatives of any organisation.
11. Panellists shall not receive instructions or be influenced by any State Party when considering matters before them.

Article 11

Terms of Reference of the Panel

1. Panellists shall have the following terms of reference unless the Parties to a dispute agree otherwise, within twenty (20) days from the establishment of the Panel:
 - (a) to examine, in the light of the relevant provisions in the Agreement, cited by the Parties to the dispute, the matter referred to the DSB by the Complaining Party; and
 - (b) to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in the Agreement.
2. Panels shall address the relevant provisions in the Agreement cited by the Parties to the dispute.
3. In establishing a Panel, the DSB may authorise its Chairperson to draw up the terms of reference of the Panel in consultation with the State Parties to the dispute, subject to the provisions of paragraph 1. The terms of reference thus drawn up shall be circulated to all State Parties. If other than standard

terms of reference are agreed upon, any State Party may raise any point relating thereto in the DSB.

Article 12

Functions of a Panel

1. The principal function of a Panel is to assist the DSB in discharging its responsibilities under the Agreement.
2. In performing this function, a Panel shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the relevant provisions of the Agreement and make findings to assist the DSB in making recommendations and rulings.
3. The Panel shall consult widely and regularly with the Parties to a dispute and give them an adequate opportunity to develop a mutually satisfactory solution.

Article 13

Third Parties

1. The interests of all Parties to a dispute including Third Parties shall be taken into account during the Panel process.
2. A Third Party shall, after notification of its substantial interests to the Panel through the DSB, provided that disputing parties agree that the claim of substantial interest is well founded, have an opportunity to be heard and to make written submissions to the Panel.
3. Copies of the submissions shall be served on the Parties to the dispute and shall be reflected in the report of the Panel.
4. If a Third Party considers that a measure already the subject of a Panel proceeding impairs or nullifies benefits accruing to it under the Agreement, that Third Party may have recourse to normal dispute settlement procedures under this Protocol. Such a dispute shall be referred to the original Panel wherever possible.
5. Third Parties shall receive the submissions of the Parties to a dispute at the first meeting of the Panel.

Article 14

Procedures for Multiple Complaints

1. Where more than one (1) State Party requests for the establishment of a Panel related to the same matter, a single Panel may be established to examine these complaints, taking into account the rights of all State Parties concerned. A single Panel shall be established to examine such complaints whenever feasible.
2. The single Panel shall organise its examination and present its findings to the DSB in such a manner that the rights, which the Parties to the dispute would have enjoyed had separate Panels examined the complaints, are in no way impaired. If one of the Parties to the dispute so requests, the Panel shall submit separate reports on the dispute concerned. The written submissions by each of the Complaining Parties shall be made available to the other Complaining Parties, and each Complaining party shall have the right to be present when any one of the other Complaining Party presents its views to the Panel.
3. If more than one Panel is established to examine the complaints related to the same matter, to the greatest extent possible the same persons shall serve as Panellists on each of the separate Panels and the timetable for the Panel process in such disputes shall be harmonised.

Article 15

Procedures for the Panel

1. The procedures of the Panel shall provide sufficient flexibility to ensure an effective and timely resolution of disputes by the Panels.
2. After consulting the Parties to a dispute, the Panellists shall, within seven (7) days after the composition of the Panel and the determination of its terms of reference, fix the timetable for the proceedings of the Panel. The timetable thus drawn up shall be circulated to all State Parties.
3. In determining the timetable for the proceedings of the Panel, the Panel shall, within ten (10) working days, upon the expiry of the seven (7) days referred to

in paragraph 2, set precise time limits for written submissions by the Parties to a dispute. Parties to a dispute shall comply with the set time limits.

4. The period in which the Panel shall conduct its business, from the date of establishment of the Panel to the date of issuance of the final report to the Parties to a dispute, shall not exceed five (5) months and in cases of urgency, including cases of perishable goods, the period shall not exceed one and a half (1½) months.
5. Where the Parties to the dispute have failed to develop a mutually satisfactory solution, the Panel shall submit its findings in the form of a written report to the DSB. In such cases, the report of the Panel shall set out the findings of the fact, the applicability of the relevant provisions and the basic rationale behind any findings and recommendations that it makes.
6. Where a settlement of the matter among the Parties to the dispute has been found, the report of the Panel shall be confined to a brief description of the case and to reporting that a solution has been reached.
7. Where a Panel determines that it cannot issue its report within five (5) months, or within one and a half (1½) months in cases of urgency, the Panel shall immediately inform the DSB in writing of the reasons for the delay together with an estimation of the period within which the Panel shall be ready to issue its report. Where a Panel cannot issue a report within the period specified in paragraph 4 of this Article, the Panel shall issue the report within nine (9) months from the date of its composition.
8. The reports of the Panel shall be drafted in the absence of the Parties to the dispute and shall be based on information and evidence provided by the parties and any other person, expert or institution in accordance with this Protocol.
9. The Panel shall produce a single report reflecting the views of the majority of the Panellists.
10. Without prejudice to the provisions of this Article, the Panel shall follow the working procedures specified in the Annex on Working Procedures of the Panel unless the Panel decides otherwise after consulting the Parties to the dispute.

11. The Panel shall, at the request of both Parties to a dispute, suspend its work at any time for a period agreed by the Parties not exceeding twelve (12) months and shall resume its work at the end of this agreed period at the request of the Complaining Party. If the Complaining Party does not request the resumption of the Panel's work before the expiry of the agreed suspension period, the procedure shall be terminated. The suspension and termination of the Panel's work are without prejudice to the rights of either Party to a dispute in another proceeding on the same matter.

Article 16

Right to Seek Information

1. The Panel shall have the right to seek information and technical advice from any source that it deems appropriate, after informing the relevant authorities of State Parties to the dispute.
2. The Panel shall have the right to seek information and technical advice from any State Party provided that the State Party is not a Party to the dispute.
3. Where a Panel seeks information or technical advice from a State Party, such State Party shall, within the time set by the Panel, respond to the request made for such information.
4. Confidential information that is provided shall not be disclosed without formal authorisation from the source providing the information.
5. Where a Party to a dispute raises a factual issue concerning a scientific or other technical matter, the Panel may request for an advisory report in writing from an expert review group with relevant qualifications and experience on the issue.
6. Rules for the establishment of the expert review group and its procedures are set forth in the Annex on Expert Review.
7. The Panel may seek information from any relevant source and may consult experts to obtain their opinion on any matter that may be brought before it.

Article 17

Confidentiality

1. The deliberations of the Panels shall be confidential.

2. A Party to a dispute shall treat as confidential any information submitted to a Panel and designated as such, by another Party to a dispute.
3. Nothing in this Protocol shall preclude a Party to a dispute from disclosing statements of its own positions to the public.
4. The reports of the Panels shall be drafted without the presence of the parties to the dispute in light of the information provided and the statements made.
5. Opinions expressed in the Panel report by the individual panellists shall be anonymous.

Article 18

Reports of a Panel

1. A Panel shall consider the rebuttal submissions and arguments of the Parties to a dispute and issue a draft report containing descriptive sections of the facts and arguments of the dispute, to the Parties to a dispute.
2. The Parties to a dispute shall submit their comments on the draft report in writing to the Panel, within a period set by the Panel.
3. Taking into account any comments received under paragraph 2 of this Article, or on the expiration of the time set for the receipt of comments from the Parties to a dispute, the Panel shall issue an interim report to the Parties to a dispute, containing descriptive sections and its findings and conclusions.
4. Within a period set by a Panel, any Party to a dispute may submit a written request for review of specific aspects of the interim report prior to the issuance and circulation of the final report to the Parties to a dispute.
5. At the request of any Party to a dispute, the Panel shall hold a meeting with the Parties to a dispute on the review of specific aspects of the interim report.
6. Where no comments are received by the Panel within the period set for the receipt of comments on the interim report, the interim report shall be deemed to be the Panel's final report and it shall be promptly circulated to the Parties to a dispute and any interested parties and shall be forwarded to the DSB for consideration.

7. The final report of the Panel shall include a discussion of the arguments made at the interim review stage.

Article 19

Adoption of Report of a Panel

1. In order to provide sufficient time for the State Parties to consider the reports of the Panel, the reports shall not be brought up for consideration by the DSB before the expiration of twenty (20) days from the date on which the Panel circulated the report.
2. State Parties having objections to a Panel report shall give written reasons to the DSB, explaining their objections, which may include discovery of new facts, which by their nature have decisive influence on the decision provided that:
 - (a) such objections must be notified to the DSB within ten (10) days prior to a meeting of the DSB at which the Panel report will be considered; and
 - (b) the objecting party shall serve a copy of the objection with the other parties to the dispute and to the Panel that made the report.
3. Parties to a dispute shall have the right to participate fully in the consideration of the Panel reports by the DSB and their views shall be fully recorded.
4. Within sixty (60) days from the date the final Panel report is circulated to the State Parties, the report shall be considered, adopted and signed at a meeting of the DSB convened for that purpose, unless a Party to the dispute formally notifies the DSB of its decision to appeal or the DSB decides by consensus not to adopt the report. If a Party to a dispute has notified its decision to appeal, the report by the Panel shall not be considered for adoption by the DSB until after completion of the appeal. The decision of the DSB shall be final except as otherwise provided for in this Article.
5. The Parties to the dispute shall be entitled to a signed copy of the adopted report within seven (7) days of its adoption.

6. An appeal on the report of the Panel shall be lodged with the DSB within thirty (30) days from the date of communication of the decision to appeal by the State Party to the DSB.

Article 20

Appellate Body

1. A standing Appellate Body (AB) shall be established by the DSB. The AB shall hear appeals from panel cases.
2. The AB shall be composed of seven (7) persons, three (3) of whom shall serve on any one case.
3. Persons serving on the AB shall serve in rotation. Such rotation shall be determined in the working procedures of the AB.
4. The DSB shall appoint persons to serve on the AB for a four-year term, and each person may be reappointed once. Vacancies shall be filled as they arise. A person appointed to replace a person whose term of office has not expired shall hold office for the remainder of the predecessor's term.
5. The DSB shall appoint a person to fill the vacancy within two (2) months from the date the vacancy arose.
6. Where the DSB fails to appoint a person to fill the vacancy within two (2) months, the Chairperson of the DSB in consultations with the Secretariat shall within a period of one (1) month fill the vacancy.
7. The AB shall comprise of persons of recognised authority, with demonstrated expertise in law, international trade and the subject matter of the Agreement generally.
8. Members of the AB shall not be affiliated to any government. The AB shall broadly represent the membership within the AfCFTA. All persons serving on the AB shall be available at all times and on short notice, and shall stay abreast of dispute settlement activities and other relevant activities of the AfCFTA. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest.

Article 21

Appeals

1. Only Parties to the dispute, may appeal a Panel report. Third Parties which have notified the DSB of a substantial interest in the matter pursuant to paragraph 2 of Article 13 of this Protocol, may make written submissions to, and be given an opportunity to be heard by, the AB.
2. As a general rule, the proceedings shall not exceed sixty (60) days from the date a party to the dispute formally notifies its decision to appeal, to the date the AB circulates its report. In fixing its timetable the AB shall take into account the provisions of paragraph 9 (d) of Article 7 of this Protocol if relevant. Where the AB considers that it cannot provide its report within sixty (60) days, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will submit its report. In no case shall the proceedings exceed ninety (90) days.
3. An appeal shall be limited to issues of law covered in the Panel report and legal interpretations developed by the Panel.
4. The AB shall be provided with appropriate administrative and legal support as it requires.
5. The expenses of persons serving on the AB, including travel and subsistence allowance, shall be met from the AfCFTA budget in accordance with the financial rules and regulations of the AU.

Article 22

Procedures for Appellate Review

1. Working procedures shall be drawn up by the AB in consultation with the Chairperson of the DSB and communicated to the State Parties for their information.
2. The proceedings of the AB shall be confidential.
3. The conduct of an appeal under this Article shall not exceed ninety (90) days.

4. The reports of the AB shall be drafted without the presence of the Parties to the dispute and in the light of the information provided and the statements made.
5. Opinions expressed in the AB report by individuals serving on the AB shall be anonymous.
6. The AB shall address each of the issues raised in accordance with paragraph 3 of Article 21 of this Protocol, during the appellate proceeding.
7. The AB may uphold, modify or reverse the legal findings and conclusions of the Panel.
8. The AB shall produce a single report reflecting the views of the majority of its members.
9. An AB report shall be adopted by the DSB and unconditionally accepted by the Parties to the dispute unless the DSB decides by consensus not to adopt the AB report within thirty (30) days following its circulation to the State Parties. This adoption procedure is without prejudice to the right of State Parties to express their views on an AB report.

Article 23

Panel and Appellate Body Recommendations

Where the Panel or the AB concludes that a measure is inconsistent with the Agreement, it shall recommend that the State Party concerned bring the measure into conformity with the Agreement. In addition to its recommendations, the Panel or the AB may suggest ways in which the State Party concerned could implement the recommendations.

Article 24

Surveillance of Implementation of Recommendations and Rulings

1. State Parties shall promptly comply with recommendations and rulings of the DSB.
2. A State Party concerned shall inform the DSB of its intentions in respect of the implementation of the recommendations and rulings of the DSB, at a

meeting of the DSB which shall be held within thirty (30) days after the date of adoption of the report by the Panel or the AB.

3. Where a State Party concerned finds it impracticable to comply immediately with the recommendations and rulings of the DSB, the State Party concerned shall be granted a reasonable period in which to comply on the following basis:
 - (a) period of time proposed by the State Party concerned provided that the DSB approves the proposal; or
 - (b) in the absence of such approval a period mutually agreed by the Parties to a dispute within forty-five (45) days of the date of adoption of the report of the Panel and the AB and recommendations and rulings of the DSB; or
 - (c) in the absence of such agreement, a period of time determined through binding arbitration within ninety (90) days after the date of adoption of the recommendations and rulings. In such arbitration, a guideline for the arbitrator should be that the reasonable period of time to implement Panel or AB recommendations should not exceed fifteen (15) months from the date of adoption of a Panel or AB report. However, that time may be shorter or longer, depending upon the particular circumstances.
4. If the parties cannot agree on an arbitrator within ten (10) days after referring the matter to arbitration, the arbitrator shall be appointed by the Secretariat in consultation with the DSB within ten (10) days, after consulting the Parties.
5. The Secretariat shall keep the DSB informed of the status of the implementation of decisions made under this Protocol.
6. Except where the Panel or the AB has extended, pursuant to Paragraph 7 of Article 15 or Paragraph 2 of Article 21 of this Protocol, the time of providing its report, the period from the date of establishment of the Panel by the DSB until the date of determination of the reasonable period of time shall not exceed fifteen (15) months unless the Parties to the dispute agree otherwise. Where either the Panel or the AB has extended the time of providing its report, the additional time taken shall be added to the fifteen (15) month period; provided

that unless the Parties to the dispute agree that there are exceptional circumstances, the total time shall not exceed eighteen (18) months.

7. Where there is disagreement as to the existence or consistency with the agreement of measures taken to comply with the recommendations and rulings, such disagreement shall be decided through recourse to these dispute settlement procedures, including wherever possible resort to the original Panel. The Panel shall circulate its report within ninety (90) days after the date of its establishment. Where the Panel considers that it cannot circulate its report within this time frame, it shall inform the DSB in writing of the reasons for the delay together with an estimate of the period within which it will circulate its report.
8. The DSB shall keep under surveillance the implementation of adopted recommendations or rulings. The issue of implementation of the recommendations or rulings may be raised at the DSB by any State Party at any time following their adoption. Unless the DSB decides otherwise, the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six (6) months following the date of establishment of the reasonable period of time pursuant to paragraph 3 of this Article, and shall remain on the DSB's agenda until the issue is resolved.
9. At least ten (10) days prior to each such DSB meeting, the State Party concerned shall provide the DSB with a detailed status report which shall contain among others:
 - (a) the extent of the implementation of the ruling(s) and recommendation(s);
 - (b) issues if any, affecting the implementation of the rulings and recommendations;
 - (c) the period of time required by the State Party concerned to fully comply with implementation of the ruling(s) and recommendation(s).

Article 25

Compensation and the Suspension of Concessions or any other Obligations

1. It is the duty of the State Parties to fully implement the recommendations and rulings of the DSB. Compensation and the suspension of concessions or other obligations are temporary measures available to the aggrieved Party in the event that the accepted recommendations and rulings of the DSB are not implemented within a reasonable period of time. Provided that neither compensation nor the suspension of concessions or other obligations is preferred to full implementation of the accepted recommendations. However, compensation is voluntary and, if granted, shall be consistent with the Agreement.
2. The suspension of concessions or other obligations shall be temporary and shall only be applied in as far as it is consistent with this Agreement and shall subsist until such a time as the inconsistency with the Agreement, or any other determined breach is removed, or that the State Party implements recommendations, or provides a solution to the injury caused, or occasioned by the non-compliance, or that a mutual satisfactory solution is reached.
3. In the event that the rulings and recommendations of the DSB are not implemented within a reasonable period of time, the aggrieved Party may request the DSB to impose temporary measures which include compensation and the suspension of concessions.
4. If the State Party concerned fails to bring the measure found to be inconsistent with the Agreement into compliance therewith or otherwise comply with the decisions and rulings within the reasonable period of time determined pursuant to Paragraph 3 of Article 24 of this Protocol, such State Party shall, if so requested, enter into negotiations with a Complaining Party, with a view to developing mutually acceptable compensation. If no satisfactory compensation has been agreed upon within twenty (20) days, a Complaining Party may request authorisation from the DSB to suspend the application to the State Party concerned of concessions or other obligations under the Agreement.
5. In considering what concessions or other obligations to suspend, the Complaining Party shall apply the following principles and procedures:

- (a) the general principle is that the Complaining Party should first seek to suspend concessions or other obligations with respect to the same sector(s) as that in which the Panel or AB has found a violation or other nullification or impairment;
 - (b) if that Party considers that it is not practicable or effective to suspend concessions or other obligations with respect to the same sector(s), it may seek to suspend concessions or other obligations in other sectors under the Agreement;
 - (c) if that Party considers that it is not practicable or effective to suspend concessions or other obligations with respect to other sectors under this agreement, and that the circumstances are serious enough, it may seek to suspend concessions or other obligations under the Agreement; and
 - (d) if that Party to a dispute decides to request authorisation to suspend concessions or other obligations pursuant to subparagraphs (b) or (c), it shall state the reasons thereof in its request to the DSB.
6. In applying the above principles that party shall take into account:
- (a) the trade in the sector under which the Panel or Appellate Body has found a violation or other nullification or impairment, and the importance of such trade to that party; and
 - (b) the broader economic elements related to the nullification or impairment and the broader economic consequences of the suspension of concessions or other obligations.
7. The level of the suspension of concessions or other obligations authorised by the DSB shall be equivalent to the level of the nullification or impairment.
8. When the situation described in paragraph 4 of this Article occurs, the DSB, shall grant authorisation to suspend concessions or other obligations within thirty (30) days from the date of request unless the DSB decides by consensus to reject the request. However, if the State Party concerned objects to the level of suspension proposed, or claims that the principles and procedures set forth in paragraph 5 have not been followed where a complaining party has requested authorisation to suspend concessions or

other obligations pursuant to paragraph 5(b) or (c) of this Article, the matter shall be referred to arbitration. Such arbitration shall be carried out by the original Panel, if Panellists are available, or by an arbitrator appointed by the chairperson of the DSB and shall be completed within sixty (60) days from the date of appointment of the arbitrator. Concessions or other obligations shall not be suspended during the course of the arbitration.

9. The arbitrator acting pursuant to paragraph 7 of this Article, shall not examine the nature of the concessions or other obligations to be suspended but shall determine whether the level of such suspension is equivalent to the level of nullification or impairment. The arbitrator may also determine if the proposed suspension of concessions or other obligations is allowed under the Agreement. However, if the matter referred to arbitration includes a claim that the principles and procedures set forth in paragraph 3 of this Article, have not been followed, the arbitrator shall examine that claim. In the event the arbitrator determines that those principles and procedures have not been followed, the complaining party shall apply them consistent with paragraph 5 of this Article. The Parties to a dispute shall accept the arbitrator's decision as final and the parties concerned shall not seek a second arbitration. The DSB shall be informed promptly of the decision of the arbitrator and shall upon request, grant authorisation to suspend concessions or other obligations where the request is consistent with the decision of the arbitrator, unless the DSB decides by consensus to reject the request.

Article 26

Costs

1. The DSB shall determine the remuneration and expenses of the Panellists, arbitrators and experts in accordance with the financial rules and regulations of the AU.
2. The remuneration of the Panellists, arbitrators and experts, their travel and lodging expenses, shall be borne in equal parts by the Parties to a dispute, or in proportions determined by the DSB.
3. A Party to a dispute shall bear all other costs of the process as determined by the DSB.

4. Parties to the dispute shall be required to deposit their share of the Panellists' expenses with the Secretariat at the time of establishment, or composition of the Panel.

Article 27

Arbitration

1. Parties to a dispute may resort to arbitration subject to their mutual agreement and shall agree on the procedures to be used in the arbitration proceedings.
2. Parties to a dispute who may have referred a dispute for arbitration pursuant to this Article shall not simultaneously refer the same matter to the DSB.
3. Agreement by the Parties to resort to arbitration shall be notified to the DSB.
4. Third Parties shall be joined to an arbitration proceeding only upon the agreement of the Parties to the arbitration proceedings.
5. The Parties to an arbitration proceeding shall abide by the arbitration award and the award shall be notified to the DSB for enforcement.
6. In the event of a Party to a dispute refusing to cooperate, the Complaining Party shall refer the matter to the DSB for determination.
7. Arbitration awards shall be enforced in accordance with the provisions of Articles 24 and 25 of this Protocol *mutatis mutandis*.

Article 28

Technical Co-operation

1. Upon request from a State Party, the Secretariat may provide additional legal advice and assistance in respect of dispute settlement, provided that this shall be done in a manner that ensures the continued impartiality of the Secretariat.
2. The Secretariat may organise special training courses for interested State Parties concerning dispute settlement procedures and practices to enable State Parties to develop expert capacity on the Dispute Settlement Mechanism.

Article 29

Responsibilities of the Secretariat

1. The Secretariat shall have the responsibility of assisting Panels, especially on legal, historical and procedural aspects of the matter dealt with and of providing secretarial support.
2. The Secretariat shall facilitate the constitution of Panels in accordance with this Protocol.
3. In order to accomplish the functions under Article 28 of this Protocol, the Secretariat shall avail experts with extensive experience in international trade law to assist the Panellists.
4. The Secretariat shall undertake such other functions and duties as may be required under the Agreement and in support of this Protocol.
5. The Secretariat shall be responsible for all relevant notifications to and from the DSB and State Parties.

Article 30

Rules of interpretation

The Panel and the AB shall interpret the provisions of the Agreement in accordance with the customary rules of interpretation of public international law, including the Vienna Convention on the Law of Treaties, 1969.

Article 31

Amendment

This Protocol shall be amended in accordance with Article 29 of the Agreement.

IN WITNESS WHEREOF, WE the Heads of State and Government or duly authorised representatives of the Member States of the African Union have signed and sealed this Agreement in four original texts in Arabic, English, French, and Portuguese languages, all texts being equally authentic.

SIGNED at Kigali, on this 21st day of March in the year 2018.

Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida n° 091/01 ryo ku wa 27/05/2018 ryemeza burundu Amasezerano ashyiraho agace k'ubucuruzi n'ubuhahirane butagira umupaka muri Afurika hamwe n'Amasezerano ku bucuruzi bw'ibicuruzwa, Amasezerano ku bucuruzi bwa serivisi, Amasezerano ku mategeko n'uburyo bwo gukemura amakimbirane yashyiriweho umukono i Kigali, mu Rwanda, ku wa 21 werurwe 2018

Kigali, ku wa 27/05/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

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

Seen to be annexed to Presidential Order n°091/01 of 27/05/2018 ratifying the Agreement establishing the African continental free trade area together with the Protocol on trade in goods, Protocol on trade in services, and protocol on rules and procedures for settlement of disputes, signed at Kigali, in Rwanda, on 21 march 2018

Kigali, on 27/05/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à l'Arrêté Présidentiel n°091/01 du 27/05/2018 portant ratification de l'Accord portant création de la zone de libre échange sur le continent africain avec le Protocole sur le commerce des marchandises, le Protocol sur le commerce des services ainsi que le protocole sur les règles et procédures de règlement des différends, signés à Kigali, au Rwanda, le 21 mars 2018

Kigali, le 27/05/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

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

ITEKA RYA PEREZIDA N° 092/01 RYO KU
WA 28/05/2018 RYEMEZA BURUNDU
AMASEZERANO Y'INYONGERA KU
MASEZERANO ASHYIRAHU
UMURYANGO NYAFURIKA
W'UBUKUNGU YEREKEYE URUYA
N'URUZA RW'ABANTU,
UBURENGANZIRA BWO KUBA NO
GUTURA MU BIHUGU BIGIZE
UMURYANGO, YASHYIRIWEHO
UMUKONO I KIGALI, MURI
REPUBULIKA Y'U RWANDA, KU WA 21
WERURWE 2018

PRESIDENTIAL ORDER N° 092/01 OF
28/05/2018 RATIFYING THE PROTOCOL
TO THE TREATY ESTABLISHING THE
AFRICAN ECONOMIC COMMUNITY
RELATING TO FREE MOVEMENT OF
PERSONS, RIGHT OF RESIDENCE AND
RIGHT OF ESTABLISHMENT, SIGNED AT
KIGALI, IN THE REPUBLIC OF RWANDA,
ON 21 MARCH 2018

ARRETE PRESIDENTIEL N° 092/01 DU
28/05/2018 RATIFIANT LE PROTOCOLE
AU TRAITE INSTITUANT LA
COMMUNAUTE ECONOMIQUE
AFRICAINNE CONCERNANT LA LIBRE
CIRCULATION DES PERSONNES, LE
DROIT DE SEJOUR ET LE DROIT
D'ETABLISSEMENT, SIGNE A KIGALI, EN
REPUBLIQUE DU RWANDA, LE 21 MARS
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ISHAKIRO

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**ITEKA RYA PEREZIDA N° 092/01 RYO KU
WA 28/05/2018 RYEMEZA BURUNDU
AMASEZERANO Y'INYONGERA KU
MASEZERANO ASHYIRAHU
UMURYANGO NYAFURIKA
W'UBUKUNGU YEREKEYE URUJYA
N'URUZA RW'ABANTU,
UBURENGANZIRA BWO KUBA NO
GUTURA MU BIHUGU BIGIZE
UMURYANGO, YASHYIRIWEHO
UMUKONO I KIGALI, MURI
REPUBLICA Y'U RWANDA, KU WA 21
WERURWE 2018**

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo iya 112, iya 120, iya 122, iya 167, iya 168 n'ya 176;

Dushingiye ku Itegeko n° 25/2018 ryo ku wa 28/05/2018 ryemera kwemeza burundu Amasezerano y'inyongera ku Masezerano ashiraho Umuryango Nyafurika w'Ubukungu yerekeye urujya n'uruza rw'abantu, uburenganzira bwo kuba no gutura mu bihugu bigize umuryango, yashyiriweho umukono i Kigali, muri Repubulika y'u Rwanda, ku wa 21 Werurwe 2018;

**PRESIDENTIAL ORDER N° 092/01 OF
28/05/2018 RATIFYING THE PROTOCOL
TO THE TREATY ESTABLISHING THE
AFRICAN ECONOMIC COMMUNITY
RELATING TO FREE MOVEMENT OF
PERSONS, RIGHT OF RESIDENCE AND
RIGHT OF ESTABLISHMENT, SIGNED AT
KIGALI, IN THE REPUBLIC OF RWANDA,
ON 21 MARCH 2018**

We, KAGAME Paul,
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 122, 167, 168 and 176;

Pursuant to Law n° 25/2018 of 28/05/2018 approving ratification of the Protocol to the Treaty establishing the African Economic Community relating to free movement of persons, right of residence and right of establishment, signed at Kigali, in the Republic of Rwanda, on 21st March 2018;

**ARRETE PRESIDENTIEL 092/01 DU
28/05/2018 RATIFIANT LE PROTOCOLE
AU TRAITE INSTITUANT LA
COMMUNAUTE ECONOMIQUE
AFRICAINNE CONCERNANT LA LIBRE
CIRCULATION DES PERSONNES, LE
DROIT DE SEJOUR ET LE DROIT
D'ETABLISSEMENT, SIGNE A KIGALI, EN
REPUBLIQUE DU RWANDA, LE 21 MARS
2018**

Nous, KAGAME Paul,
Président de la République;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 122, 167, 168 et 176;

Vu la Loi n° 25/2018 du 28/05/2018 approuvant la ratification du Protocole au Traité instituant la Communauté Economique Africaine concernant la libre circulation des personnes, le droit de séjour et le droit d'établissement, signé à Kigali, en République du Rwanda, le 21 mars 2018;

Tumaze kubona Amasezerano y'inyongera ku Masezerano ashiraho Umuryango Nyafurika w'Ubukungu yerekeye urujya n'uruza rw'abantu, uburenganzira bwo kuba no gutura mu bihugu bigize Umuryango, yashyiriweho umukono i Kigali, muri Repubulika y'u Rwanda, ku wa 21 Werurwe 2018;

Bisabwe na Minisitiri muri Perezidansi ya Repubulika;

TWATEGETSE KANDI DUTEGETSE:

Ingingo ya mbere: Kwemeza burundu

Amasezerano y'inyongera ku Masezerano ashiraho Umuryango Nyafurika w'Ubukungu yerekeye urujya n'uruza rw'abantu, uburenganzira bwo kuba no gutura mu bihugu bigize umuryango, yashyiriweho umukono i Kigali, muri Repubulika y'u Rwanda, ku wa 21 Werurwe 2018, ari ku mugereka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Minisitiri w'Intebe, Minisitiri muri Perezidansi ya Repubulika, Minisitiri w'Ububanyi n'Amahanga, Ubutwererane n'Umuryango w'Ibihugu bya Afurika y'Iburasirazuba, Minisitiri w'Ubucuruzi n'Inganda na Minisitiri w'Imari n'Igenamigambi bashinzwe gushyira mu bikorwa iri teka.

Considering the Protocol to the Treaty establishing the African Economic Community relating to free movement of persons, right of residence and right of establishment, signed at Kigali, in the Republic of Rwanda, on 21st March 2018;

On proposal by the Minister in the President's Office;

HAVE ORDERED AND ORDER:

Article One: Ratification

The Protocol to the Treaty establishing the African Economic Community relating to free movement of persons, right of residence and right of establishment, signed at Kigali, in the Republic of Rwanda, on 21 March 2018, in annex, is ratified and becomes fully effective.

Article 2: Authorities responsible for the implementation of this Order

The Prime Minister, the Minister in the President's Office, the Minister of Foreign Affairs, Cooperation and East African Community, the Minister of Trade and Industry and the Minister of Finance and Economic

Considérant le Protocole au Traité instituant la Communauté Economique Africaine concernant la libre circulation des personnes, le droit de séjour et le droit d'établissement, signé à Kigali, en République du Rwanda, le 21 mars 2018;

Sur proposition du Ministre à la Présidence de la République;

AVONS ARRETE ET ARRETONS:

Article premier: Ratification

Le Protocole au Traité instituant la Communauté Economique Africaine concernant la libre circulation des personnes, le droit de séjour et le droit d'établissement, signé à Kigali, en République du Rwanda, le 21 mars 2018, en annexe, est ratifié et sort son plein et entier effet.

Article 2: Autorités chargées de l'exécution du présent arrêté

Le Premier Ministre, le Ministre à la Présidence de la République, le Ministre des Affaires Etrangères, de la Coopération et de la Communauté de l'Afrique de l'Est, le Ministre du Commerce et de l'Industrie et le Ministre des

Planning are entrusted with the implementation of this Order.

Finances et de la Planification Economique sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iteka ritangira gukurikizwa

Article 3: Commencement

Article 3: Entrée en vigueur

Iri teka ritangira gukurikizwa ku muni ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

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

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, ku wa 28/05/2018

Kigali, on 28/05/2018

Kigali, le 28/05/2018

(sé)

KAGAME Paul
Perezida wa Repubulika

(sé)

KAGAME Paul
President of the Republic

(sé)

KAGAME Paul
Président de la République

(sé)

Dr. NGIRENTE Edouard
Minisitiri w'Intebe

(sé)

Dr. NGIRENTE Edouard
Prime Minister

(sé)

Dr. NGIRENTE Edouard
Premier Ministre

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

Seen and sealed with the Seal of the Republic:

Vu et scellé du Sceau de la République:

(sé)

BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)

BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)

BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEKA RYA PEREZIDA
N° 92/01 RYO KU WA 28/05/2018 RYEMEZA
BURUNDU AMASEZERANO
Y'INYONGERA KU MASEZERANO
ASHYIRAHU UMURYANGO NYAFURIKA
W'UBUKUNGU YEREKEYE URUJYA
N'URUZA RW'ABANTU,
UBURENGANZIRA BWO KUBA NO
GUTURA MU BIHUGU BIGIZE
UMURYANGO, YASHYIRIWEHO
UMUKONO I KIGALI, MURI
REPUBULIKA Y'U RWANDA, KU WA 21
WERURWE 2018

ANNEX TO THE PRESIDENTIAL ORDER
N° 92/01 OF 28/05/2018 RATIFYING THE
PROTOCOL TO THE TREATY
ESTABLISHING THE AFRICAN
ECONOMIC COMMUNITY RELATING TO
FREE MOVEMENT OF PERSONS, RIGHT
OF RESIDENCE AND RIGHT OF
ESTABLISHMENT, SIGNED AT KIGALI,
IN THE REPUBLIC OF RWANDA, ON 21
MARCH 2018

ANNEXE A L'ARRETE PRESIDENTIEL
N°92/01 DU 28/05/2018 RATIFIANT LE
PROTOCOLE AU TRAITE INSTITUANT
LA COMMUNAUTE ECONOMIQUE
AFRICAINNE CONCERNANT LA LIBRE
CIRCULATION DES PERSONNES, LE
DROIT DE SEJOUR ET LE DROIT
D'ETABLISSEMENT, SIGNE A KIGALI, EN
REPUBLIQUE DU RWANDA, LE 21 MARS
2018



**PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN
ECONOMIC COMMUNITY RELATING TO FREE MOVEMENT OF
PERSONS, RIGHT OF RESIDENCE AND RIGHT OF
ESTABLISHMENT**

**PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC
COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF
RESIDENCE AND RIGHT OF ESTABLISHMENT**

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**PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC
COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF
RESIDENCE AND RIGHT OF ESTABLISHMENT**

PREAMBLE

We, the Heads of State and Government of the Member States of the African Union;

RECALLING our commitment to conclude a Protocol on the free movement of persons, right of residence and right of establishment, under article 43(2) of the Treaty Establishing the African Economic Community, which was adopted in Abuja, Nigeria on 3rd June, 1991 and entered into force on 12th May, 1994;

MINDFUL of article 3(a) of the Constitutive Act of the African Union which promotes the achievement of greater unity and solidarity between the African countries and the people of Africa; and the Treaty Establishing the African Economic Community which promotes economic, social and cultural development and the integration of African economies;

REITERATING our shared values which promote the protection of human and people's rights as provided in the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples Rights which guarantees the right of an individual to freedom of movement and residence;

GUIDED by our common vision for an integrated, people-centered and politically united continent and our commitment to free movement of people, goods and services amongst the Member States as an enduring dedication to Pan Africanism and African integration as reflected in Aspiration 2 of the African Union Agenda 2063;

RECALLING our commitment under article 4 (2)(i) of the Treaty Establishing the African Economic Community, to gradually remove obstacles to the free movement of persons, goods, services and capital and the right of residence and establishment among Member States;

BEARING IN MIND the strategies of the Migration Policy Framework for Africa adopted in Banjul, in The Gambia in 2006 which encourage Regional Economic Communities and their Member States to consider the adoption and implementation of appropriate protocols in order to progressively achieve the free movement of persons and to ensure the enjoyment of the right of residence, establishment and access to gainful employment in the host countries;

RECOGNIZING the contribution and building on the achievements of the Regional Economic Communities and other intergovernmental organizations towards progressively achieving the free movement of persons and ensuring the enjoyment of the right of residence and the right of establishment by citizens of Member States;



AWARE of the challenges of implementing the free movement of persons in the regional economic communities which are at different levels of implementing the frameworks providing for free movement of persons;

ENVISAGING that the free movement of persons, capital, goods and services will promote integration, Pan-Africanism, enhance science, technology, education, research and foster tourism, facilitate intra-Africa trade and investment, increase remittances within Africa, promote mobility of labour, create employment, improve the standards of living of the people of Africa and facilitate the mobilization and utilization of the human and material resources of Africa in order to achieve self-reliance and development;

AWARE of the need to ensure that effective measures are put in place in order to prevent situations whereby upholding the freedom of movement of people will not lead to situations whereby the arrival and settlement of migrants in a given host country will create or exacerbate inequalities or will constitute challenges to peace and security;

NOTING that the free movement of persons in Africa will facilitate the establishment of the Continental Free Trade Area endorsed by the African Union 18th Ordinary Session of the Assembly of Heads of State and Government;

NOTING FURTHER the decision of the Peace and Security Council adopted at its 661st meeting (PSC/PR/COMM.1 (DCLXI) held on 23rd February 2017, in Addis Ababa, Ethiopia, where the Council acknowledged that the benefits of free movement of people, goods and services far outweigh the real and potential security and economic challenges that may be perceived or generated;

RECALLING FURTHER the decision of the Peace and Security Council adopted at the 661st meeting of the Peace and Security Council (PSC/PR/COMM.1 (DCLXI) held on 23rd February 2017 in Addis Ababa, Ethiopia, in which the Peace and Security Council underlined the need to ensure a phased approach in implementing AU policy decisions on free movement of people and goods, mindful of the variances in the legitimate security concerns of Member States;

REAFFIRMING our belief in our common destiny, shared values and the affirmation of the African identity, the celebration of unity in diversity and the institution of the African citizenship as expressed in the Solemn Declaration of the 50th Anniversary adopted by the 21st Ordinary Session of the Assembly of Heads of State and Government in Addis Ababa on 23rd May, 2013;

DETERMINED to enhance the economic development of Member States through a prosperous and integrated continent;

MINDFUL of the decision of the Assembly adopted in July, 2016 in Kigali, Rwanda (**Assembly/AU/Dec.607(XXVII)**) welcoming the launch of the African Passport and urging Member States to adopt the African Passport and to work closely with the African



Union Commission to facilitate the processes towards its issuance at the citizen level based on international, continental and citizen policy provisions and continental design and specifications:

HAVE AGREED as follows:

PART I – DEFINITIONS

Article 1 DEFINITIONS

For the purpose of this Protocol:

“Assembly” means the Assembly of Heads of State and Government of the African Union;

“Commission” means the Commission of the African Union;

“Dependant” means a child or other person who, a national of a Member State is required to support and maintain as defined by the laws of the host Member State;

“Executive Council” means the Executive Council of Ministers of the Union;

“Free movement of persons” means the right of nationals of a Member State to enter move freely and, reside in another Member State in accordance with the laws of the host Member State and to exit the host Member State in accordance with the laws and procedures for exiting that Member State;

“Member State” means a Member State of the African Union;

“Regional arrangement” means agreements, measures or mechanisms on free movement of persons developed and implemented by regional economic communities;

“Right of entry” means the right of a national of a Member State to enter and move freely in another Member State in accordance with the laws of the host Member State;

“Right of establishment” means the right of a national of a Member State to take up and pursue the economic activities specified in Article 17(2), in the territory of another Member State;

“Right of residence” means the right of a national of one Member State to reside and seek employment in another Member State other than their Member State of origin; **in accordance with the national law of the host Member State”.**



“State Parties” means any Member States of the African Union which have ratified, or acceded to this Protocol and deposited the instrument of ratification or accession with the Chairperson of the African Union Commission;

“Territory” means the land, airspace and waters belonging to or under the jurisdiction of a Member State;

“Travel document” means a passport which complies with the International Civil Aviation Organization standards for travel documents, or any other travel document identifying a person issued by or on behalf of a Member State or by the Commission which is recognized by the host Member State;

“Treaty” means the Treaty Establishing the African Economic Community adopted in Abuja, Nigeria on 3rd June, 1991 and entered into force on 12th May, 1994;

“Union” means the African Union established by the Constitutive Act of the African Union;

“Vehicle” means any means in or by which a person travels, is carried or conveyed into, by land, the territory of a Member State;

“Visa” means the authority granted to a national of a Member State to enter into the territory of the host Member State.

PART II- OBJECTIVE AND PRINCIPLES OF THE PROTOCOL

Article 2 OBJECTIVE

The objective of this Protocol is to facilitate the implementation of the Treaty Establishing the African Economic Community by providing for the progressive implementation of free movement of persons, right of residence and right of establishment in Africa.

Article 3 PRINCIPLES

1. The free movement of persons, right of residence and right of establishment in Member States shall be guided by the principles guiding the African Union provided in article 4 of the Constitutive Act.
2. In addition to the principles in paragraph 1, the implementation of this Protocol shall be guided by:
 - (a) non-discrimination;



- (b) respect for laws and policies on the protection of national security, public order, public health, the environment, and any other factors that would be detrimental to the host State; and
- (c) transparency.

Article 4
NON- DISCRIMINATION

1. States Parties shall not discriminate against nationals of another Member State entering, residing or established in their territory, on the basis of their nationality, race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status as provided by Article 2 of the African Charter on Human and Peoples Rights.
2. It shall not be discrimination for a States Party, as a result of reciprocity or deeper integration, to give more favourable treatment to nationals of another States Party or region, in addition to the rights provided for in this Protocol.
3. A citizen of another States Party entering, residing or established in a States Party in accordance with the provisions of this Protocol, shall enjoy the protection of the law of the host States Party, in accordance with the relevant national policies and laws of the host States Party.

Article 5
PROGRESSIVE REALIZATION

1. The free movement of persons, right of residence and right of establishment shall be achieved progressively through the following phases:
 - (a) phase one, during which States Parties shall implement the right of entry and abolition of visa requirements;
 - (b) phase two, during which States Parties shall implement the right of residence;
 - (c) phase three, during which States Parties shall implement the right of establishment.
2. The Roadmap annexed to this Protocol serves as a guideline to help, as appropriate, with the implementation of the above phases.
3. Nothing in this Protocol shall:



- (a) affect more favourable provisions for the realisation of the free movement of persons, right of residence and right of establishment contained in national legislation, regional or continental instruments; or
- (b) prevent the accelerated implementation of any phase of free movement of persons, right of residence and right of establishment by a regional economic community, sub-region or Member State before the time set by this Protocol or the Assembly for the implementation of that phase.

PART III- FREE MOVEMENT OF PERSONS

Article 6 RIGHT OF ENTRY

- 1. In accordance with this Protocol, nationals of a Member State shall have the right to enter, stay, move freely and exit the territory of another Member State in accordance with the laws, regulations and procedures of the host Member State.
- 2. Member States shall implement the right of entry by permitting nationals of Member States to enter into their territory without the requirement of a visa.
- 3. The right to enter the territory of a Member State shall be enjoyed in accordance with articles 7.
- 4. A Member State permitting a national of another Member State to enter into their territory shall permit that national to move freely or stay for a maximum period of ninety (90) days from the date of entry or such further period determined by Member States or through bilateral or regional arrangements.
- 5. A national of a Member State who wishes to stay in the host Member State beyond the period provided in paragraph 4 shall seek an extension of stay in accordance with the procedures established by the host Member State.

Article 7 ENTRY IN MEMBER STATE

- 1. Entry into the territory of a Member State shall be permitted for a person:
 - (a) entering the Member State through a designated point or official port of entry;
 - (b) with a recognized and valid travel document as defined in Article 1; and



- (c) who is not prohibited from entering the Member State by the laws of that Member State for the protection of national security, public order or public health.
- 2. A host Member State may impose other conditions, which are not inconsistent with this Protocol, according to which a national of a Member State may be refused entry into the territory of the host Member State.

Article 8
DESIGNATED OR OFFICIAL POINTS OF ENTRY AND EXIT

- 1. Member States shall designate and share with other Member States information relating to their official entry and exit points or ports.
- 2. Member States shall in line with national or regional procedures keep the designated official entry and exit points open to facilitate the free movement of persons, subject to reciprocity and the protection measures a Member State may take.

Article 9
TRAVEL DOCUMENTS

- 1. Member States shall issue to their nationals valid travel documents to facilitate free movement.
- 2. Member States shall mutually recognize and exchange specimens of the valid travel documents issued by the Member State.
- 3. Member States shall cooperate in the process of identification and issuance of travel documents.

Article 10
AFRICAN PASSPORT

- 1. States Parties, shall adopt a travel document called “African Passport” and shall work closely with the Commission to facilitate the processes towards the issuance of this Passport to their citizens.
- 2. The Commission shall provide technical support to Member States to enable them to produce and issue the African Passport to their citizens.
- 3. The African Passport shall be based on international, continental and national policy provisions and standards and on a continental design and specifications.



**Article 11
USE OF VEHICLES**

1. States Parties shall permit nationals of another Member State using vehicles to enter into their territory and move freely for a maximum period of 90 (ninety) days from the date of entry, upon presentation of the following valid documents to the competent authorities in the host Member State:
 - (a) a driver's license;
 - (b) evidence of ownership or registration of the vehicle;
 - (c) certificate of road worthiness;
 - (d) certificate of axle load limit;
 - (e) an insurance policy in respect of the vehicle by the host Member State.
2. The use of vehicles by persons in the territory of a host Member State shall be subject to the laws of the host Member State.
3. Member States shall establish and contribute to a continental database on registration of vehicles to facilitate the use of vehicles in the free movement of persons.

**Article 12
FREE MOVEMENT OF RESIDENTS OF BORDER COMMUNITIES**

1. States Parties shall through bilateral or regional agreements establish measures, to identify and facilitate the free movement of residents of border communities without compromising the security or public health of host Member States.
2. States Parties shall endeavour to amicably resolve any legal, administrative, security, cultural or technical impediment likely to hamper the free movement of border communities.

**Article 13
FREE MOVEMENT OF STUDENTS AND RESEARCHERS**

1. States Parties shall permit nationals of another Member State who are holders of registration or pre-registration documents, to take up education or research in their territory in accordance with the policies and laws of the host Member State.
2. A host States Party shall in accordance with national or regional policies issue student permits or passes to nationals of other Member States who are admitted to pursue studies in the host Member State.



3. States Parties shall develop, promote and implement programmes to facilitate exchange of students and researchers among Member States.

Article 14
FREE MOVEMENT OF WORKERS

1. Nationals of a Member State shall have the right to seek and accept employment without discrimination in any other Member State in accordance with the laws and policies of the host Member State.
2. A national of a Member State accepting and taking up employment in another Member State may be accompanied by a spouse and dependants.

Article 15
PERMITS OR PASSES

1. A host States Party shall issue residence permits, work permits, or other appropriate permits or passes to nationals of other Member State seeking and taking up residence or work in the host Member State.
2. Permits and passes shall be issued in accordance with the immigration procedures applicable to persons seeking or taking up residence or work in the host Member State.
3. The procedures referred to in paragraph 2 shall include the right of a national of another Member State to appeal against a decision denying them a permit or pass.

PART IV - RIGHT OF RESIDENCE AND RIGHT OF ESTABLISHMENT

Article 16
RIGHT OF RESIDENCE

1. Nationals of a Member State shall have the right of residence in the territory of any Member State in accordance with the laws of the host Member State.
2. A national of a Member State taking up residence in another Member State may be accompanied by a spouse and dependants.
3. States Parties shall gradually implement favourable policies and laws on residence for nationals of other Member States.



Article 17
RIGHT OF ESTABLISHMENT

1. Nationals of a Member State shall have the right of establishment within the territory of another Member State in accordance with the laws and policies of the host Member State.
2. The right of establishment shall include the right to set up in the territory of the host Member State:
 - (a) a business, trade, profession, vocation; or
 - (b) an economic activity as a self-employed person.

PART V - GENERAL PROVISIONS

Article 18
MUTUAL RECOGNITION OF QUALIFICATIONS

1. States Parties shall individually or through bilateral, multilateral or regional arrangements, mutually recognize academic, professional and technical qualifications of their nationals to promote the movement of persons among the Member States.
2. States Parties shall establish a continental qualifications framework to encourage and promote the free movement of persons.

Article 19
PORTABILITY OF SOCIAL SECURITY BENEFITS

States Parties shall, through bilateral, regional or continental arrangements, facilitate the portability of social security benefits to nationals of another Member State residing or established in that Member State.

Article 20
MASS EXPULSION

1. The mass expulsion of non-nationals shall be prohibited.
2. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.



Article 21
EXPULSION, DEPORTATION AND REPATRIATION

1. A national of a Member State lawfully admitted into the territory of a host Member State may only be expelled, deported or repatriated from the host Member State by virtue of a decision taken in accordance with the law in force in the host Member State.
2. A host States Party shall notify the national of a Member State and the Government of that national of the decision to expel deport or repatriate that citizen from the territory of the host Member State.
3. The Expenses relating to:
 - (a) the expulsion or deportation shall be borne by the Member State expelling or deporting a person;
 - (b) repatriation shall be borne by the person being repatriated or by the state of origin.
4. Where entry into a territory of a Member State is refused, the person responsible for transportation, shall at the request of competent border authorities re-route the persons denied entry back to the point of embarkment, or where this is not possible, to the Member State that issued the citizen's travel documents or any other place where the admission of the citizen will be accepted.

Article 22
PROTECTION OF PROPERTY ACQUIRED IN HOST MEMBER STATE

1. A national of a Member State entering, residing or established in the territory of another Member State, may acquire property in the host Member State in accordance with the laws, policies and procedures of the host Member State.
2. Property lawfully acquired by a national of a Member State in the host Member State, shall not be nationalised, expropriated, confiscated or acquired by the host Member State except in accordance with the law and after fair compensation being paid to that national.
3. Property lawfully acquired by a national of a Member State shall be protected by the host Member State in the event of a dispute between the Member State where the national originates and the host Member State.
4. A host States Party shall not deprive a national of another Member State who is expelled, deported or repatriated by the host Member State, of his/her property lawfully acquired by that national in the host Member State except in accordance with the laws and procedures of the host Member State.



**Article 23
REMITTANCES**

States Parties shall through, bilateral, regional, continental or international agreements facilitate the transfer of earnings and savings of nationals of other Member States working, residing or established in their territory.

Article 24

PROCEDURES FOR MOVEMENT OF SPECIFIC GROUPS

1. States Party may in addition to the measures provided for by international, regional and continental instruments, establish specific procedures for the movement of specific vulnerable groups including refugees, victims of human trafficking and smuggled migrants, asylum seekers and pastoralists.
2. Procedures established by a Member State under this article shall be consistent with the obligations of that Member State under the international, regional and continental instruments relating to the protection of each group of persons referred to in paragraph 1.

PART VI – IMPLEMENTATION

**Article 25
COOPERATION BETWEEN MEMBER STATES**

1. States Parties shall in accordance with the African Union Convention on Cross-Border Cooperation coordinate their border management systems in order to facilitate the free and orderly movement of persons.
2. States Parties shall record, document, and upon request, make available all forms of aggregated migration data at the ports or points of entry or exit from their territory.
3. States Parties shall through bilateral or regional arrangements-cooperate with each other by exchanging information related to the free movement of persons and the implementation of this Protocol.

**Article 26
COORDINATION AND HARMONISATION**

1. In accordance with article 88 of the Abuja Treaty and guided, as appropriate, by the implementation Roadmap annexed to this Protocol, States Parties shall harmonise and coordinate the laws, policies, systems and activities of the regional economic communities of which they are members which relate to free movement of persons with the laws, policies, systems and activities of the Union.



2. States Parties shall harmonise their national policies, laws and systems with this Protocol and guided, as appropriate, by the Implementation Roadmap annexed to this Protocol.

Article 27
ROLE OF MEMBER STATES

1. States Parties shall be responsible for implementing this Protocol.
2. States Parties shall adopt necessary legislative and administrative measures to implement and give effect to this Protocol.
3. States Parties shall harmonize all laws, policies, agreements and immigration procedures and other procedures to ensure compliance with this Protocol.

Article 28
ROLE OF REGIONAL ECONOMIC COMMUNITIES

1. Regional Economic Communities shall be the focal points for promoting, following up and evaluating implementation of this Protocol and reporting the progress towards free movement of persons in their respective regions.
2. Each Regional Economic Community shall submit periodic reports to the Commission on the progress of implementation of this Protocol within their respective region.
3. Regional Economic Communities shall harmonise their Protocols, policies and procedures on free movement of persons with this Protocol.

Article 29
ROLE OF THE COMMISSION

1. The Commission shall follow up and evaluate the implementation of this Protocol by the Member States and shall through the relevant Specialised Technical Committees submit periodic reports to the Executive Council on the status of implementation of this protocol.
2. The Commission shall in coordination with Member States develop and apply a continental follow up and coordinating mechanism for assessing the status of implementing this Protocol.
3. The follow up and coordinating mechanism shall include the collection and analysis of data nationally and regionally in order to assess the state of the free movement of persons.



**Article 30
REMEDIES**

1. States Parties shall provide appropriate administrative and judicial remedies in their national laws for nationals of other Member States affected by decisions of a Member State relating to the implementation of this Protocol.
2. A National of a Member State who is denied the enjoyment of the right of entry, residence, establishment or other related rights provided in this Protocol, having exhausted all legal remedies in the host Member State, may refer the matter to the African Commission on Human and Peoples Rights.

PART VII- FINAL PROVISIONS

**Article 31
SETTLEMENT OF DISPUTES**

1. Any dispute or difference arising between States Parties with regard to the interpretation, application and implementation of this Protocol shall be settled by mutual consent between States concerned, including through negotiations, mediation, conciliation or other peaceful means.
2. In the event of failure by the disputing parties to settle the dispute or difference, the disputing Parties may:
 - (a) By mutual consent, refer the dispute to an Arbitration Panel of three (3) Arbitrators whose decision shall be binding on the Parties; or
 - (b) Refer the dispute to the African Court of Justice, Human Rights and Peoples' Rights, when operational.
3. The appointment of the Panel of Arbitrators shall be as follows:
 - (i) The Parties to the dispute shall each appoint one arbitrator; and
 - (ii) The Chairperson of the Commission shall appoint the third Arbitrator who shall be the President of the Panel.
4. Pending the operationalization of the Court referred to in sub article (2)(a) above, the decision of the Panel of Arbitrators shall be binding.

**Article 32
SIGNATURE, RATIFICATION AND ACCESSION**

1. This Protocol shall be open to Member States of the Union for signature, ratification or accession.



2. The instrument of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission who shall notify all Member States of the dates of the deposit of the instruments of ratification or accession.

Article 33 ENTRY INTO FORCE

1. The Protocol shall, enter into force thirty (30) days after the date of receipt by the Chairperson of the Commission of the fifteenth (15th) instrument of ratification.
2. Any Member State may, at the time of adoption of the Protocol by the Assembly, declare that it will apply provisionally the provisions of the Protocol pending its entry into force.
3. For any Member State that deposit its instrument of ratification, acceptance or accession subsequent to the entry into force of this Protocol, this Protocol shall enter into force for that State thirty days (30) days following the date of the deposit of its instrument of acceptance or accession.

Article 34 RESERVATIONS

1. A State Party may, when, ratifying or acceding to this Protocol, submit in writing a reservation with respect to any of the provisions of this Protocol. Reservation shall not be incompatible with the object and purpose of this Protocol.
2. Unless otherwise provided, a reservation may be withdrawn at any time.
3. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

Article 35 DEPOSITORY

This Protocol shall be deposited with the Chairperson of the African Union Commission, who shall transmit a certified true copy of the Protocol to the Government of each signatory State.

Article 36 REGISTRATION

The Chairperson of the Commission upon the entry into force of this Protocol shall register this Protocol with the United Nations Secretary General in conformity with Article 102 of the Protocol of the United Nations.



Article 37
SUSPENSION AND WITHDRAWAL

1. Any State Party may suspend, temporarily, the implementation of the provisions of the present Protocol in case of grave threats to national security, public order and public health.
2. At any time after three years from the date of entry into force of this Protocol, a State Party may withdraw by giving written notification to the Depository.
3. Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.
4. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

Article 38
AMENDMENT AND REVISION

1. Any State Party may submit proposal(s) for the amendment or revision of this Protocol. Such proposal(s) shall be adopted by the Assembly.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six months before the meeting at which it shall be considered for adoption.
3. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority.
4. The amendment or revision shall enter into force in accordance with the procedures outlined in Article 33 of this Protocol.

Article 39
AUTHENTIC TEXTS

This Protocol is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

**ADOPTED BY THE THIRTIETH ORDINARY SESSION OF THE
ASSEMBLY, HELD IN ADDIS ABABA, ETHIOPIA
ON 29 JANUARY 2018**



Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida n° 92/01 ryo ku wa 28/05/2018 ryemeza burundu Amasezerano y'inyongera ku Masezerano ashiraho Umuryango Nyafurika w'Ubukungu yerekeye urujya n'uruza rw'abantu, uburenganzira bwo kuba no gutura mu bihugu bigize Umuryango yashyiriweho umukono i Kigali, muri Repubulika y'u Rwanda, ku wa 21 Werurwe 2018

Kigali, ku wa 28/05/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

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

Seen to be annexed to the Presidential Order n° 92/01 of 28/05/2018 ratifying the Protocol to the Treaty establishing the African Economic Community relating to free movement of persons, right of residence and right of establishment, signed at Kigali, in the Republic of Rwanda, on 21 March 2018

Kigali, on 28/05/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à l'Arrêté Présidentiel n° 92/01 du 28/05/2018 ratifiant le Protocole au Traité instituant la Communauté Economique Africaine concernant la libre circulation des personnes, le droit de séjour et le droit d'établissement, signé à Kigali, en République du Rwanda, le 21 mars 2018

Kigali, le 28/05/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

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

ITEKA RYA PEREZIDA N° 105/01 RYO KU
WA 02/06/2018 RYEMEZA BURUNDU
AMASEZERANO YO KOHEREREZANYA
ABAKURIKIRANYWEHO IBYAHA
N'ABAHAMWE NA BYO HAGATI YA
REPUBULIKA Y'U RWANDA NA
REPUBULIKA YA CONGO,
YASHYIRIWEHO UMUKONO I
BRAZZAVILLE, MURI REPUBULIKA YA
CONGO, KU WA 09 UGUSHYINGO 2013

PRESIDENTIAL ORDER N° 105/01 OF
02/06/2018 ON RATIFICATION OF THE
CONVENTION ON EXTRADITION AND
TRANSFER OF PROSECUTED AND
CONVICTED OFFENDERS BETWEEN
THE REPUBLIC OF RWANDA AND THE
REPUBLIC OF CONGO, SIGNED AT
BRAZZAVILLE, THE REPUBLIC OF
CONGO, ON 09 NOVEMBER 2013

ARRETE PRESIDENTIEL N° 105/01 DU
02/06/2018 PORTANT RATIFICATION DE
LA CONVENTION D'EXTRADITION ET DE
TRANSFEREMENT DES POURSUIVIS ET
CONDAMNES ENTRE LA REPUBLIQUE DU
RWANDA ET LA REPUBLIQUE DU
CONGO, SIGNEE A BRAZZAVILLE, EN
REPUBLIQUE DU CONGO, LE 09
NOVEMBRE 2013

ISHAKIRO

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ITEKA RYA PEREZIDA N° 105/01 RYO KU WA 02/06/2018 RYEMEZA BURUNDU AMASEZERANO YO KOHEREREZANYA ABAKURIKIRANYWEHO IBYAHA N'ABAHAMWE NA BYO HAGATI YA REPUBULIKA Y'U RWANDA NA REPUBULIKA YA CONGO, YASHYIRIWEHO UMUKONO I BRAZZAVILLE, MURI REPUBULIKA YA CONGO, KU WA 09 UGUSHYINGO 2013

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 167, iya 168 n'iya 176;

Dushingiye ku Itegeko n° 46/2017 ryo ku wa 14/09/2017 ryemera kwemeza burundu Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Repubulika y'u Rwanda na Repubulika ya Congo yashyiriweho umukono i Brazzaville, muri Repubulika ya Congo, ku wa 09 Ugushyingo 2013;

Tumaze gusuzuma Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Repubulika y'u Rwanda na Repubulika ya Congo yashyiriweho umukono i Brazzaville, muri Repubulika ya Congo, ku wa 09 Ugushyingo 2013;

PRESIDENTIAL ORDER N° 105/01 OF 02/06/2018 ON RATIFICATION OF THE CONVENTION ON EXTRADITION AND TRANSFER OF PROSECUTED AND CONVICTED OFFENDERS BETWEEN THE REPUBLIC OF RWANDA AND THE REPUBLIC OF CONGO, SIGNED AT BRAZAVILLE, THE REPUBLIC OF CONGO, ON 09 NOVEMBER 2013

We, KAGAME Paul,
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 167, 168 and 176;

Pursuant to Law n° 46/2017 of 14/09/2017 approving ratification of the Convention on Extradition and Transfer of prosecuted and convicted offenders between the Republic of Rwanda and the Republic of Congo signed in Brazzaville, the Republic of Congo, on 09 November 2013;

After consideration of the Convention on Extradition and Transfer of prosecuted and convicted offenders between the Republic of Rwanda and the Republic of Congo signed in Brazzaville, the Republic of Congo, on 09 November 2013;

ARRETE PRESIDENTIEL N° 105/01 DU 02/06/2018 PORTANT RATIFICATION DE LA CONVENTION D'EXTRADITION ET DE TRANSFEREMENT DES POURSUIVIS ET CONDAMNES ENTRE LA REPUBLIQUE DU RWANDA ET LA REPUBLIQUE DU CONGO, SIGNEE A BRAZZAVILLE, EN REPUBLIQUE DU CONGO, LE 09 NOVEMBRE 2013

Nous, KAGAME Paul,
Président de la République;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 167, 168 et 176;

Vu la Loi n° 46/2017 du 14/09/2017 approuvant ratification de la Convention d'Extradition et de Transfèrement des poursuivis et condamnés entre la République du Rwanda et la République du Congo signée à Brazzaville, en République du Congo, le 09 novembre 2013;

Après examen de la Convention d'Extradition et de Transfèrement des poursuivis et condamnés entre la République du Rwanda et la République du Congo signée à Brazzaville, en République du Congo, le 09 Novembre 2013;

Bisabwe na Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta;

On proposal by the Minister of Justice/Attorney General;

Sur proposition du Ministre de la Justice/Garde des Sceaux;

TWATEGETSE KANDI DUTEGETSE:

HAVE ORDERED AND ORDER:

AVONS ARRETE ET ARRETONS:

Ingingo ya mbere: Kwemeza burundu

Article One: Ratification

Article premier: Ratification

Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahanwe na byo hagati ya Repubulika y'u Rwanda na Repubulika ya Congo, yashyiriweho umukono i Brazzaville, muri Repubulika ya Congo, ku wa 09 Ugushyingo 2013 nk'uko agaragara ku mugereka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

The Convention on Extradition and Transfer of prosecuted and convicted offenders between the Republic of Rwanda and the Republic of Congo, signed in Brazzaville, the Republic of Congo, on 09 November 2013 annexed to this Order, is ratified and becomes fully effective.

La Convention d'Extradition et de Transfèrement des poursuivis et condamnés entre la République du Rwanda et la République du Congo, signée à Brazzaville, en République du Congo, le 09 Novembre 2013, annexée au présent arrêté, est ratifiée et devient pleinement effective.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Article 2: Authorities responsible for the implementation of this Order

Article 2: Autorités chargées de l'exécution du présent arrêté

Minisitiri w'Intebe, Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta, Minisitiri w'Imari n'Igenamigambi na Minisitiri w'Ububanyi n'Amahanga, Ubutwererane n'Umuryango w'Ibihugu bya Afurika y'Iburasirazuba bashinzwe gushyira mu bikorwa iri teka.

The Prime Minister, the Minister of Justice/Attorney General, the Minister of Finance and Economic Planning and the Minister of Foreign Affairs, Cooperation and East African Community are entrusted with the implementation of this Order.

Le Premier Ministre, le Ministre de la Justice/Garde des Sceaux, le Ministre des Finances et de la Planification Economique ainsi que le Ministre des Affaires Étrangères, de la Coopération et de la Communauté de l'Afrique de l'Est sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iteka ritangira gukurikizwa

Article 3: Commencement

Article 3: Entrée en vigueur

Iri teka ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

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

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Official Gazette n° 24 of 11/06/2018

Kigali, ku wa 02/06/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

**Bibonywe kandi bishyizweho Ikirango cya
Repubulika:**

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

Kigali, on 02/06/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Kigali, le 02/06/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

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

**UMUGEREKA W'ITEKA RYA PEREZIDA
N° 105/01 RYO KU WA 02/06/2018
RYEMEZA BURUNDU AMASEZERANO
YO KOHEREREZANYA
ABAKURIKIRANYWEHO IBYAHA
N'ABAHAMWE NA BYO HAGATI YA
REPUBULIKA Y'U RWANDA NA
REPUBULIKA YA CONGO,
YASHYIRIWEHO UMUKONO I
BRAZZAVILLE, MURI REPUBULIKA YA
CONGO, KU WA 09 UGUSHYINGO 2013**

**ANNEX TO PRESIDENTIAL ORDER N°
105/01 OF 02/06/2018 ON RATIFICATION
OF THE CONVENTION ON EXTRADITION
AND TRANSFER OF CONVICTED
OFFENDERS BETWEEN THE REPUBLIC
OF RWANDA AND THE REPUBLIC OF
CONGO, SIGNED AT BRAZAVILLE, THE
REPUBLIC OF CONGO, ON 09
NOVEMBER 2013**

**ANNEXE A L'ARRETE PRESIDENTIEL N°
105/01 DU 02/06/2018 PORTANT
RATIFICATION DE LA CONVENTION
D'EXTRADITION ET DE
TRANSFEREMENT DES CONDAMNES
ENTRE LA REPUBLIQUE DU RWANDA ET
LA REPUBLIQUE DU CONGO, SIGNEE A
BRAZZAVILLE, EN REPUBLIQUE DU
CONGO, LE 09 NOVEMBRE 2013**

**CONVENTION D'EXTRADITION ET
DE TRANSFEREMENT DES
CONDAMNES**

ENTRE

LA REPUBLIQUE DU RWANDA

ET

LA REPUBLIQUE DU CONGO

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Préambule :

Le Gouvernement de la République du Rwanda,
d'une part ;

Et

Le Gouvernement de la République du Congo,
d'autre part ;

Ci-après dénommés « **Parties Contractantes** » ;

Se référant au mémorandum de coopération en matière juridique et judiciaire entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Congo signé au Rwanda le 22 novembre 2011 ;

Jugeant nécessaire d'élargir leur coopération au domaine de la justice ;

Estimant que les peines ont pour objectif la réhabilitation sociale des personnes condamnées ;

Considérant que, pour atteindre cet objectif, il convient d'offrir à leurs citoyens privés de liberté à l'étranger par suite de la commission d'une infraction, la possibilité d'exécuter leur condamnation dans leur milieu social d'origine ;

Considérant en outre que le meilleur moyen d'y parvenir est de les transférer vers leur propre pays ;

Désireux de maintenir et de renforcer les liens qui unissent les deux pays et notamment de régler leurs rapports dans le domaine de l'extradition, ont décidé de conclure une Convention à cet effet ;


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TITRE I : DE L'EXTRADITION

Article premier : Définitions

Aux fins d présent :

- a) « *Etat de condamnation* » désigne l'Etat où a été condamnée la personne qui peut être transférée ;
- b) « *Etat d'exécution* » désigne l'Etat où le condamné peut être transféré ou l'a déjà été ;
- c) « *Condamnation* » désigne toute peine ou mesure privative de liberté prononcée par un juge pour une durée limitée ou indéterminée en raison d'une infraction pénale ;

Article 2.- : Les Parties contractantes s'engagent à se livrer réciproquement, selon les règles et sous les conditions déterminées par les articles suivants, les individus qui, se trouvant sur le territoire de l'un des deux Etats, sont poursuivis ou condamnés par les autorités judiciaires de l'autre Etat.

Article 3- : Les Parties contractantes n'extradent pas leurs nationaux respectifs. La qualité de national s'apprécie à l'époque de l'infraction pour laquelle l'extradition est demandée.

Toutefois, la partie requise s'engage, dans la mesure où elle a compétence pour les juger, à faire poursuivre ses propres nationaux qui ont commis, sur le territoire de l'autre Etat, des infractions punies comme crime ou délit dans les deux Etats ; lorsque l'autre partie lui adresse par voie diplomatique, une demande de poursuite accompagnée des dossiers, documents, objets et informations en sa possession.



La partie requérante est tenue informée de la suite qui a été donnée à sa demande.

Article 4. - : Sont sujets à l'extradition :

1°) Les individus qui sont poursuivis pour des crimes ou délits punis par les lois des Parties contractantes d'une peine d'au moins six (6) mois d'emprisonnement ;

2°) Les individus qui, pour des crimes ou délits punis par la loi de l'Etat requis, sont condamnés contradictoirement ou par défaut par les tribunaux de l'Etat requérant à une peine d'au moins deux (2) mois d'emprisonnement.

Article 5.- : L'extradition n'est pas accordée si l'infraction pour laquelle elle est demandée est considérée par la partie requise comme une infraction politique ou comme une infraction connexe à une telle infraction.

Article 6.- : L'extradition peut ne pas être accordée si l'infraction pour laquelle elle est demandée consiste uniquement dans la violation d'obligation militaire.

Article 7.- : En matière de taxes et d'impôts, de douanes ou de change, l'extradition est accordée dans les conditions prévues par la présente convention dans la mesure où il en est ainsi décidé par échange de lettres pour chaque infraction ou catégorie d'infraction spécialement désignée.

Article 8.- : L'extradition est refusée :

a) Si les infractions ont été jugées définitivement dans l'Etat requis ;



- b) Si les infractions à raison desquelles elle est demandée, ont été commises dans l'Etat requis ;
- c) Si la prescription de l'action ou de la peine est requise d'après la législation de l'Etat requérant ou de l'Etat requis lors de la réception de la demande par l'Etat requis ;
- d) Si les infractions ayant été commises hors du territoire de l'Etat requérant par un étranger à cet Etat, la législation du pays requis n'autorise pas la poursuite des mêmes infractions commises hors de son territoire par un étranger.
- e) L'extradition peut être refusée si les infractions font l'objet de poursuites dans l'Etat requis ou ont été jugées dans un Etat tiers.

Article 9. - : La demande d'extradition est adressée par voie diplomatique.

Elle est accompagnée de l'original ou de l'expédition authentique, soit d'une décision de condamnation exécutoire, soit d'un mandat d'arrêt ou de tout autre acte ayant la même force et décerné dans les formes prescrites par la loi de l'Etat requérant, du document indiquant les circonstances des faits pour lesquelles l'extradition est demandée, le temps et le lieu où ils ont été commis, la qualification légale et les références aux dispositions légales qui leur sont applicables, d'une copie des dispositions légales applicables ainsi que, dans toute la mesure du possible, du signalement de l'individu réclamé et toute indication de nature à déterminer son identité.

Article 10.- : En cas d'urgence, sur la demande des autorités compétentes de l'Etat requérant, il est procédé à l'arrestation provisoire, en attendant la notification de la demande d'extradition et des documents mentionnés à l'article 9.



La demande d'arrestation provisoire est transmise aux autorités compétentes de l'Etat requis soit directement par la voie postale ou télégraphique, soit par tout autre moyen laissant une trace écrite. Elle est en même temps confirmée par voie diplomatique.

Doit se conformer aux exigences définies à l'article 8

L'autorité requérante est informée, sans délais, de la suite donnée à sa demande.

Article 11.- : Il peut être mis fin à l'arrestation provisoire si, dans le délai de dix (10) jours après l'arrestation, l'Etat requis n'a pas été saisi de l'un des documents mentionnés au second alinéa de l'article 9.

La mise en liberté ne s'oppose pas à la nouvelle arrestation et à extradition si la demande d'extradition parvient ultérieurement.

Article 12.- : Lorsque les renseignements complémentaires lui sont indispensables pour s'assurer que toutes les conditions prévues par la présente convention sont remplies, l'Etat requis, dans le cas où l'omission lui apparaît susceptible d'être réparée, avertit l'Etat requérant, par la voie diplomatique, avant de rejeter la demande.

Un délai peut être fixé par l'Etat requis pour l'obtention de ces renseignements.

Article 13.- : Si l'extradition est demandée concurremment par plusieurs Etats, soit pour les mêmes faits, soit pour des faits différents, l'Etat requis statue librement, compte tenu de toutes les circonstances, et notamment de la possibilité d'une extradition ultérieure entre les Etats



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requérants, des dates respectives des demandes, de la gravité relative et du lieu des infractions.

Article 14.- : Lorsqu'il est donné suite à une extradition, tous les objets provenant de l'infraction ou pouvant servir de pièces à conviction qui sont trouvés en la possession de l'individu réclamé au moment de son arrestation ou qui sont découverts ultérieurement sont, sur la demande de l'Etat requérant, saisis et remis à cet Etat.

Cette remise peut être effectuée même si l'extradition ne peut s'accomplir par suite de l'évasion ou de la mort de l'individu réclamé.

Sont toutefois réservés, les droits que les tiers ont acquis sur lesdits objets qui doivent, si de tels objets existent, être rendus à l'Etat requis, le plus tôt possible et aux frais de l'Etat requérant à la fin des poursuites exercées dans cet Etat.

L'Etat requis peut tenir temporairement les objets saisis s'il les juge nécessaires pour une procédure pénale.

Il peut de même, en les transmettant, se réserver leur restitution pour le même motif en s'obligeant à les renvoyer à son tour dès que possible.

Article 15. - : L'Etat requis fait connaître à l'Etat requérant par voie diplomatique, sa décision sur l'extradition.

Tout rejet complet ou partiel est motivé.

En cas d'acceptation, l'Etat requérant est informé du lieu et de la date de remise.



Faute d'accord à cet égard, l'individu extradé est conduit par les soins de l'Etat requis au lieu désigné par la mission diplomatique de l'Etat requérant.

Sous réserve du cas prévu à l'alinéa précédent, l'Etat requérant doit faire recevoir l'individu à extraditer, par les agents, dans un délai d'un mois à compter de la date déterminée, conformément aux dispositions du troisième alinéa du présent article.

Si au terme de ce délai, l'Etat requérant n'a pas fait recevoir l'individu à extraditer, celui-ci est mis en liberté et ne peut plus être réclamé pour le même fait.

Dans le cas de circonstances exceptionnelles empêchant la remise ou la réception de l'individu à extraditer, l'Etat intéressé en informe l'autre Etat avant l'expiration du délai.

Les deux Etats se mettent d'accord sur une autre date de remise et les dispositions de l'alinéa précédent sont applicables.

Article 16.- : Si l'individu réclamé est poursuivi ou condamné dans l'Etat requis pour une infraction autre que celle motivant la demande d'extradition, ce dernier Etat doit néanmoins statuer sur cette demande et faire connaître à l'Etat requérant sa décision sur l'extradition dans les conditions prévues aux alinéas 1 et 2 de l'article 15.

La remise de l'inculpé est toutefois, dans le cas d'acceptation, différée jusqu'à ce qu'il soit satisfait à la justice de l'Etat requis.



Elle est effectuée à une date qui est déterminée conformément aux dispositions du troisième alinéa de l'article 14 et les alinéas 4, 5 et 6 dudit article sont alors applicables.

Article 17.- : L'individu qui a été livré ne peut être ni poursuivi, ni jugé contradictoirement, ni être détenu en vue de l'exécution d'une peine pour une infraction antérieure à la remise autre que celle ayant motivé l'extradition sauf dans les cas suivants :

- 1°- lorsque ayant eu la liberté de le faire, l'individu extradé n'a pas quitté dans les trente (30) jours qui suivent son élargissement définitif, le territoire de l'Etat auquel il a été livré ou s'il y est retourné après l'avoir quitté ;
- 2°- lorsque l'Etat qui l'a livré y consent, une demande doit être présentée à cet effet, accompagnée des pièces énumérées au second alinéa de l'article 9 et d'un procès-verbal judiciaire consignant les déclarations de l'extradé sur l'extension de l'extradition et mentionnant la possibilité qui lui a été donnée d'adresser un mémoire en défense aux autorités de l'Etat requis.

Lorsque la qualification donnée au fait incriminé est modifiée au cours de la procédure, l'individu extradé ne peut être poursuivi ou jugé que dans la mesure où les éléments constitutifs de l'infraction nouvellement qualifiée, permettent l'extradition.

Article 18.- : Sauf dans le cas où l'individu est resté sur le territoire de l'Etat requérant dans les conditions prévues à l'article précédent ou y serait retourné dans ces conditions, l'assentiment de l'Etat requis est nécessaire pour permettre à l'Etat requérant de livrer à un Etat tiers l'individu qui lui a été remis.



Article 19. - : L'extradition, par voie de transit à travers le territoire de l'une des Parties contractantes d'un individu livré à l'autre est accordée sur demande adressée par voie diplomatique.

A l'appui de cette demande, sont fournies les pièces nécessaires pour établir qu'il s'agit d'une infraction donnant lieu à extradition. Il n'est pas tenu compte de la durée des peines.

Article 20.- : Les frais occasionnés par la procédure d'extradition sont à la charge de l'Etat requérant, étant entendu que l'Etat requis ne réclame ni frais de procédure, ni frais d'incarcération.

Les frais occasionnés par le transit sur le territoire de l'une des Parties contractantes de l'individu livré à l'autre Partie sont à la charge de l'Etat requérant.

TITRE II : DU TRANSFEREMENT DES CONDAMNES

Article 21.- : Aux fins de la présente Convention :

- a) « *Etat de condamnation* » désigne l'Etat où a été condamnée la personne qui peut être transférée ;
- b) « *Etat d'exécution* » désigne l'Etat où le condamné peut être transféré ou l'a déjà été ;
- c) « *Condamnation* » désigne toute peine ou mesure privative de liberté prononcée par un juge pour une durée limitée ou indéterminée en raison d'une infraction pénale ;



Article 22.- : Principes généraux :

1. Les Parties contractantes s'engagent à s'accorder mutuellement, dans les conditions prévues par la présente Convention, la coopération la plus large possible en matière de transfèrement des personnes condamnées.
2. Une personne condamnée sur le territoire d'une Partie Contractante peut, conformément aux dispositions de la présente Convention, être transférée vers le territoire d'une autre Partie Contractante pour y subir la condamnation qui lui a été infligée. A cette fin, elle peut exprimer soit auprès de l'Etat de condamnation, soit auprès de l'Etat d'exécution, le souhait d'être transférée en vertu de la présente Convention.
3. Le transfèrement peut être sollicité soit par l'Etat de condamnation, soit par l'Etat d'exécution.

Article 23.- : A titre de principes généraux

La présente Convention ne s'applique que dans les conditions suivantes :

- a) Le condamné doit être un citoyen de l'Etat d'exécution au moment de la demande de son transfèrement ;
- b) Le jugement doit être définitif ;
- c) Les actes ou omissions qui ont donné lieu à la condamnation doivent également être punissables dans l'Etat d'exécution même si leur qualification n'est pas identique ;
- d) La durée de la peine ou de la mesure de sûreté à subir doit être au moins d'un an à la date de la présentation de la demande de transfèrement ;
- e) Le condamné, ou en cas d'incapacité de celui-ci, son représentant légal doit consentir au transfèrement ;



- f) Le condamné solvable doit avoir satisfait le paiement des amendes, des frais de justice, des réparations civiles ou de condamnation pécuniaire de tout genre qui peuvent lui incomber conformément au dispositif du jugement ; ou qu'il garantisse leur paiement à la satisfaction de l'Etat de condamnation ;
- g) L'Etat de condamnation et l'Etat d'exécution doivent s'être mis d'accord sur ce transfèrement.

2. Dans des cas exceptionnels, les Parties contractantes peuvent convenir d'un transfèrement même si la durée de la condamnation restant à couvrir est inférieure à celle prévue au paragraphe 1. d) du présent article.

L'insolvabilité du condamné ne fait pas obstacle à son transfèrement.

Le consentement de la personne condamnée n'est pas nécessaire dans les cas prévus à l'article 27.

Article 24.- : Les autorités compétentes des Parties Contractantes doivent informer tout condamné, citoyen de l'autre Partie Contractante, de la possibilité que lui offre l'application de la présente Convention et des conséquences juridiques découlant du transfèrement.

Si le condamné exprime auprès de l'Etat de condamnation le souhait d'être transféré en vertu de la présente Convention, cet Etat doit en informer l'Etat d'exécution le plus tôt possible après que le jugement soit devenu définitif. Les informations doivent comprendre :

- a) Le nom, la date et le lieu de naissance du condamné ;
- b) Le cas échéant, son adresse dans l'Etat d'exécution ;
- c) Un exposé des faits ayant entraîné la condamnation ;
- d) La nature, la durée et la date du début de la condamnation.



Le condamné doit être informé par écrit de toute démarche entreprise par l'Etat de condamnation ou l'Etat d'exécution en application des paragraphes précédents, ainsi que de toute décision prise par l'un des deux Etats au sujet d'une demande de transfèrement.

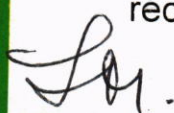
Article 25.-: Les demandes de transfèrement ainsi que les réponses doivent être formulées par écrit. Ces demandes doivent être adressées par les Ministres de la Justice des Parties Contractantes. Les réponses doivent être communiquées par les mêmes voies.

La Partie requise doit informer la partie requérante, dans les plus brefs délais, de sa décision d'accepter ou de refuser le transfèrement demandé.

Article 26.- : La volonté du condamné d'être transféré doit être expressément manifestée. L'Etat de condamnation devra donner à l'Etat d'exécution, s'il en fait la demande, la possibilité de vérifier que le condamné connaît les conséquences légales découlant du transfèrement et qu'il y consent volontairement.

Article 27.- : Lorsqu'un national d'une Partie Contractante qui a fait l'objet d'une condamnation définitive prononcée sur le territoire d'une autre Partie Contractante, vise à se soustraire à l'exécution ou à la poursuite de l'exécution de la condamnation dans l'Etat de condamnation, en se réfugiant sur le territoire de la première Partie avant d'avoir accompli la condamnation, l'Etat de condamnation peut adresser à l'autre Partie une requête tendant à ce que celle-ci se charge de l'exécution de la condamnation.

A la demande de la Partie requérante, la Partie requise peut, avant la réception des pièces à l'appui de la requête ou dans l'attente de la



décision relative à cette requête, procéder à l'arrestation de la personne condamnée ou prendre toute autre mesure propre à garantir qu'elle demeure sur son territoire dans l'attente d'une décision concernant la requête. Toute demande dans ce sens est accompagnée des informations mentionnées dans l'article 24 de la présente Convention. L'arrestation à ce titre de la personne condamnée ne peut pas conduire à une aggravation de sa situation pénale.

Article 28.- : L'Etat d'exécution doit, sur demande de l'Etat de condamnation, fournir à ce dernier :

- a) Un document indiquant que le condamné est ressortissant de cet Etat ;
- b) Une copie des dispositions légales dont il ressort que les actes ou omissions qui ont entraîné la condamnation constituent aussi une infraction dans l'Etat d'exécution ;

L'Etat de condamnation doit fournir à l'Etat d'exécution, à moins que l'un ou l'autre des deux Etats ait déjà indiqué qu'il ne donnerait pas son accord au transfèrement :

- a) Une copie certifiée conforme du jugement indiquant que celui-ci a force de chose jugée ;
- b) Une copie des dispositions légales appliquées ;
- c) L'indication de la durée de la peine, de la période déjà purgée et de celle qui reste à purger, ainsi que la période de détention provisoire ;
- d) Une déclaration du condamné constatant son consentement au transfèrement sauf le cas prévue par l'article 27 ;
- e) En cas de besoin, tout rapport médical ou social sur le condamné, toute information sur son traitement dans l'Etat d'exécution.

L'Etat de condamnation et l'Etat d'exécution peuvent, demander à recevoir l'un quelconque des documents ou déclarations visés aux



paragraphe 1 et 2 du présent article avant de faire une demande de transfèrement ou de prendre la décision d'accepter ou de refuser le transfèrement.

Article 29.- : La prise en charge du condamné par les autorités de l'Etat d'exécution a pour effet de suspendre l'exécution de la condamnation dans l'Etat de condamnation ;

L'Etat de condamnation ne peut plus exécuter la condamnation lorsque l'Etat d'exécution considère l'exécution de la condamnation comme étant terminée ;

L'exécution de la condamnation est régie par la loi de l'Etat d'exécution et cet Etat est seul compétent pour prendre toutes les décisions appropriées.

En ce qui concerne l'exécution de la condamnation, les autorités compétentes de l'Etat d'exécution :

- a) sont liées par la durée de la peine. Toutefois, si la durée de la peine est plus sévère que la sanction pour une même infraction prévue dans la législation de l'Etat d'exécution, le condamné peut être transféré pour la durée maximum de privation de liberté de sa législation nationale ;
- b) sont liées par les faits prouvés dans le jugement ;
- c) ne peuvent pas commuer la peine en une sanction pécuniaire.

Article 30.- : Chaque Partie Contractante peut accorder la grâce, l'amnistie ou la commutation de la peine conformément à sa Constitution ou à ses autres règles juridiques.

Article 31.- : L'Etat de condamnation a seul le droit de statuer sur tout recours en révision introduit contre le jugement.



L'Etat d'exécution doit mettre fin à l'exécution de la condamnation dès qu'il a été informé par l'Etat de condamnation de toute décision ou mesure qui a pour effet d'enlever son caractère exécutoire à la peine ou à la mesure de sûreté.

Article 32.- : En vertu de la règle "Non bis in idem" un condamné transféré pour l'exécution d'une peine ou mesure de sûreté, conformément à la présente Convention, ne peut être détenu, traduit en justice, ni condamné dans l'Etat d'exécution pour les mêmes délits que ceux pour lesquels il a été condamné.

Article 33.- : La remise du condamné par les autorités de l'Etat de condamnation, à celle de l'Etat d'exécution doit s'effectuer aux lieux et date convenus par eux.

Article 34.- : Les frais occasionnés en application de la présente Convention sont à la charge de l'Etat d'exécution, à l'exception des frais encourus exclusivement sur le territoire de l'Etat de condamnation.

L'Etat d'exécution doit prendre en charge les frais du transfèrement à partir du moment où le condamné est placé sous sa garde.

Article 35.- : Chacune des deux Parties contractantes peut utiliser sa langue officielle pour transmettre les demandes de transfèrement et les pièces produites à l'appui. Ces demandes et pièces devront être accompagnées d'une traduction dans la langue officielle de l'autre partie Contractante.

Article 36.- : L'Etat d'exécution doit informer l'Etat de condamnation :
a) de l'expiration de la peine ;

b) de l'évasion éventuelle du condamné ;

c) de toutes questions soulevées par l'Etat de condamnation conformément aux dispositions de la présente convention.

Article 37.- : La présente convention est applicable à l'exécution des condamnations prononcées soit avant, soit après son entrée en vigueur.

Article 38.- : Les ministères de la Justice des deux Parties Contractantes s'accordent la plus large coopération et se consultent sur toutes les questions susceptibles d'être soulevées ou qui n'auront pas été expressément mentionnées dans la présente Convention.

TITRE III : SUR LES DISPOSITIONS FINALES

Article 39. - Les deux Parties contractantes se donnent réciproquement avis des condamnations pour crimes et délits prononcés par les autorités judiciaires à l'encontre des nationaux de l'autre partie. Ces avis sont transmis par voie diplomatique.

Article 40.- : La présente Convention est ratifiée conformément à la législation en vigueur dans les deux Parties Contractantes.

Elle entre en vigueur trente (30) jours après l'échange du dernier instrument de ratification.

Article 41.- : Les Parties Contractantes peuvent s'accorder en vue d'apporter des amendements à la présente Convention. Ceux-ci entrent en vigueur selon la procédure définie par l'article 40 ci-dessus.

La présente Convention demeure en vigueur pour une période illimitée.



Toutefois, chacune des Parties Contractantes peut dénoncer la Convention à tout moment. La dénonciation prend effet six (6) mois après la date de notification par écrit à l'autre Partie Contractante de cette décision.

Fait à Brazzaville, République du Congo, le 09 novembre 2013

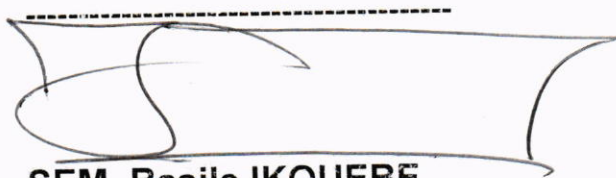
En deux exemplaires originaux en langue française, les deux textes faisant également foi.

**Pour le Gouvernement de
République du Rwanda**



SEM. Louise MUSHIKIABO
Ministre des Affaires Etrangères
et de la Coopération

**Pour le Gouvernement de
la République du Congo**



SEM. Basile IKOUEBE
Ministre des Affaires Etrangères
et de la Coopération

Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida n° 105/01 ryo ku wa 02/06/2018 ryemeza burundu amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Repubulika y'u Rwanda na Repubulika ya Congo, yashyiriweho umukono i Brazzaville, muri Repubulika ya Congo, ku wa 09 Ugushyingo 2013

Seen to be annexed to Presidential Order n° 105/01 of 02/06/2018 on ratification of the Convention on Extradition and Transfer of convicted offenders between the Republic of Rwanda and the Republic of Congo, signed at Brazzaville, the Republic of Congo, on 09 November 2013

Vu pour être annexé à l'Arrêté Présidentiel n° 105/01 du 02/06/2018 portant ratification de la Convention d'Extradition et de Transfèrement des condamnés entre la République du Rwanda et la République du Congo, signée à Brazzaville, en République du Congo, le 09 novembre 2013

Kigali, ku wa 02/06/2018

Kigali, on 02/06/2018

Kigali, le 02/06/2018

(sé)

KAGAME Paul
Perezida wa Repubulika

(sé)

KAGAME Paul
President of the Republic

(sé)

KAGAME Paul
Président de la République

(sé)

Dr. NGIRENTE Edouard
Minisitiri w'Intebe

(sé)

Dr. NGIRENTE Edouard
Prime Minister

(sé)

Dr. NGIRENTE Edouard
Premier Ministre

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

Seen and sealed with the Seal of the Republic:

Vu et scellé du Sceau de la République:

(sé)

BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)

BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)

BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEKA RYA PEREZIDA N° 106/01 RYO KU WA 02/06/2018 RYEMEZA BURUNDU AMASEZERANO YO KOHEREREZANYA ABAKURIKIRANYWEHO IBYAHA HAGATI YA LETA YA REPUBULIKA Y'U RWANDA NA LETA YA REPUBULIKA YA MALAWI, YASHYIRIWEHO UMUKONO I LILONGWE, MURI REPUBULIKA YA MALAWI, KU WA 23 GASHYANTARE 2017

PRESIDENTIAL ORDER N° 106/01 OF 02/06/2018 ON RATIFICATION OF THE TREATY ON EXTRADITION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE REPUBLIC OF MALAWI, SIGNED AT LILONGWE, THE REPUBLIC OF MALAWI, ON 23 FEBRUARY 2017

ARRETE PRESIDENTIEL N° 106/01 DU 02/06/2018 PORTANT RATIFICATION DU TRAITE D'EXTRADITION ENTRE LE GOUVERNEMENT DE LA REPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA REPUBLIQUE DU MALAWI, SIGNE A LILONGWE, REPUBLIQUE DU MALAWI, LE 23 FEVRIER 2017

ISHAKIRO

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ITEKA RYA PEREZIDA N° 106/01 RYO KU WA 02/06/2018 RYEMEZA BURUNDU AMASEZERANO YO KOHEREREZANYA ABAKURIKIRANYWEHO IBYAHA HAGATI YA LETA YA REPUBULIKA Y'U RWANDA NA LETA YA REPUBULIKA YA MALAWI, YASHYIRIWEHO UMUKONO I LILONGWE, MURI REPUBULIKA YA MALAWI, KU WA 23 GASHYANTARE 2017

PRESIDENTIAL ORDER N° 106/01 OF 02/06/2018 ON RATIFICATION OF THE TREATY ON EXTRADITION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE REPUBLIC OF MALAWI, SIGNED AT LILONGWE, THE REPUBLIC OF MALAWI, ON 23 FEBRUARY 2017

ARRETE PRESIDENTIEL N° 106/01 DU 02/06/2018 PORTANT RATIFICATION DU TRAITE D'EXTRADITION ENTRE LE GOUVERNEMENT DE LA REPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA REPUBLIQUE DU MALAWI, SIGNE A LILONGWE, REPUBLIQUE DU MALAWI, LE 23 FEVRIER 2017

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 167, iya 168 n'iya 176;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles, 112, 120, 167, 168 and 176;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 167, 168 et 176;

Dushingiye ku Itegeko n° 007/2018 ryo ku wa 16/03/2018 ryemera kwemeza burundu Amasezerano yo kohererezanya abakurikiranyweho ibyaha hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Malawi, yashyiriweho umukono i Lilongwe, muri Repubulika ya Malawi, ku wa 23 Gashyantare 2017;

Pursuant to Law n° 007/2018 of 16/03/2018 on ratification of the Treaty on extradition between the Government of the Republic of Rwanda and the Government of the Republic of Malawi, signed at Lilongwe, the Republic of Malawi, on 23 February 2017;

Vu la Loi n° 007/2018 du 16/03/2018 portant ratification du Traité d'extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Malawi, signé à Lilongwe, République du Malawi, le 23 Février 2017;

Tumaze kubona Amasezerano yo kohererezanya abakurikiranyweho ibyaha hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Malawi, yashyiriweho umukono i Lilongwe, muri Repubulika ya Malawi, ku wa 23 Gashyantare 2017;

Considering the Treaty on extradition between the Government of the Republic of Rwanda and the Government of the Republic of Malawi, signed at Lilongwe, the Republic of Malawi, on 23 February 2017;

Considérant le Traité d'extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Malawi, signé à Lilongwe, République du Malawi, le 23 février 2017;

Official Gazette n° 24 of 11/06/2018

Bisabwe na Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta;

On proposal by the Minister of Justice/Attorney General;

Sur proposition du Ministre de la Justice/Garde des Sceaux;

TWATEGETSE KANDI DUTEGETSE:

HAVE ORDERED AND HEREBY ORDER:

AVONS ARRETE ET ARRETONS :

Ingingo ya mbere: Kwemeza burundu

Amasezerano yo kohererezanya abakurikanyweho ibyaha hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Malawi, yashyiriweho umukono i Lilongwe, muri Repubulika ya Malawi, ku wa 23 Gashyantare 2017, ari ku mugereka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

Article One: Ratification

The Treaty on Extradition between the Government of the Republic of Rwanda and the Government of the Republic of Malawi, signed at Lilongwe, the Republic of Malawi, on 23 February 2017, in annex, is ratified and becomes fully effective.

Article premier: Ratification

Le Traité d'Extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Malawi, signé à Lilongwe, République du Malawi, le 23 février 2017, en annexe, est ratifié et sort son plein et entier effet.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Minisitiri w'Intebe, Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta, Minisitiri w'Imari n'Igenamigambi na Minisitiri w'Ububanyi n'Amahanga, Ubutwererane n'Umuryango w'Ibihugu by'Afurika y'Iburasirazuba bashinzwe gushyira mu bikorwa iri teka.

Article 2: Authorities responsible for the implementation of this Order

The Prime Minister, the Minister of Justice/Attorney General, the Minister of Finance and Economic Planning and the Minister of Foreign Affairs, Cooperation and East African Community are entrusted with the implementation of this Order.

Article 2: Autorités chargées de l'exécution du présent arrêté

Le Premier Ministre, le Ministre de la Justice/Garde des Sceaux, le Ministre des Finances et de la Planification Economique et le Ministre des Affaires Etrangères, de la Coopération et de la Communauté de l'Afrique de l'Est sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iteka ritangira gukurikizwa

Iri teka ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Article 3: Commencement

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

Article 3: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Official Gazette n° 24 of 11/06/2018

Kigali, ku wa 02/06/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

**Bibonywe kandi bishyizweho Ikirango cya
Repubulika:**

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

Kigali, on 02/06/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Kigali, le 02/06/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République :

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

**UMUGEREKA W'ITEKA RYA PEREZIDA
N° 106/01 RYO KU WA 02/06/2018
RYEMEZA BURUNDU AMASEZERANO
YO KOHEREREZANYA
ABAKURIKIRANYWEHO IBYAHA
HAGATI YA LETA YA REPUBULIKA Y'U
RWANDA NA LETA YA REPUBULIKA YA
MALAWI, YASHYIRIWEHO UMUKONO I
LILONGWE, MURI REPUBULIKA YA
MALAWI, KU WA 23 GASHYANTARE 2017**

**ANNEX TO THE PRESIDENTIAL ORDER
N° 106/01 OF 02/06/2018 ON RATIFICATION
OF THE TREATY ON EXTRADITION
BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF RWANDA AND THE
GOVERNMENT OF THE REPUBLIC OF
MALAWI, SIGNED AT LILONGWE, THE
REPUBLIC OF MALAWI, ON 23
FEBRUARY 2017**

**ANNEXE A L'ARRETE PRESIDENTIEL
N°106/01 DU 02/06/2018 PORTANT
RATIFICATION DU TRAITE
D'EXTRADITION ENTRE LE
GOUVERNEMENT DE LA REPUBLIQUE
DU RWANDA ET LE GOUVERNEMENT DE
LA REPUBLIQUE DU MALAWI, SIGNE A
LILONGWE, REPUBLIQUE DU MALAWI,
LE 23 FEVRIER 2017**



TREATY ON EXTRADITION BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF RWANDA

AND

THE GOVERNMENT OF THE REPUBLIC OF MALAWI.

A stylized signature in black ink, likely representing the official of the Republic of Rwanda.

A stylized signature in blue ink, likely representing the official of the Republic of Malawi.

This Agreement is entered into between the Government of the Republic of Rwanda and the Government of the Republic of Malawi hereinafter referred to jointly as the "Parties"

PREAMBLE

The Parties -

Desiring to strengthen the ties of friendship, peace, and security, and promote development between their countries and people;

Concerned by the increase in the level of criminal activity, exacerbated by the impunity that fosters the climate of insecurity among them;

Eager to establish among their countries a cooperation mechanism with respect to investigations, prosecutions, and the exchange of and documents, with a view to trying persons involved in every kind of criminal conduct censured by their respective countries and enforcement of sentences passed in that regard;

Determined to fill the institutional and legal voids in the area of Judicial and Police cooperation, as well as to ensure better protection of the citizens in their respective countries;

Aware of the advantages that will result from their cooperation in the area of extradition and mutual legal assistance; and

Desiring to provide for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a treaty for the extradition of offenders;

Have agreed as follows:

Part I: EXTRADITION

Article 1

Obligation to extradite

Each Party agrees to extradite to the other, upon request and subject to the provisions of this Treaty, any person who is found in the Requested Party and wanted in the Requesting Party for prosecution of an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence.



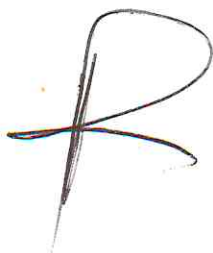
Article 2
Extraditable offences

- (1) For purposes of this Treaty, extraditable offences are offences that are punishable under the laws of the both parties by imprisonment or other deprivation of liberty for a period of at least one year.
- (2) Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of not less than six months of such sentence remains to be served.
- (3) Where extradition of a person is sought for an offence against a law relating to taxation, custom duties, exchange control or other revenue matters, extradition may not be refused on the ground that the law of the Requested Party does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange regulation of the same kind as the law of the requesting State.
- (4) Under this Treaty, an extraditable offence shall include the crime of genocide and other crimes against humanity as provided for in the national laws of both Parties.
- (5) The offence of terrorism as defined by both the UN and the AU conventions on prevention and combating of terrorism shall also be an extraditable offence in accordance with this Treaty.

Article 3
Mandatory grounds for refusal

Extradition shall not be granted in any of the following circumstances -

- (a) If there is insufficient *prima facie* evidence for which extradition is sought,
- (b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic or social origin, political opinions, sex or status, or that person's position may be prejudiced for any of those reasons;



- (c) If the offence for which extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law;
- (d) If there has been an acquittal or has been previous conviction in the requested Party in respect of the offence for which the extradition is requested;
- (e) If the person whose extradition is requested for offences committed in the Requested Party that has become immune from prosecution or punishment for any reason, including lapse of time, expiration of sentence or amnesty;
- (f) If there is sufficient reason to believe that the person whose extradition is sought for, has been or would be subjected in the requesting Party to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not accorded a fair trial as contained in the International Covenant on Civil and Political Rights, Article 14;
- (g) In case the judgment of the Requesting Party has been passed in *absentia*, if the convicted person has not had valid notice of the trial or the opportunity to arrange for his or her defence and he has not had or will not have the opportunity to have the case retried in his or her presence;
- (h) If the offence for which extradition is requested is regarded by the requested Party as an offence of a political nature. For the purposes of this Treaty, the following offences shall not be considered as political offences:
 - i. an offence for which both Parties have the obligation pursuant to an International agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;
 - ii. murder or other violent crime against the person of a Head of State of one of the Parties, or of a member of the Head of State's family;
 - iii. murder, manslaughter, malicious wounding, or inflicting grievous bodily harm;
 - iv. an offence involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage;
 - v. placing or using, or threatening the placement or use of, an explosive, incendiary, or destructive device or firearm capable of

endangering life, or causing grievous bodily harm, or of causing substantial property damage;

- vi. Possession of an explosive, incendiary, or destructive device capable of endangering life, of causing grievous bodily harm, or of causing substantial property damage;
- vii. An attempt or a conspiracy to commit, participation in the commission of, aiding or abetting, counselling or procuring the commission of, or being an accessory before or after the fact to any of the foregoing offenses.

Article 4

Optional grounds for refusal

Extradition may be refused in any of the following circumstances:

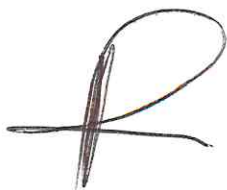
- (a) If the person whose extradition is requested is a national of the requested Party and where extradition is refused on this ground, the requested Party shall, if the other Party so requests, submit the case to its competent authorities with a view to taking appropriate action against the person in respect of the offence for which extradition had been requested.
- (b) In case the person sought for extradition has dual nationality of both requesting and requested Party, the decision shall base on the following facts according to priority order -
 - (i) the effective nationality at the time of commission of the offences; and
 - (ii) place where the offences had been committed.
- (c) If there is a pending prosecution in the requested Party in respect of the offence and the person for which the extradition is sought for, the requested Party shall fully cooperate with the requesting Party to ensure the completion of the case.
- (d) If the offence for which extradition is requested carries the death penalty under the law of the requesting Party unless that Party gives such assurance as the requested Party considers sufficient that the death penalty will not be imposed, if imposed, shall not be executed.
- (e) Where extradition is refused on this ground, the requested Party shall, if the other Party so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;

- (f) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;
- (g) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part within that State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;

Article 5

Channels of communication and required documents

- (1) A request for extradition shall be made in writing together with supporting documents and subsequent communications which shall be transmitted through Diplomatic channels.
- (2) All communications related to extradition requests shall be made in English language and where supporting documents were not in English, the requesting Party shall provide a certified translation version in English.
- (3) A request for extradition shall be accompanied by the following -
 - (a) In all cases -
 - (i) as accurate as possible, a description of the person sought, together with any other information that may help to establish that person's identity, nationality and location;
 - (ii) the text of the relevant provision of the law creating the offence or, where necessary, a statement of the law relevant to the offence and a statement of the penalty that can be imposed for the offence; and
 - (iii) *prima facie* evidence of the commission of the offence by such person
 - (b) If the person is accused of an offence, by a warrant of arrest issued by a Court or other competent judicial authority for the arrest of the person or a certified copy of that warrant shall provide, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission;



- (c) If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgment or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;
- (d) If the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 3 (c) of the present Article, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence;
- (e) If the person has been convicted of an offence but no sentence has been imposed, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to impose a sentence.
- (f) The documents submitted in support of a request for extradition shall be accompanied by a translation into the language of the requested State or in another language acceptable to that State.

Article 6

Simplified extradition procedure

The requested Party, may grant extradition without going through procedures provided in this treaty, after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

Article 7

Certification and authentication

Except as provided by this Treaty, a request for extradition and the documents in support thereof, as well as documents or other material supplied in response to such a request, shall require certification or authentication in accordance with the law of the requesting Party.



Article 8
Additional information

If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within 30 days from the day of receipt of such request.

Article 9
Provisional arrest

- (1) In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organisation or diplomatic channel.
- (2) The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 3 of Article 5 of this Treaty, authorising the apprehension of the person, a statement of the punishment that can be or has been imposed for the offence, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.
- (3) The requested State shall decide on the application and communicate its decision to the requesting State without delay.
- (4) The person arrested upon such an application shall be set at liberty upon the expiration of forty (40) days from the date of arrest if a request for extradition, supported by the relevant documents specified in of Article 5(3) of this Treaty, has not been received or if the request made does not provide all necessary documents. This paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the forty(40) days.
- (5) The release of the person pursuant to paragraph 4 of this Article shall not prevent re-arrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.



Article 10
Decision on a request

- (1) The requested State shall deal with a request for extradition as promptly as possible and shall promptly communicate its decision to the requesting State.
- (2) Reasons shall be given for any complete or partial refusal of the request.

Article 11
Surrender of a requested person

- (1) Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the requested State shall inform the requesting State of the length of time for which the person sought was detained with a view to surrender.
- (2) The person shall be removed from the territory of the requested State within 30 days and, if the person is not removed within that period, the requested State may release the person and may refuse to extradite that person for the same offence.
- (3) If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited from its territory, it shall notify the other Party and the two Parties shall mutually decide on a new date of surrender, and the provisions of paragraph 2 of this Article shall apply.

Article 12
Surrender of property

- (1) To the extent permitted under the law of the requested Party and subject to the rights of third parties, which shall be duly respected, all property found in the requested Party that has been acquired as a result of the offence or that may be required as evidence shall, if the requesting Party so requests, be surrendered if extradition is granted.
- (2) The said property may, if the requesting State so requests, be surrendered to the requesting State even if the extradition agreed to cannot be carried out.
- (3) When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.



- (4) Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

Article 13

Rule of speciality

- (1) A person extradited under this Treaty shall not be proceeded against, sentenced, detained, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than -
- (a) for an offence for which extradition was granted; and
 - (b) for any other offence in respect of which the requested State consents.
- Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with this Treaty.
- (2) The requesting Party shall not re-extradite to a third State, the extradited person without prior consent of the Requested Party.
- (3) A request for the consent of the requested Party under this Article shall be accompanied by the documents mentioned in paragraph of Article 5(3) of this Treaty and a legal record of any statement made by the extradited person with respect to the offence.
- (4) Paragraph 1 of this Article shall not apply if the person has had an opportunity to leave the territory requesting Party and has not done so within 45 days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

Article 14

Transit

- (1) Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.



- (2) Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby.
- (3) The State of transit shall ensure that legal provisions exist that would enable detaining the person in custody during transit.
- (4) In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for forty eight (48) hours, pending receipt of a transit request to be made in accordance with paragraph 1 of this article.

Article 15

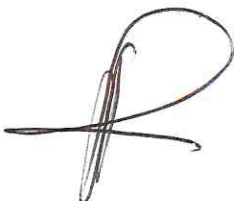
Concurrent requests

- (1) Where a Party receives requests from more than one State, for extradition for the person for the same or different offences, it shall at its discretion, determine to which of those States the person is to be extradited.
- (2) The decision in article 1 shall be based on the following facts and order:
 - (a) nationality of the requested person;
 - (b) place of commission of the offence;
 - (c) the country of residence of the person sought; and
 - (d) order of receipt of requests.

Article 16

Costs of extradition

- (1) The requested Party shall meet the costs of any proceedings in its jurisdiction arising out of a request for extradition.
- (2) The requested Party shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought.
- (3) The requesting Party shall bear the costs incurred in conveying the person and his necessary property from the territory of the requested State, including transit costs.



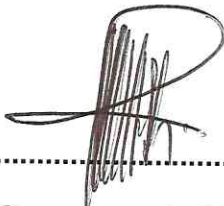
PART II: FINAL PROVISIONS

Article 17
Final provisions

- (1) This Treaty shall enter into force on the date of exchange of the instruments indicating domestic approval in accordance with the laws of the Parties. The Parties shall notify each other of the fulfilment of the necessary approvals through the appropriate diplomatic channels.
- (2) This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.
- (3) This Treaty shall apply to offences committed and sentences imposed before and after the date upon which it comes into force.
- (4) If either of the Parties considers it desirable to amend any provision of this Treaty, such amendment, if agreed upon by both Parties shall come into effect when confirmed by an exchange of diplomatic notes.
- (5) Either Party may terminate this Treaty by giving notice in writing to the other Party. Such termination shall take effect six months following the date on which such notice is received by the other Party.

IN WITNESS WHEREOF the undersigned, being duly authorised representatives of the Parties, have on the date herein below indicated, signed this Treaty in duplicate, in the English language, both copies being duly authentic.

DONE at LILONGWE dated this 23 day of FEB 2017



For the Government of the Republic
of Rwanda



For the Government of the Republic
of Malawi

Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida n° 106/01 ryo ku wa 02/06/2018 ryemeza burundu Amasezerano yo kohererezanya abakurikiranyweho ibyaha hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Malawi, yashyiriweho umukono i Lilongwe, muri Repubulika ya Malawi, ku wa 23 Gashyantare 2017

Seen to be annexed to Presidential Order n°106/01 of 02/06/2018 on ratification of the Treaty on Extradition between the Government of the Republic of Rwanda and the Government of the Republic of Malawi, signed at Lilongwe, the Republic of Malawi, on 23 February 2017

Vu pour être annexé à l'Arrêté Présidentiel n°106/01 du 02/06/2018 portant ratification du Traité d'Extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Malawi, signé à Lilongwe, République du Malawi, le 23 février 2017

Kigali, ku wa 02/06/2018

(sé)

KAGAME Paul
Perezida wa Repubulika

Kigali, on 02/06/2018

(sé)

KAGAME Paul
President of the Republic

Kigali, le 02/06/2018

(sé)

KAGAME Paul
Président de la République

(sé)

Dr. NGIRENTE Edouard
Minisitiri w'Intebe

(sé)

Dr. NGIRENTE Edouard
Prime Minister

(sé)

Dr. NGIRENTE Edouard
Premier Ministre

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)

BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Seen and sealed with the Seal of the Republic:

(sé)

BUSINGYE Johnston
Minister of Justice/Attorney General

Vu et scellé du Sceau de la République:

(sé)

BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

ITEKA RYA PEREZIDA N° 107/01 RYO KU WA 02/06/2018 RYEMEZA BURUNDU AMASEZERANO YO KOHEREREZANYA ABAHAMWE N'IBYAHA HAGATI YA LETA YA REPUBULIKA Y'U RWANDA NA LETA YA REPUBULIKA YA MALAWI YASHYIRIWEHO UMUKONO I LILONGWE, MURI REPUBULIKA YA MALAWI, KU WA 23 GASHYANTARE 2017

PRESIDENTIAL ORDER N° 107/01 OF 02/06/2018 ON RATIFICATION OF THE AGREEMENT ON THE TRANSFER OF CONVICTED PERSONS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE REPUBLIC OF MALAWI, SIGNED AT LILONGWE, THE REPUBLIC OF MALAWI, ON 23 FEBRUARY 2017

ARRETE PRESIDENTIEL N° 107/01 DU 02/06/2018 PORTANT RATIFICATION DE L'ACCORD SUR LE TRANSFEREMENT DES PERSONNES CONDAMNEES ENTRE LE GOUVERNEMENT DE LA REPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA REPUBLIQUE DU MALAWI, SIGNE A LILONGWE, REPUBLIQUE DU MALAWI, LE 23 FEVRIER 2017

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ITEKA RYA PEREZIDA N° 107/01 RYO KU WA 02/06/2018 RYEMEZA BURUNDU AMASEZERANO YO KOHEREREZANYA ABAHAMWE N'IBYAHA HAGATI YA LETA YA REPUBULIKA Y'U RWANDA NA LETA YA REPUBULIKA YA MALAWI YASHYIRIWEHO UMUKONO I LILONGWE, MURI REPUBULIKA YA MALAWI, KU WA 23 GASHYANTARE 2017

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ARRETE PRESIDENTIEL N° 107/01 DU 02/06/2018 PORTANT RATIFICATION DE L'ACCORD SUR LE TRANSFEREMENT DES PERSONNES CONDAMNEES ENTRE LE GOUVERNEMENT DE LA REPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA REPUBLIQUE DU MALAWI, SIGNE A LILONGWE, REPUBLIQUE DU MALAWI, LE 23 FEVRIER 2017

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 167; iya 168 n'iya 176;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 167, 168 and 176;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 167, 168 et 176;

Dushingiye ku Itegeko n° 008/2018 ryo ku wa 16/03/2018 ryemera kwemeza burundu Amasezerano yo kohererezanya abahamwe n'ibyaha hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Malawi yashyiriweho umukono i Lilongwe, muri Repubulika ya Malawi, ku wa 23 Gashyantare 2017;

Pursuant to Law n° 008/2018 of 16/03/2018 Law approving ratification of the Agreement on the transfer of convicted persons between the Government of the Republic of Rwanda and the Government of the Republic of Malawi, signed in Lilongwe, the Republic of Malawi, on 23 February 2017;

Vu la Loi n° 008/2018 du 16/03/2018 approuvant la ratification de l'Accord sur le transfèrement des personnes condamnées entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Malawi, signé à Lilongwe, République du Malawi, le 23 février 2017;

Tumaze kubona Amasezerano yo kohererezanya abahamwe n'ibyaha hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Malawi yashyiriweho umukono i Lilongwe, muri Repubulika ya Malawi, ku wa 23 Gashyantare 2017;

Considering the Agreement on the transfer of convicted persons between the Government of the Republic of Rwanda and the Government of the Republic of Malawi signed at Lilongwe, in the Republic of Malawi, on 23 February 2017;

Considérant l'Accord sur le transfèrement des personnes condamnées entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Malawi Signé à Lilongwe, en République du Malawi, le 23 février 2017 ;

Bisabwe na Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta;

On proposal by the Minister of Justice/Attorney General;

Sur proposition du Ministre de la Justice/Garde des Sceaux;

TWATEGETSE KANDI DUTEGETSE:

HAVE ORDERED AND HEREBY ORDER:

AVONS ARRETE ET ARRETONS:

Ingingo ya mbere: Kwemeza burundu

Amasezerano yo kohererezanya abahamwe n'ibyaha hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Malawi yashyiriweho umukono i Lilongwe, muri Repubulika ya Malawi, ku wa 23 Gashyantare 2017, ari ku mugereka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

Article One: Ratification

The Agreement on the transfer of convicted persons between the Government of the Republic of Rwanda and the Government of the Republic of Malawi signed at Lilongwe, in the Republic of Malawi, on 23 February 2017, in Annex, is ratified and becomes fully effective.

Article premier: Ratification

L'Accord sur le transfèrement des personnes condamnées entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Malawi Signé à Lilongwe, en République du Malawi, le 23 février 2017, en annexe, est ratifié et sort son plein et entier effet.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Minisitiri w'Intebe, Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta, Minisitiri w'Imari n'Igenamigambi na Minisitiri w'Ububanyi n'Amahanga, Ubutwererane n'Umuryango w'Ibihugu bya Afurika y'Iburasirazuba bashinzwe gushyira mu bikorwa iri teka.

Article 2: Authorities responsible for the implementation of this Order

The Prime Minister, the Minister of Justice/Attorney General, the Minister of Finance and Economic Planning and the Minister of Foreign Affairs, Cooperation and East African Community are entrusted with the implementation of this Order.

Article 2: Autorités chargées de l'exécution du présent arrêté

Le Premier Ministre, le Ministre de la Justice/Garde des Sceaux, le Ministre des Finances et de la Planification Economique et le Ministre des Affaires Etrangères, de la Coopération et de la Communauté de l'Afrique de l'Est sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iteka ritangira gukurikizwa

Iri teka ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Article 3: Commencement

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

Article 3: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Official Gazette n° 24 of 11/06/2018

Kigali, ku wa 02/06/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

**Bibonywe kandi bishyizweho Ikirango cya
Repubulika:**

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

Kigali, on 02/06/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Kigali, le 02/06/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République :

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

**UMUGEREKA W'ITEKA RYA PEREZIDA
N° 107/01 RYO KU WA 02/06/2018
RYEMEZA BURUNDU AMASEZERANO
YO KOHEREREZANYA ABAHAMWE
N'IBYAHA HAGATI YA LETA YA
REPUBULIKA Y'U RWANDA NA LETA YA
REPUBULIKA YA MALAWI
YASHYIRIWEHO UMUKONO I
LILONGWE, MURI REPUBULIKA YA
MALAWI, KU WA 23 GASHYANTARE 2017**

**ANNEX TO PRESIDENTIAL ORDER
N°107/01 OF 02/06/2018 ON RATIFICATION
OF THE AGREEMENT ON THE
TRANSFER OF CONVICTED PERSONS
BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF RWANDA AND THE
GOVERNMENT OF THE REPUBLIC OF
MALAWI, SIGNED AT LILONGWE, THE
REPUBLIC OF MALAWI, ON 23
FEBRUARY 2017**

**ANNEXE A L'ARRETE PRESIDENTIEL
N°107/01 DU 02/06/2018 PORTANT
RATIFICATION DE L'ACCORD SUR LE
TRANSFEREMENT DES PERSONNES
CONDAMNEES ENTRE LE
GOUVERNEMENT DE LA REPUBLIQUE
DU RWANDA ET LE GOUVERNEMENT DE
LA REPUBLIQUE DU MALAWI, SIGNE A
LILONGWE, REPUBLIQUE DU MALAWI,
LE 23 FEVRIER 2017**



**AGREEMENT ON THE TRANSFER OF CONVICTED
PERSONS**

BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF
RWANDA**

AND

THE GOVERNMENT OF THE REPUBLIC OF MALAWI

Fuk

Preamble

The Government of the Republic of Rwanda and the Government of the Republic of Malawi, hereinafter referred to as the Parties,

Desiring to further develop bilateral cooperation in the field of Criminal Law;

Considering that such cooperation intends to ensure promote justice and social rehabilitation of the Sentenced Persons in their countries where they are citizens to facilitate their social re-integration.

Further Considering that, these objectives require that foreigners who are deprived of their liberties because of their commission of a criminal offence should be given the opportunity to serve their sentences within their own country; and

Believing that this aim can be achieved by having them transferred to their own countries, in the condition established in the agreement.

Have agreed as follows:

Article one:

Definitions

For the purpose of this Agreement:

- a) "**Administering State**" means the State to which the Sentenced Person may be, or has been, transferred in order to serve his/her sentence;
- b) "**Agreement**" means this Agreement;
- c) "**Judgment**" means the final judgment of a court of law or tribunal of one of the Parties, which a person is convicted and sentenced of;

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- d) **"Appropriate Authority"** means a legal authority appointed in the specific country to administer the transfer of the Sentenced Person from one specific country to another and the legal representative for the Sentenced Person;
- e) **"Ministry of Justice"** means in the Republic of Rwanda, the Ministry of Justice / **"Office of the Attorney General"** of Rwanda, and in the Republic of Malawi; the Ministry of Justice of Malawi;
- f) **"Sentence"** means any punishment or measure involving deprivation of liberty ordered by a court of law or tribunal of one of the Parties on account of a criminal offence;
- g) **"Sentenced Person"** means a person who has been deprived of his/her liberty by a judgment of a court of competent jurisdiction; and
- h) **"Sentencing State"** means the State in which the sentence was imposed on the person who may be, or has been, transferred. As for the Republic of Rwanda, "Sentencing State" is taken to mean Rwanda; As for the Republic of Malawi, Sentencing State is taken to mean Malawi.

Article 2

Transfer of Convicted Persons

General Principles

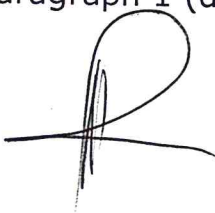
1. The Parties undertake to afford each other the widest measure of cooperation in respect of the transfer of Sentenced Persons in accordance with the provisions of this Agreement.



2. A person sentenced in the territory of a Party may be transferred to the territory of the other Party, in accordance with the provisions of this Agreement in order to serve the sentence imposed on him.
3. Transfer may be requested by either the Sentencing State or the Administering State.

Article 3
Conditions for Transfer

1. A Sentenced Person may be transferred under this Agreement only on the following conditions;
 - a) In the case of the Republic of Rwanda and the Republic of Malawi, if that person is a national.
 - b) if the judgment is enforceable;
 - c) if, at the time of receipt of the request for transfer, the Sentenced Person still has at least six months of the sentence to serve;
 - d) if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the Administering State or would constitute a criminal offence if committed on its territory;
 - e) if the Sentencing and Administering State agree to the transfer.
2. In exceptional cases, the Sentencing State and the Administering State may agree to a transfer even if the remaining sentence to be served by the Sentenced Person is less than that specified in paragraph 1 (d).



3. This Agreement shall be applicable to the enforcement of sentences imposed either before or after the date of its entry into force.

Article 4

Obligation to Furnish Information

1. A Sentenced Person to whom this Agreement may apply shall be informed by the Sentencing State of the substance of this Agreement.
2. If the Sentenced Person has expressed an interest to the Sentencing State in being transferred under this Agreement, that State shall so inform the Administering State as soon as practicable after the judgment has become final and enforceable.
3. The notification shall include the following information:
 - (a) the name, date and place of birth of the Sentenced Person;
 - (b) the address, if any, of the Sentenced Person in the Administering State;
 - (c) a statement of facts upon which the sentence was based;
 - (d) the nature, duration and date of commencement of the sentence.
4. The Sentenced Person shall be informed, in writing, of any action taken by the Sentencing State or by the Administering State under the preceding paragraphs, as well as of any decision taken by either State on a request for transfer.

Article 5

Requests and Replies

1. Requests for transfers and the replies thereto shall be made in writing.

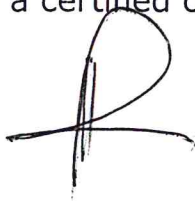


2. Requests shall be addressed by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State.
3. Replies to the Requests as well as any other correspondence between both States in relation to the requests, shall also be made by the Ministries of Justice.
4. Copies of Requests, replies and other correspondences shall be sent to the respective Institutions in charge of prison services.

Article 6

Supporting Documents

1. The Administering State, if requested by the Sentencing State, shall furnish it with:
 - a) a document or statement indicating that the Sentenced Person is a national of that State;
 - b) a copy of the relevant law of the Administering State which provides that the acts or omissions on account of which the sentence has been imposed in the Sentencing State constitute a criminal offence according to the law of the Administering State, or would constitute a criminal offence if committed on its territory.
2. If a transfer is requested, the Sentencing State shall provide the following documents to the Administering State, unless either State has already indicated that it does not agree to the transfer.
 - a) a certified copy of the judgment and the law on which it is based;




- b) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, and any other factor relevant to the enforcement of the sentence;
 - c) where appropriate, any medical or social reports on the Sentenced Person, information about treatment in the Sentencing State, and any recommendation for further treatment in the Administering State.
4. Either State may ask to be provided with any of the documents referred to in paragraphs 1 or 2 above before making a request for transfer or taking a decision on whether or not to agree to the transfer.

Article 7

Effects of Transfer for both States

- 1. The actual taking into charge of the Sentenced Person by the authorities of the Administering State shall have the effect of suspending the enforcement of the sentence in the Sentencing State.
- 2. The Sentencing State may no longer enforce the sentence if the Administering State considers enforcement of the sentence to have completed.
- 3. The enforcement of the sentence shall be governed by the law of the Administering State.
- 4. The person transferred in the administering State to serve his sentence shall not be tried again for the offence for which the sentence was pronounced.

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5. The administering State shall be bound by the judgment rendered by the sentencing State. It is only the latter which has the right to review the judgment.
6. Where the person transferred has already served a quarter of the sentence, the administering State shall respect relevant provisions regarding release on parole. Nevertheless, release on parole shall not be granted to a prisoner convicted for genocide, crime against humanity or war crime.

Article 8

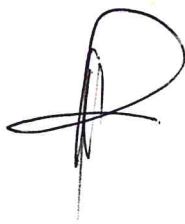
Continuity Enforcement

1. The Administering State shall be bound by the legal nature and duration of the sentence as determined by the Sentencing State.
2. If, however, the sentence is by its nature or duration incompatible with the law of the Administering State, or its law so requires, that State may, by a court or administrative order, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence.
3. As to its nature, the punishment or measure shall, as far as possible, correspond with that imposed by the sentence to be enforced. It shall not aggravate, by its nature or duration, the sanction imposed by the Sentencing State, nor exceeding the maximum prescribed by the law of the Administering State.

Article 9

Pardon, Amnesty, Commutation and Parole

Both the Sentencing State and the Administering State will apply their respective laws on pardon, amnesty, or commutation and Parole.

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Article 10

Review or Appeal

The Administering State shall have no right to decide on any application for review or appeal of the judgment.

Article 11

Information on Enforcement

The Administering State shall provide information to the Sentencing State concerning the enforcement of the sentence;

- a) when the enforcement of the sentence has been completed in full;
- b) if the Sentenced Person has escaped from custody or has died before enforcement of the sentence has been completed; or
- c) if the Sentencing State requests a special report on enforcement.

Article 12

Termination of Enforcement

The Administering State shall terminate enforcement of the sentence as soon as it is informed by the Sentencing State of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 13

Language, certification and Costs

1. The notifications and information referred to in Article 4 and the requests and information referred to in Article 5, paragraph 1, 11 and 12 shall be furnished in English.



2. Except as provided in Article 6, paragraph 2 (a), documents transmitted in application of this Agreement need to be certified.
3. The costs of the transfer of a Sentenced Person shall be borne by both States in such proportions as may be agreed by them on a case by case basis.

Article 14

Transport fee

Unless decided otherwise by both the sentencing State and the administering State, all transport fees for transfer shall be borne by the administering State.

Article 15

Amendment

Any amendment to this Agreement shall be mutually agreed between the Parties and shall be effected in writing.

Article 16

Dispute Resolution

Any dispute between the Parties arising from the interpretation, application and implementation of this Agreement shall be resolved through mutual consultation between the Parties, failure to which the dispute shall be resolved through diplomatic channels.



Article 17
Termination

Either party may terminate the Agreement at any time by notification to the other party. The termination shall be effective twelve months after the date of receipt of such notice.

In the event termination or expiration of this Agreement, the parties will coordinate in good faith to accomplish any ongoing activity.

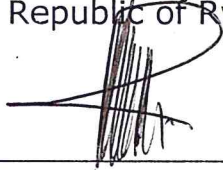
Article 18
Entry into Force

This Agreement shall enter into force on the date of the last notification in writing through diplomatic channels by either party informing the other party of the fulfillment of internal formalities.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

DONE in duplicate at LILONGWE On this 23 Day of Feb 2017 in the English language in duplicate equally authentic.

For the Government of the
Republic of Rwanda



Hon. Johnston Busingye

**(Minister of
Justice/Attorney General)**

For the Government of the
Republic of Malawi



Hon. Francis Kasaila, MP

**(Minister of Foreign Affairs and
Internatinal Cooperation)**

Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida n° 107/01 ryo ku wa 02/06/2018 ryemeza burundu Amasezerano yo kohererezanya abahamwe n'ibyaha hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Malawi yashyiriweho umukono i Lilongwe, muri Repubulika ya Malawi, ku wa 23 Gashyantare 2017

Seen to be annexed to the Draft Presidential Order n° 107/01 of 02/06/2018 on ratification of the Agreement on the transfer of convicted persons between the Government of the Republic of Rwanda and the Government of the Republic of Malawi, signed at Lilongwe, the Republic of Malawi, on 23 February 2017

Vu pour être annexé à l'Arrêté Présidentiel n°107/01 du 02/06/2018 portant ratification de l'Accord sur le transfèrement des personnes condamnées entre le Gouvernement de la République du Rwanda et le Gouvernement de la République du Malawi, signé à Lilongwe, République du Malawi, le 23 février 2017

Kigali, ku wa 02/06/2018

Kigali, on 02/06/2018

Kigali, le 02/06/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
KAGAME Paul
President of the Republic

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

(sé)
Dr. NGIRENTE Edouard
Prime Minister

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

Seen and sealed with the Seal of the Republic:

Vu et scellé du Sceau de la République:

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

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

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

ITEKA RYA PEREZIDA N° 108/01 RYO KU
WA 02/06/2018 RYEMEZA BURUNDU
AMASEZERANO YO KOHEREREZANYA
ABAKURIKIRANYWEHO IBYAHA
N'ABAHAMWE NA BYO HAGATI YA LETA
YA REPUBULIKA Y'U RWANDA NA
REPUBULIKA YUNZE UBUMWE
IHARANIRA DEMOKARASI YA
ETIYOPIYA YASHYIRIWEHO UMUKONO
I KIGALI MURI REPUBULIKA Y'U
RWANDA, KU WA 28 MATA 2017

PRESIDENTIAL ORDER N° 108/01 OF
02/06/2018 ON RATIFICATION OF THE
EXTRADITION TREATY BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF
RWANDA AND THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA,
SIGNED AT KIGALI, THE REPUBLIC OF
RWANDA, ON 28 APRIL 2017

ARRETE PRESIDENTIEL N° 108/01 DU
02/06/2018 PORTANT RATIFICATION DU
TRAITE D'EXTRADITION ENTRE LE
GOUVERNEMENT DE LA REPUBLIQUE
DU RWANDA ET LA REPUBLIQUE
FEDERALE DEMOCRATIQUE
D'ETHIOPIE, SIGNE A KIGALI,
REPUBLIQUE DU RWANDA, LE 28 AVRIL
2017

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Article 3: Commencement

Article 3: Entrée en vigueur

ITEKA RYA PEREZIDA N° 108/01 RYO KU WA 02/06/2018 RYEMEZA BURUNDU AMASEZERANO YO KOHEREREZANYA ABAKURIKIRANYWEHO IBYAHA N'ABAHAMWE NA BYO HAGATIYA LETA YA REPUBULIKA Y'U RWANDA NA REPUBULIKA YUNZE UBUMWE IHARANIRA DEMOKARASI YA ETIYOPIYA YASHYIRIWEHO UMUKONO I KIGALI MURI REPUBULIKA Y'U RWANDA, KU WA 28 MATA 2017

PRESIDENTIAL ORDER N° 108/01 OF 02/06/2018 ON RATIFICATION OF THE EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA, SIGNED AT KIGALI, THE REPUBLIC OF RWANDA, ON 28 APRIL 2017

ARRETE PRESIDENTIEL N° 108/01 DU 02/06/2018 PORTANT RATIFICATION DU TRAITE D'EXTRADITION ENTRE LE GOUVERNEMENT DE LA REPUBLIQUE DU RWANDA ET LA REPUBLIQUE FEDERALE DEMOCRATIQUE D'ETHIOPIE, SIGNE A KIGALI, REPUBLIQUE DU RWANDA, LE 28 AVRIL 2017

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo iya 112, iya 120, iya 167, iya 168 n'iya 176;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 167, 168 and 176;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 167, 168 et 176;

Dushingiye ku Itegeko n° 009/2018 ryo ku wa 16/03/2018 ryemera kwemeza burundu Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Etiyopiya, yashyiriweho umukono i Kigali, muri Repubulika y'u Rwanda, ku wa 28 Mata 2017;

Pursuant to Law n° 009/2018 of 16/03/2018 approving ratification of the Extradition Treaty between the Government of the Republic of Rwanda and the Government of the Federal Democratic Republic of Ethiopia, signed at Kigali, the Republic of Rwanda, on 28 April 2017;

Vu la Loi n° 009/2018 du 16/03/2018 approuvant la ratification du Traité d'Extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République Fédérale Démocratique d'Ethiopie, signé à Kigali, en République du Rwanda, le 28 avril 2017 ;

Tumaze kubona Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Leta ya Repubulika y'u Rwanda na Repubulika Yunze Ubumwe Iharanira Demokarasi ya Etiyopiya, yashyiriweho umukono i Kigali muri Repubulika y'u Rwanda, ku wa 28 Mata 2017;

Bisabwe na Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta;

TWATEGETSE KANDI DUTEGETSE:

Ingingo ya mbere: Kwemeza burundu

Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Leta ya Repubulika y'u Rwanda na Repubulika Yunze Ubumwe Iharanira Demokarasi ya Etiyopiya, yashyiriweho umukono i Kigali, muri Repubulika y'u Rwanda, ku wa 28 Mata 2017, ari ku mugereka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Minisitiri w'Intebe, Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta, Minisitiri w'Imari n'Igenamigambi na Minisitiri w'Ububanyi n'Amahanga, Ubutwererane,

Considering the Extradition Treaty between the Government of the Republic of Rwanda and the Federal Democratic Republic of Ethiopia, signed at Kigali, the Republic of Rwanda, on 28 April 2017;

On proposal by the Minister of Justice/Attorney General;

HAVE ORDERED AND ORDER:

Article One: Ratification

The Extradition Treaty between the Government of the Republic of Rwanda and the Federal Democratic Republic of Ethiopia, signed at Kigali, the Republic of Rwanda, on 28 April 2017, in annex, is ratified and becomes fully effective.

Article 2: Authorities responsible for the implementation of this Order

The Prime Minister, the Minister of Justice/Attorney General, the Minister of Finance and Economic Planning and the Minister of Foreign Affairs, Cooperation and East African

Considérant le Traité d'Extradition entre le Gouvernement de la République du Rwanda et la République Fédérale Démocratique d'Ethiopie, signé à Kigali, République du Rwanda, le 28 avril 2017;

Sur proposition du Ministre de la Justice/Garde des Sceaux;

AVONS ARRETE ET ARRETONS:

Article premier: Ratification

Le Traité d'Extradition entre le Gouvernement de la République du Rwanda et la République Fédérale Démocratique d'Ethiopie, signé à Kigali, République du Rwanda, le 28 avril 2017, en annexe, est ratifié et sort son plein et entier effet.

Article 2: Autorités chargées de l'exécution du présent arrêté

Le Premier Ministre, le Ministre de la Justice/Garde des Sceaux, le Ministre des Finances et de la Planification Economique et le Ministre des Affaires Etrangères, de la Coopération et de la

Official Gazette n° 24 of 11/06/2018

n'Umuryango w'Ibihugu bya Afurika y'Iburasirazuba bashinzwe gushyira mu bikorwa iri teka.

Community, are entrusted with the implementation of this Order.

Communauté de l'Afrique de l'Est, sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iteka ritangira gukurikizwa

Article 3: Commencement

Article 3: Entrée en vigueur

Iri teka ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

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

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, ku wa 02/06/2018

Kigali, on 02/06/2018

Kigali, le 02/06/2018

(sé)

KAGAME Paul
Perezida wa Repubulika

(sé)

KAGAME Paul
President of the Republic

(sé)

KAGAME Paul
Président de la République

(sé)

Dr. NGIRENTE Edouard
Minisitiri w'Intebe

(sé)

Dr. NGIRENTE Edouard
Prime Minister

(sé)

Dr. NGIRENTE Edouard
Premier Ministre

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

Seen and sealed with the Seal of the Republic:

Vu et scellé du Sceau de la République:

(sé)

BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

(sé)

BUSINGYE Johnston
Minister of Justice/Attorney General

(sé)

BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

UMUGEREKA W'ITEKA RYA PEREZIDA
N° 108/01 RYO KU WA 02/06/2018
RYEMEZA BURUNDU AMASEZERANO YO
KOHEREREZANYA
ABAKURIKIRANYWEHO IBYAHA
N'ABAHAMWE NA BYO HAGATI YA LETA
YA REPUBULIKA Y'U RWANDA NA
REPUBULIKA YUNZE UBUMWE
IHARANIRA DEMOKARASI YA
ETIYOPIYA, YASHYIRIWEHO UMUKONO
I KIGALI, MURI REPUBULIKA Y'U
RWANDA, KU WA 28 MATA 2017

ANNEX TO PRESIDENTIAL ORDER
N°108/01 OF 02/06/2018 ON RATIFICATION
OF THE EXTRADITION TREATY
BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF RWANDA AND THE
FEDERAL DEMOCRATIC REPUBLIC OF
ETHIOPIA, SIGNED AT KIGALI, THE
REPUBLIC OF RWANDA, ON 28 APRIL
2017

ANNEXE A L'ARRETE PRESIDENTIEL
N°108/01 DU 02/06/2018 PORTANT
RATIFICATION DU TRAITE
D'EXTRADITION ENTRE LE
GOUVERNEMENT DE LA REPUBLIQUE
DU RWANDA ET LA REPUBLIQUE
FEDERALE DEMOCRATIQUE
D'ETHIOPIE, SIGNE A KIGALI,
REPUBLIQUE DU RWANDA, LE 28 AVRIL
2017



**EXTRADITION TREATY
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF RWANDA
AND
THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA**

The Government of the Republic of Rwanda and the Federal Democratic Republic of Ethiopia;

Hereinafter jointly referred to as the "Parties" and separately as a "Party"

Desiring to strengthen the ties of friendship, peace, and security, and promote development between their countries and people;

Concerned by the increase in the level of criminal activity, exacerbated by the impunity that fosters the climate of insecurity among them;

Eager to establish among their countries a cooperation mechanism with respect to investigations, prosecutions, and the exchange of information and documents, with a view to trying persons involved in every kind of criminal conduct censured by their respective countries;

Aware of the advantages that will result from their cooperation in the area of extradition and mutual judicial assistance,

And, Desiring to provide for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a treaty for the extradition of offenders;

Have agreed as follows:

Article 1

Obligation to extradite

Each Party agrees to extradite to the other, upon request and subject to the provisions of the present Treaty, any person who is found in the Requested Party and wanted in the Requesting State for prosecution of an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence committed within the jurisdiction of the Requesting Party.

Article 2

Extraditable offences

1. For purposes of this Treaty, extraditable offences are offences that are punishable under the laws of the both parties by imprisonment or other deprivation of liberty for a period of at least one year. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of at least six months of such sentence remains to be served.

2. Where extradition of a person is sought for an offence against a law relating to taxation, custom duties, exchange control or other revenue matters, extradition may not be refused on the ground that the law of the Requested Party does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange regulation of the same kind as the law of the requesting State.
3. Under this treaty, an extraditable offence shall include the crime of Genocide and other crimes against humanity as laid down in the 1948 Convention on the prevention and punishment of the crime of Genocide.
4. The offences of terrorism and money laundering as defined by both the UN and the OAU conventions on prevention and combating of terrorism and by the national laws of each party shall also be extraditable offences in accordance with this treaty.
5. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:
 - a. the laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology.
 - b. under the laws of both Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the Requesting Party constitute an extraditable offence under the laws of the Requested Party.
6. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in paragraph 1 of the present Article, the Requested Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.
7. For the purpose of paragraph 1 of this Article, an extraditable offence shall be an offence punishable according to the laws of both Parties if the act or omission constituting the offence was an offence for which extradition could be granted under the laws of both Parties at the time it was committed and also the time the request for extradition is received.
8. An offence shall also be an extraditable offence if it consists of an attempt or a conspiracy to commit, participation in the commission of aiding or abetting, counselling or procuring the commission of, or being an accessory before or after the fact to any offence described in paragraph 1 of this Article.

Article 3

Mandatory grounds for refusal

Extradition shall not be granted in any of the following circumstances:

- a. If there is insufficient prima facie evidence, that the person whose extradition is requested is a party to the offence.
- b. If the Requested Party has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic, origin, political opinions, sex or status, or that person's position may be prejudiced for any of those reasons;
- c. If the offence for which extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law;
- d. If there has been a final judgment rendered against the person in respect of the offence for which the person's extradition is requested;
- e. If the person whose extradition is requested for offences committed in the Requested Party has become immune from prosecution or punishment for any reason, including lapse of time or amnesty;
- f. If there is sufficient reason to believe that the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, Article 14;
- g. In case the judgment of the Requesting State has been rendered *in absentia*, if the convicted person has not had valid notice of the trial or the opportunity to arrange for his or her defence and he has not had or will not have the opportunity to have the case retried in his or her presence.
- h. If the offence for which extradition is requested is regarded by the Requested Party as an offence of a political nature. For the purposes of this Treaty, the following offences shall not be considered political offences:
 - i. an offence for which both Parties have the obligation pursuant to an International agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;
 - ii. murder or other violent crime against the person of a Head of State of one of the Parties, or of a member of the Head of State's family;

- iii. murder, manslaughter, malicious wounding, or inflicting grievous bodily harm;
- iv. an offence involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage;
- v. placing or using, or threatening the placement or use of, an explosive, incendiary, or destructive device or firearm capable of endangering life, of causing grievous bodily harm, or of causing substantial property damage;
- vi. Possession of an explosive, incendiary, or destructive device capable of endangering life, of causing grievous bodily harm, or of causing substantial property damage;
- vii. An attempt or a conspiracy to commit, participation in the commission of, aiding or abetting, counselling or procuring the commission of, or being an accessory before or after the fact to any of the foregoing offenses.
- i. If the person whose extradition is requested has undergone the punishment provided by the law of, or a part of, any country or has been acquitted or pardoned by a competent tribunal or authority, in respect of that offence or another offence constituted by the same acts or omissions constituting the offence for which his extradition is requested.
- j. If any question arises as to whether the offence for which the person is sought is an offence of a political nature, the parties shall decide by consensus, in the absence of an agreement, the decision of the Requested Party shall be determinative.

Article 4

Optional grounds for refusal

Extradition may be refused in any of the following circumstances:

- a. If the person whose extradition is requested is a national of the Requested Party. Where extradition is refused on this ground, the Requested Party shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person in respect of the offence for which extradition had been requested.
- b. If a prosecution in respect of the offence for which extradition is requested is pending in the Requested Party against the person whose extradition is requested. In this case the Requested Party shall fully cooperate with requesting state;
- c. When the offence for which extradition is sought is punishable by death under the laws of the Requesting Party and is not punishable by death under the laws of the Requested Party, the Requested Party may refuse extradition unless the Requesting Party provides

an assurance in writing that the death penalty if imposed will not be carried out.

- d. If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the Requested Party does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;
- e. If the offence for which extradition is requested is regarded under the law of the Requested Party as having been committed in whole or in part within that State. Where extradition is refused on this ground, the Requested Party shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;
- f. If the Requested Party considers that the extradition of person sought would be incompatible with humanitarian considerations in view of that person's age or health, it may be refused unless the Requesting Party provides an assurance in writing that such humanitarian concerns will be taken into consideration.

Article 5

Channels of communication and required documents

- 1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the Diplomatic channel.
- 2. A request for extradition shall be accompanied by the following:
 - a. In all cases,
 - i. As accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality and location including a recent photograph or fingerprint records, where available.
 - ii. The text of the relevant provision of the law creating the offence or, where necessary, a statement of the law relevant to the offence and a statement of the penalty that can be imposed for the offence;
 - iii. The legal provisions relating to the lapse of time on the institution of proceedings or on the execution of any punishment for that offence;
 - iv. Request for seizure, if it is required.
 - b. If the person is accused of an offence, by a warrant of arrest issued by a Court or other competent judicial authority for the arrest of the person or a certified copy of that warrant shall provide, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission and , a copy of prosecution charge

- c. If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgment or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;
 - d. If the person has been convicted of an offence in his or her absence before regular court , in addition to the documents set out in paragraph 2 (c) of the present Article, by a statement describing that person has been duly notified to attend the trial and as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence
 - e. If the person has been convicted of an offence but no sentence has been imposed, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to impose a sentence.
3. The letter of formal request for extradition and other relevant documents submitted by the Requesting Party shall be officially signed or sealed by the competent authority of the Requesting Party and be accompanied by supporting documents translated into English.

Article 6

Central Authority

- 1. Each Party shall designate a Central Authority for the purpose of the implementation of this Treaty.
- 2. The respective Central Authorities are:
 - a) For the Republic of Rwanda, the Central Authority is the National Public Prosecution Authority.
 - b) For the Federal Democratic Republic of Ethiopia the Central Authority is the Federal Attorney General.
- 3. In case any Party changes its Central Authority, it shall notify in writing the other Party of such change, through diplomatic channels.
- 4. For the purpose of this Treaty, the Parties shall communicate with each other through diplomatic channels or directly in urgent circumstances and shall be confirmed by a formal request within forty (40) days.

Article 7

Simplified extradition procedure

1. When the person whose extradition is requested declares to agree to it, extradition may be granted on the sole basis of the request for provisional arrest without it being necessary to submit the documents indicated in Article 10 of this Treaty. However, the Requested Party may request any further information it deems necessary to grant the extradition.
2. The declaration of consent by the person sought shall be valid if made, with the assistance of a defence counsel, before a competent Authority of the Requested Party, who has the obligation to inform the person sought of the right to avail itself of a formal extradition procedure, of the right to avail itself of the protection conferred by the principle of specialty and of the irrevocability of such declaration.
3. The declaration shall be reported in a legal record in which it is acknowledged that the conditions for its being valid have been complied with.

Article 8

Certification and authentication

Except as provided by this Treaty, a request for extradition and the documents in support thereof, as well as documents or other material supplied in response to such a request, shall not require certification or authentication.

Article 9

Additional information

If the Requested Party considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within 30 days from the day of receipt of such request. If the Requesting Party fails to submit additional information within that period, it shall be considered as having renounced its request voluntarily. However, the Requesting Party shall not be precluded from making a fresh request for extradition for the same person and offence.

Article 10

Provisional arrest

1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organisation or diplomatic channel.

2. Upon receipt of such a request, which shall contain relevant information, the Requested Party shall deal with this request pursuant to procedures provided by its own law. The Requested Party shall grant the request expeditiously unless its essential interests would be prejudiced thereby.
3. The State of transit shall ensure that legal provisions exist that would enable detaining the person in custody during transit.
4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for [48] hours, pending receipt of the transit request to be made in accordance with paragraph 1 of the present article.

Article 17

Concurrent requests

If a Party receives requests from more than one State, for extradition for the person for the same or different offences, it shall at its discretion, determine to which of those States the person is to be extradited. The decision shall base on the following facts and order:

- a. Nationality
- b. whether the request was made pursuant to a treaty;
- c. the gravity of the offences;
- d. the time and place of the commission of the offence;
- e. respective dates of the Requests; and
- f. the possibility of subsequent extradition to another state.

Article 18

Re Extradition

Where the person under extradition escapes back to the requested state party before the criminal proceedings are terminated or his/her sentence is served in the requesting party, that person may be re-extradited upon a fresh request in respect of the same offence and the requesting party may not be required to submit the documents and material provided for in Article 5 of this treaty.

Article 19

Costs

1. The Requested Party shall meet the costs of any proceedings in its jurisdiction arising out of a request for extradition.
2. The Requested Party shall also bear the costs incurred in its territory in connection with the

seizure and handing over of property, or the arrest and detention of the person whose extradition is sought.

3. The requesting State shall bear the costs incurred in conveying the person and his necessary property from the territory of the Requested Party, including transit costs.
4. In case the said expenses are of an extraordinary nature, the Parties shall consult with each other to settle the same.

Article 20

Consultation

The Parties may consult with each other in connection with the processing of individual cases and in furtherance of efficient implementation of this Treaty.

Article 21

Compatibility with other Treaties

Assistance and procedures set forth in this Treaty shall not exempt either Party from its obligations arising from other international agreements or its national laws.

Article 22

Settlement of Disputes

Any dispute arising out of the interpretation, application or implementation of this Treaty shall be resolved through diplomatic channels if the Central Authorities are unable to reach agreement.

Article 23

Ratification, Entry into Force, Amendment and Termination

1. This Treaty is subject to ratification.
2. This Treaty shall enter into force on the 30th day after the date of receipt of the last diplomatic note by which the Parties inform each other of the ratification of the Treaty.
3. This Treaty may be amended by mutual consent of the Parties and the provisions of this Article shall be applied thereof.
4. Requests made under this Treaty can apply to offences committed prior to its entry into force.
5. Either Party may terminate this Treaty by notice in writing through diplomatic channels at any time. Termination shall take effect six (6) months after the date on which the notice is given. However, proceedings already commenced before notification shall continue to be governed by this Treaty until conclusion therein.

2. The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 2 of Article 5 of this Treaty, authorising the apprehension of the person, a statement of the punishment that can be or has been imposed for the offence, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.
3. The Requested Party shall decide on the application and communicate its decision to the requesting State without delay.
4. The person arrested upon such an application shall be set at liberty upon the expiration of [40] days from the date of arrest if a request for extradition, supported by the relevant documents specified in paragraph 2 of Article 5 of this Treaty, has not been received or if the request made does not provide all necessary documents. This paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the [40] days.
5. The release of the person pursuant to paragraph 4 of this Article shall not prevent re-arrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.

Article 11

Decision on the request

1. The Requested Party shall deal with the request for extradition and shall promptly communicate its decision to the requesting State.
2. Reasons shall be given for any complete or partial refusal of the request.

Article 12

Surrender of the person

1. Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the Requested Party shall inform the requesting State of the length of time for which the person sought was detained with a view to surrender.
2. The person shall be removed from the territory of the Requested Party within 30 days and, if the person is not removed within that period, the Requested Party may release the person and may refuse to extradite that person for the same offence.

3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of this Article shall apply.

Article 13

Postponement or Temporary Extradition

1. If the person sought is being prosecuted or is serving a sentence in the Requested Party for an offence other than that for which extradition is requested, the Requested Party may, after having decided to grant extradition, postpone the surrender until the conclusion of the criminal proceedings or the completion of the execution of the sentence. The Requested Party shall inform the Requesting Party of such postponement.
2. However, upon request of the Requesting Party, the Requested Party may, in compliance with its domestic law, temporarily surrender the person sought to the Requesting Party in order to enable it to carry out of the ongoing criminal proceedings, agreeing together upon the time and modalities of such temporary surrender. The person so surrendered shall be kept in detention while staying in the territory of the Requesting Party and shall be returned to the Requested Party within the agreed time. The time spent in detention shall be calculated for the purposes of the sentence to be served in the Requested Party.
3. In addition to the case provided for in paragraph 1 of this Article, surrender may be postponed when the transfer, due to the health condition of the person sought, may endanger his/her life. To this end it is necessary that the Requested Party submit to the Requesting Party a detailed medical report made by one of its competent public health institutions.

Article 14

Surrender of property

1. To the extent permitted under the law of the Requested Party and subject to the rights of third parties, which shall be duly respected, all property found in the Requested Party that has been acquired as a result of the offence or that may be required as evidence shall, if the requesting State so requests, be surrendered if extradition is granted.
2. The said property may, if the requesting State so requests, be surrendered to the requesting State even if the extradition agreed to can't be carried out.
3. The Requested Party may, for conducting any other pending criminal proceedings, postpone the surrender of above-mentioned property until the conclusion of such proceedings, or

temporarily surrender that property on condition that the Requesting Party undertakes to return it.

4. Where the law of the Requested Party or the protection of the rights of third parties so require, any property so surrendered shall be returned to the Requested Party free of charge after the completion of the proceedings, if that State so requests.

Article 15

Rule of specialty

1. A person extradited under this Treaty shall not be proceeded against, sentenced, detained, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than:
 - a. An offence for which extradition was granted
 - b. Any other offence in respect of which the Requested Party consents. Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with this Treaty.
2. The requesting State shall not re-extradite to a third State, the extradited person without prior consent of the Requested Party.
3. A request for the consent of the Requested Party under this Article shall be accompanied by the documents mentioned in paragraph 2 of Article 5 of this Treaty and a legal record of any statement made by the extradited person with respect to the offence.
4. Paragraph 1 of this Article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within 45 days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.
5. However if the person was not able to leave the requesting party territory within the time provided under paragraph 4 of this article, for reasons beyond his capacity, he shall not be prosecuted, sentenced or detained by the authority of the requesting party,

Article 16

Transit

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty in two copies each in English language, all texts being equally authentic.

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

**FOR THE GOVERNMENT OF THE
REPUBLIC OF RWANDA**

A blue ink signature of Hon. Johnston BUSINGYE, consisting of a large, stylized loop followed by a horizontal line and some smaller scribbles.

Hon. Johnston BUSINGYE

Minister of Justice / Attorney General

**FOR THE GOVERNMENT OF THE
FEDERAL DEMOCRATIC REPUBLIC OF
ETHIOPIA**

A blue ink signature of H.E. Getachew Ambaye, featuring a circular emblem with a cross inside, and some additional strokes.

H.E. Getachew Ambaye

**Attorney General of
Federal Attorney General**

ibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida n° 108/01 ryo ku wa 02/06/2018 ryemeza burundu Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika Yunze Ubumwe Iharanira Demokarasi ya Etiyopiya, yashyiriweho umukono i Kigali, muri Repubulika y'u Rwanda, ku wa 28 Mata 2017

Seen to be annexed to Presidential Order n°108/01 of 02/06/2018 on ratification of the Extradition Treaty between the Government of the Republic of Rwanda and the Federal Democratic Republic of Ethiopia, signed at Kigali, the Republic of Rwanda, on 28 April 2017

Vu pour être annexé à l'Arrêté Présidentiel n°108/01 du 02/06/2018 portant ratification du Traité d'Extradition entre le Gouvernement de la République du Rwanda et la République Fédérale Démocratique d'Ethiopie, signé à Kigali, République du Rwanda, le 28 avril 2017

Official Gazette n° 24 of 11/06/2018

Kigali, ku wa 02/06/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

**Bibonywe kandi bishyizweho Ikirango cya
Repubulika:**

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

Kigali, on 02/06/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Kigali, le 02/06/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

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

**ITEKA RYA PEREZIDA N° 109/01 RYO KU
WA 02/06/2018 RYEMEZA BURUNDU
AMASEZERANO YO KOHEREREZANYA
ABAKURIKIRANYWEHO IBYAHA
N'ABAHAMWE NA BYO HAGATI YA
LETA YA REPUBULIKA Y'U RWANDA NA
LETA YA REPUBULIKA YA ZAMBIYA
YASHYIRIWEHO UMUKONO I LUSAKA,
MURI REPUBULIKA YA ZAMBIYA, KU
WA 19 KAMENA 2017**

**PRESIDENTIAL ORDER N° 109/01 OF
02/06/2018 ON RATIFICATION OF THE
EXTRADITION TREATY BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF
RWANDA AND THE GOVERNMENT OF
THE REPUBLIC OF ZAMBIA, SIGNED AT
LUSAKA, THE REPUBLIC OF ZAMBIA,
ON 19 JUNE 2017**

**ARRETE PRESIDENTIEL N° 109/01 DU
02/06/2018 PORTANT RATIFICATION DU
TRAITE D'EXTRADITION ENTRE LE
GOUVERNEMENT DE LA REPUBLIQUE
DU RWANDA ET LE GOUVERNEMENT DE
LA REPUBLIQUE DE ZAMBIE, SIGNE A
LUSAKA, REPUBLIQUE DU ZAMBIE, LE 19
JUN 2017**

ISHAKIRO

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PRESIDENTIAL ORDER N° 109/01 OF 02/06/2018 ON RATIFICATION OF THE EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE REPUBLIC OF RWANDA AND THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA, SIGNED AT LUSAKA, THE REPUBLIC OF ZAMBIA, ON 19 JUNE 2017

ARRETE PRESIDENTIEL N° 109/01 DU 02/06/2018 PORTANT RATIFICATION DU TRAITE D'EXTRADITION ENTRE LE GOUVERNEMENT DE LA REPUBLIQUE DU RWANDA ET LE GOUVERNEMENT DE LA REPUBLIQUE DE ZAMBIE, SIGNE A LUSAKA, REPUBLIQUE DE ZAMBIE, LE 19 JUIN 2017

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 167, iya 168 n'iya 176;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 167, 168 and 176;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 167, 168 et 176;

Dushingiye ku Itegeko n° 010/2018 ryo ku wa 16/03/2018 ryemera kwemeza burundu Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Zambiya, yashyiriweho umukono i Lusaka, muri Repubulika ya Zambiya, ku wa 19 Kamena 2017;

Pursuant to Law n° 010/2018 of 16/03/2018 approving the ratification of the Extradition Treaty between the Government of the Republic of Rwanda and the Government of the Republic of Zambia, signed at Lusaka, the Republic of Zambia, on 19 June 2017;

Vu la Loi n° 010/2018 du 16/03/2018 approuvant la ratification du Traité d'Extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Zambie, signé à Lusaka, République de Zambie, le 19 juin 2017;

Tumaze kubona Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Leta ya Repubulika y'u Rwanda na Leta

Considering the Extradition Treaty between the Government of the Republic of Rwanda and the Government of the Republic of Zambia, signed at

Considérant le Traité d'Extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Zambie, signé

ya Repubulika ya Zambiya, yashyiriweho umukono i Lusaka, muri Repubulika ya Zambiya, ku wa 19 Kamena 2017;

Lusaka, in the Republic of Zambia, on 19 June 2017;

à Lusaka, en République de Zambie, le 19 juin 2017;

Bisabwe na Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta;

On proposal by the Minister of Justice/Attorney General;

Sur proposition du Ministre de la Justice/Garde des Sceaux;

TWATEGETSE KANDI DUTEGETSE:

HAVE ORDERED AND ORDER:

AVONS ARRETE ET ARRETONS :

Ingingo ya mbere: Kwemeza burundu

Article One: Ratification

Article premier: Ratification

Amasezerano yo kohererezanya abakurikanyweho ibyaha n'abahamwe na byo hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Zambiya yashyiriweho umukono i Lusaka, muri Repubulika ya Zambiya, ku wa 19 Kamena 2017, ari ku mugereka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

The Extradition Treaty between the Government of the Republic of Rwanda and the Government of the Republic of Zambia, signed at Lusaka, the Republic of Zambia, on 19 June 2017, in annex, is ratified and becomes fully effective.

Le Traité d'Extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Zambie, signé à Lusaka, République de Zambie, le 19 juin 2017, en annexe, est ratifié et sort son plein et entier effet.

Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka

Article 2: Authorities responsible for the implementation of this Order

Article 2: Autorités chargées de l'exécution du présent arrêté

Minisitiri w'Intebe, Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta, Minisitiri w'Imari n'Igenamigambi na Minisitiri w'Ububanyi n'Amahanga, Ubutwererane n'Umuryango w'Ibihugu bya Afurika y'Iburasirazuba bashinzwe gushyira mu bikorwa iri teka.

The Prime Minister, the Minister of Justice/Attorney General, the Minister of Finance and Economic Planning and the Minister of Foreign Affairs, Cooperation and East African Community are entrusted with the implementation of this Order.

Le Premier Ministre, le Ministre de la Justice/Garde des Sceaux, le Ministre des Finances et de la Planification Economique ainsi que le Ministre des Affaires Etrangères, de la Coopération et de la Communauté de l'Afrique de l'Est, sont chargés de l'exécution du présent arrêté.

Ingingo ya 3: Igihe iteka ritangira gukurikizwa

Iri teka ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 02/06/2018

(sé)

KAGAME Paul
Perezida wa Repubulika

(sé)

Dr. NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)

BUSINGYE Johnston
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

Article 3: Commencement

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

Kigali, on 02/06/2018

(sé)

KAGAME Paul
President of the Republic

(sé)

Dr. NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)

BUSINGYE Johnston
Minister of Justice/Attorney General

Article 3: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 02/06/2018

(sé)

KAGAME Paul
Président de la République

(sé)

Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)

BUSINGYE Johnston
Ministre de la Justice/Garde des Sceaux

**UMUGEREKA W'ITEKA RYA PEREZIDA
N° 109/01 RYO KU WA 02/06/2018
RYEMEZA BURUNDU AMASEZERANO
YO KOHEREREZANYA
ABAKURIKIRANYWEHO IBYAHA
N'ABAHAMWE NA BYO HAGATI YA
LETA YA REPUBULIKA Y'U RWANDA NA
LETA YA REPUBULIKA YA ZAMBIYA
YASHYIRIWEHO UMUKONO I LUSAKA,
MURI REPUBULIKA YA ZAMBIYA, KU
WA 19 KAMENA 2017**

**ANNEX TO PRESIDENTIAL ORDER
N°109/01 OF 02/06/2018 ON RATIFICATION
OF THE EXTRADITION TREATY
BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF RWANDA AND THE
GOVERNMENT OF THE REPUBLIC OF
ZAMBIA, SIGNED AT LUSAKA, THE
REPUBLIC OF ZAMBIA, ON 19 JUNE 2017**

**ANNEXE A L'ARRETE PRESIDENTIEL
N°109/01 DU 02/06/2018 PORTANT
RATIFICATION DU TRAITE
D'EXTRADITION ENTRE LE
GOUVERNEMENT DE LA REPUBLIQUE
DU RWANDA ET LE GOUVERNEMENT DE
LA REPUBLIQUE DE ZAMBIE, SIGNE A
LUSAKA, REPUBLIQUE DE ZAMBIE, LE 19
JUN 2017**

EXTRADITION TREATY

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF RWANDA

AND

THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

The Government of the Republic of Rwanda and the Government of the Republic of Zambia (hereinafter referred to as "the Parties" and in singular as "the Party")

Desirous of strengthening the ties of friendship, peace, and security, and promote development between their countries and people;

Concerned that criminality exacerbated by impunity fosters a climate of insecurity among nations;

Eager to establish between both countries a cooperation mechanism with respect to investigations, prosecutions, and the exchange of information and documents, with a view to trying persons involved in every kind of criminal conduct censured by their respective countries;

Aware of the advantages that result from such cooperation in the area of extradition and mutual judicial assistance;

Desirous of providing for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a treaty for the extradition of offenders;

Have agreed as follows:

Article 1

OBLIGATION TO EXTRADITE

Each Party agrees to extradite to the other, upon request and subject to the provision of the present Treaty, any person who is wanted in the requesting State for prosecution for an extraditable offence or for imposition or enforcement of a sentence in respect of such an offence.

Article 2

EXTRADITABLE OFFENCE

1. For the purpose of the present Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment or other deprivation of liberties for a maximum period of at least one/two year or by a more severe penalty. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of at least four/six months of such sentence remain to be served.

2. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether -
 - a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;
 - b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of acts or omissions as presented by the Requesting State shall be taken into account;
 - c) If the request for extradition include several separate offences, each of which is punishable under the laws of both Parties, but some of which do not fulfil other conditions set out under paragraph 1 of the present article, the requested Party may grant the extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

Article 3

MANDATORY GROUND FOR REFUSAL

Extradition shall not be granted in any of the following circumstances:

- a) If the offence for which the extradition is requested is regarded by the requested State as an offence of political nature;
- b) If the requested state has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on the account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that person's position may be prejudiced for any of those reasons;
- c) If the offence for which the extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law.
- d) If there has been a final judgement rendered against the person in the requested Party in respect of the offence for which the extradition is requested for;
- e) If the person whose extradition is requested has, under the law of either Party become immune from prosecution or punishment for any reason, including lapse of time or amnesty;

- f) If the person whose extradition is requested has been or would be subject in the requesting Party to torture or cruel treatment, inhuman or degrading treatment or punishment, or if that person has not received or would not receive the minimum guarantee in criminal proceedings, as contained in Article 14 of the International Covenant on Civil and Political rights;
- g) If the judgement of the requesting State has been rendered in abstentia, and the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defence and has not had or will not have the opportunity to have case retried in his or her presence.

Article 4

OPTIONAL GROUND OF REFUSAL

Extradition may be refused in any of the following circumstances:

- a) If the person whose extradition is requested is a national of the requested Party. Where extradition is refused under this ground, the requested Party shall, if the other State requests so, submit the case to its competent authorities with views to taking the appropriate actions against the person in respect of the offence for which extradition has been requested.
- b) If the competent authorities of the requested State have decided either to institute or to terminate proceedings against the person for the offence in respect of which extradition is requested;
- c) If a prosecution in respect of the offence for which extradition is requested is pending in the requested State against the person whose extradition is requested;
- d) If the offence for which extradition is requested carries the death penalty under the law of the requesting State, unless that State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.
- e) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;
- f) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part



within that State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;

- g) If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal; or
- h) If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that in circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations, in view of age, health or other circumstances of that person.

Article 5

CHANNELS OF COMMUNICATION AND REQUIRED DOCUMENTS

1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the Diplomatic channel. A request for extradition shall be accompanied, in all cases, by the following:
 - a) As accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality and location; and
 - b) The text of the relevant provision of the law creating the offence or, where necessary, a statement of the law relevant to the offence and a statement of the penalty that can be imposed for the offence;
2. If the person is accused of an offence, by a warrant of arrest issued by a Court or other competent judicial authority for the arrest of the person or a certified copy of that warrant shall provide, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission.
3. If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgment or any other document setting out the conviction and

the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served.

4. If the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 2 (c) of the present Article, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence.
5. If the person has been convicted of an offence but no sentence has been imposed, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to impose a sentence.
6. The documents submitted in support of a request for extradition shall be accompanied by a translation into the language of the requested State or in another language acceptable to that State.

Article 6

SIMPLIFIED EXTRADITION PROCEDURE

The requested State, may grant extradition without going through procedures provided in this treaty, after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

Article 7

CERTIFICATION AND AUTHENTICATION

Except as provided by this Treaty, a request for extradition and the documents in support thereof, as well as documents or other material supplied in response to such a request, shall not require certification or authentication.

Article 8

ADDITIONAL INFORMATION

If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within 30 days from the day of receipt of such request.



Article 9

PROVISIONAL ARREST

1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organisation or diplomatic channel.
2. The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 2 of Article 6 of this Treaty, authorising the apprehension of the person, a statement of the punishment that can be or has been imposed for the offence, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.
3. The requested State shall decide on the application and communicate its decision to the requesting State without delay.
4. The person arrested upon such an application shall be set at liberty upon the expiration of forty [40] days from the date of arrest if a request for extradition, supported by the relevant documents specified in paragraph 2 of Article 5 of this Treaty, has not been received or if the request made does not provide all necessary documents. This paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the 40 days.
5. The release of the person pursuant to paragraph 4 of this Article shall not prevent re-arrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.

Article 10

DECISION ON THE REQUEST

1. The requested State shall deal with the request for extradition and shall promptly communicate its decision to the requesting State.
2. Reasons shall be given for any complete or partial refusal of the request.

Article 11

SURRENDER OF THE PERSON

1. Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the requested State shall inform the requesting State of the length of time for which the person sought was detained with a view to surrender.
2. The person shall be removed from the territory of the requested State within 30 days and, if the person is not removed within that period, the requested State may release the person and may refuse to extradite that person for the same offence.
3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of this Article shall apply.

Article 12

POSTPONED OR CONDITIONAL SURRENDER

1. The Requested State may, after making its decision on the request for extradition, postpone the surrender of a person sought, in order to proceed against that person, or if that person, or, if that person has already been convicted, in order to enforce a sentence imposed for an offence other than that for which extradition is sought. In such a case the requested State shall advise the requesting State accordingly.
2. The requested State may, instead of postponing surrender temporarily surrender the person sought to the requesting State in accordance with conditions to be determined between the parties.

Article 13

SURRENDER OF PROPERTY

1. To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all property found in the requested State that has been acquired as a result of the offence or that may be required as evidence shall, if the requesting State so requests, be surrendered if extradition is granted.

2. The said property may, if the requesting State so requests, be surrendered to the requesting State even if the extradition agreed to cannot be carried out.
3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.
4. Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

Article 14

RULE OF SPECIALTY

1. A person extradited under the present Treaty shall not be proceeded against, sentenced, detained, re-extradited to third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than -
 - a) An offence for which extradition was granted; or
 - b) Any other offence in respect of which the requested State consents. Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with the present Treaty.
2. A request for the consent of the requested State under the present Article shall be accompanied by the documents mentioned in paragraph 2 of Article 5 of the present Treaty and a legal record of any statement made by the extradited person with respect to the offence.
3. Paragraph 1 of the present Article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within forty-five (45) days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

Article 15

TRANSIT

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be



extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.

2. Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby.
3. The State of transit shall ensure that legal provisions exist that would enable detaining the person in custody during transit.
4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for forty-eight [48] hours, pending receipt of the transit request to be made in accordance with paragraph 1 of the present Article.

Article 16

CONCURRENT REQUESTS

If a Party receives requests for extradition for the person from both the Party and a third State it shall, at its discretion, determine to which of those States the person is to be extradited.

Article 17

CONFORMITY

This Treaty shall not be in conflict with other Regional and International Treaties and Protocols to which Zambia and Rwanda are parties to.

Article 18

COSTS

1. The requested State shall meet the costs of any proceedings in its jurisdiction arising out of a request for extradition.
2. The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought.

3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

Article 19

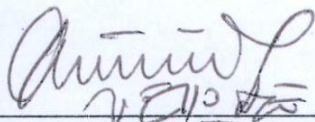
FINAL PROVISION

1. The present Treaty is subject to (Ratification, acceptance or approval). The instrument of (ratification, acceptance or approval) shall be exchanged as soon as possible.
2. The present Treaty shall enter into force on the thirtieth day after the day on which the instruments of (ratification, acceptance or approval) are exchanged.
3. The present Treaty shall apply to requests made after its entry into force, even if relevant acts or omissions occurred prior to that date.
4. Either contracting Party may denounce the present Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty.

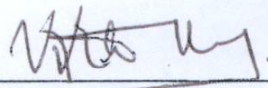
Done at Lusaka on this **19th** day of **June 2017**, in two originals in the English language.

**FOR AND ON BEHALF OF
THE GOVERNMENT OF THE
REPUBLIC OF RWANDA**



Hon. Evode Uwizeyimana
**Minister of State in charge of
Constitutional and Legal Affairs**

**FOR AND ON BEHALF OF
THE GOVERNMENT OF THE
REPUBLIC OF ZAMBIA**



Hon. Steven Kampyongo
Minister of Home Affairs

Bibonywe kugira ngo bishyirwe ku mugereka w'Iteka rya Perezida n° 109/01 ryo ku wa 02/06/2018 ryemeza burundu Amasezerano yo kohererezanya abakurikiranyweho ibyaha n'abahamwe na byo hagati ya Leta ya Repubulika y'u Rwanda na Leta ya Repubulika ya Zambiya, yashyiriweho umukono i Lusaka, Zambiya, ku wa 19 Kamena 2017

Kigali, ku wa 02/06/2018

(sé)
KAGAME Paul
Perezida wa Repubulika

(sé)
Dr. NGIRENTE Edouard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

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

Seen to be annexed to Presidential Order n°109/01 of 02/06/2018 on ratification of the Extradition Treaty between the Government of the Republic of Rwanda and the Government of the Republic of Zambia, signed at Lusaka, in the Republic of Zambia, on 19 June 2017

Kigali, on 02/06/2018

(sé)
KAGAME Paul
President of the Republic

(sé)
Dr. NGIRENTE Edouard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)
BUSINGYE Johnston
Minister of Justice/Attorney General

Vu pour être annexé à l'Arrêté Présidentiel n°109/01 du 02/06/2018 portant ratification du Traité d'Extradition entre le Gouvernement de la République du Rwanda et le Gouvernement de la République de Zambie, signé à Lusaka, en République de Zambie, le 19 juin 2017

Kigali, le 02/06/2018

(sé)
KAGAME Paul
Président de la République

(sé)
Dr. NGIRENTE Edouard
Premier Ministre

Vu et scellé du Sceau de la République:

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