THE EAST AFRICAN COMMUNITY

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THE EAST AFRICAN COMMUNITY POLYTHENE MATERIALS CONTROL BILL, 2011

MEMORANDUM

Chapter 19 of the Treaty for the Establishment of the East African Community enjoins the Partner States to Cooperate in all issues of environmental and Natural Resources Management, while in its Article 112(1) and (2)(a),(c) and (h) urges the Partner States to adopt common environment control regulations, incentives and standards; encourage the manufacture and use of bio-degradable, pesticides, herbicides and packaging materials and to adopt common environment standards for the control of atmospheric, terrestrial and water pollution arising from urban and industrial development activities. The EAC Partner States are also signatories to various International Environment Agreements and Conventions that are intended to regulate the environment.

Polythene materials destroy the environment and its habitat and their use needs to be controlled. Polythene waste pollution has worsened these last few years due to preference for polythene as packaging material for shopping and other uses. Apart from its slow degradation rate (as long as 400 years), polythene is a source of environmental pollution.
The Object of this bill therefore, is to provide a legal framework for the preservation of a clean and healthy environment through the prohibition of manufacturing, sale, importation and use of polythene materials.

HON. PATRICIA M. HAJABAKIGA MEMBER,
East African Legislative Assembly.
THE EAST AFRICAN COMMUNITY POLYTHENE MATERIALS CONTROL BILL, 2011.

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THE EAST AFRICAN COMMUNITY POLYTHENE MATERIALS CONTROL BILL, 2011

A Bill for an Act

ENTITLED

THE EAST AFRICAN COMMUNITY POLYTHENE MATERIALS CONTROL ACT, 2011

An Act to provide for the control and regulation of use, sale, manufacture and importation of polythene materials and products and for other related matters.

Enacted by the East African Community and assented to by the Heads of State.

PART I—PRELIMINARY PROVISIONS

1. (1) This Act may be cited as the East African Community Polythene Materials Control Act, 2011.

(2) This Act shall come into force on such a date as the Council may, by notice in the Gazette appoint.

2. In this Act, unless the context otherwise requires—

"authorised officer" means staff of an environment authority in a Partner State or any other officer authorised in writing by the authority to perform duties under this Act on behalf of the environment authority;
"Council" means the Council of Ministers of the East African Community established by Article 9 of the Treaty;

"environment authority" means a government body designated by a Partner State to deal with environment management and compliance;

"Gazette" means the Official Gazette of the Community;

"import" means to bring or cause to be brought into the territories of the Partner States, any polythene material from a foreign country;

"manufacture" means the transformation of raw material into finished goods for sale, or other use, including the intermediate processes involving the production or finishing of semi-manufactured goods;

"polythene" means a synthetic industrial product with a low density composed of numerous chemical molecules of ethane with a chemical formula: (CH=CH):

"Public Prosecutor" means the office in every Partner State responsible for public prosecutions;

"recidivism" means a habitual relapse into a similar offence:

"Treaty" means the Treaty for the establishment of the East African Community.

3. The objectives of this Act are to—

(a) establish a legal framework for the control of the use of polythene:
(b) promote the use of environmental friendly package materials;

(c) preserve and promote a clean and healthy environment and land use management for sustainable development;

(d) prevent any type of pollution caused by polythene materials in lakes, rivers and oceans;

(e) protect infrastructure including drainage systems, biodiversity and livestock;

(f) brand the East African Community as green and clean.

4. This Act applies to all types of polythene materials.

PART II—PROHIBITION AND EXCEPTION.

5. (1) Use, sale, manufacturing and importation of polythene is prohibited in all the East African Community Partner States.

(2) Notwithstanding the provisions of subsection (1), the Council may, in consultation with the Partner States establish a list of polythene materials necessary to be used in exceptional cases in the Community, and the list may be updated at such time as the Council deems necessary.

(3) The initial list of polythene materials referred to under subsection (1) is specified in the Schedule.

6. (1) Any person who wishes to use, sell, manufacture or import any polythene material specified in the Schedule shall apply for a written authorisation from the environment authority and shall provide the following information—
(a) the reasons for the application;
(b) quantities required and estimated period for use;
(c) how the applicant intends to manage or dispose of the polythene waste.

(2) The environment authority shall, within a period not exceeding 20 working days determine the application under subsection (1) and inform the applicant accordingly.

(3) If the environment authority does not determine the application within the period prescribed under subsection (2), the applicant shall proceed as if he or she had been authorised.

PART III—MISCELLANEOUS

7. (1) Any person who contravenes section 5 commits an offence and shall be liable on conviction to a fine not exceeding five thousand United States dollars or to imprisonment for a term not exceeding twelve months or both.

(2) Where an offence under this Act is committed by a body corporate, and it is proved to have been committed with the consent or connivance of, or to be attributable to any act or default on the part of any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, such director, manager, secretary person as well as the body corporate, shall be deemed to have committed the offence and shall accordingly be liable.

(3) All polythene materials found in possession of any person in contravention of this Act shall be seized and taken to the appropriate stores established by the environment authority for disposal.
(4) Where recidivism is established on any person under this section, the penalty against such person shall be doubled.

8. Environment authorities or any other authorized agency in a Partner States shall enforce this Act.

9. An authorized officer may inspect any premises or vehicle suspected to be in possession of polythene materials in contravention of this Act and may—

(a) inspect and check the operation of any industry or factory and any associated premises or vehicle which he or she has reasonable cause to suspect is in possession of any polythene material;

(b) seize any material, equipment or machine or information, where such seizure is necessary for an examination or investigation.

10. (1) Any person who obstructs, impedes, assaults or interferes with an authorized officer in the performance of his or her functions under this Act commits an offence and shall be liable to a fine not exceeding five thousand United States dollars or to imprisonment for a term not exceeding twelve months or both.

(2) In exercising any of the powers of enforcement under this Act, an authorized officer shall on demand produce to the person against whom he or she is acting, the authority issued by the environment authority to the authorized officer.

11. (1) The environment authority may, by notice in writing take such measures or stop carrying on such activities as are specified in the notice, if such measures are necessary to ensure compliance with the provisions of this Act.
(2) Any person who fails to comply with any direction specified in a notice issued under subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding five thousand United States dollars or to imprisonment for a term not exceeding 12 months or both.

(3) No prosecution in respect of any offence under this Act shall be instituted except by or with the sanction of the Public Prosecutor.

12. (1) The Partner States shall, upon the coming into force of this Act, take such measures as may be necessary to eliminate polythene materials prohibited under this Act in their territories.

(2) For the avoidance of any doubt, the elimination of the polythene bags shall be complete in all Partner States within one year from the coming into force of this Act.
LIST OF EXEMPTED POLYTHENE MATERIALS

1. Materials used in medical services.
3. Materials used in the construction industry including water pipes.
4. Materials used in the manufacture of tents.