THE EAST AFRICAN COMMUNITY

THE EAST AFRICAN COMMUNITY COMPETITION
(AMENDMENT) BILL, 2015

MEMORANDUM

The objects of this Bill is to amend the East African Community Competition Act in order to—

(a) establish a mechanism to eliminate counterfeiting and piracy trade in the Community in order to promote industrialization and economic growth;

(b) promote the creation, protection and exploitation of intellectual property rights in the Community; and

(c) create a conducive investment climate in the Community, free of unfair competition practices embodied in counterfeiting and piracy.

HON. SAMUEL J. SITTA, MP,
Chairperson Council of Ministers.
THE EAST AFRICAN COMMUNITY COMPETITION (AMENDMENT) BILL, 2015

ARRANGEMENT OF CLAUSES

Clause

1. Short title and commencement.
2. Amendment to the long title.
3. Amendment to section 2.
4. Insertion of section 3A.
5. Insertion of section 36A.
6. Amendment of section 42.
7. Amendment of section 43.
THE EAST AFRICAN COMMUNITY COMPETITION (AMENDMENT) BILL, 2015

A Bill for an Act

Entitled

THE EAST AFRICAN COMMUNITY COMPETITION (AMENDMENT) ACT, 2015

An Act of the Community to amend the East African Community Competition Act, 2006

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

1. This Act may be cited as the East African Community Competition (Amendment) Act, 2015 and shall come into force on such a date as the Council may, by notice in the Gazette, appoint.

2. The East African Community Competition Act, 2006, in this Act referred to as the "principal Act", is amended in the long title by inserting immediately after the words "consumer welfare" the phrase "and to prohibit trade in counterfeit goods".
3. The principal Act is amended in section 2 by inserting the following definitions in their appropriate alphabetical order—

“counterfeiting” means—

(a) the possessing, manufacturing, producing or making, packaging, repackaging or labeling whether in the Community or outside the Community, of any goods whereby those protected goods are imitated in such manner and to such a degree that those other goods are substantially identical copies of the protected goods without the authority of the owner of any intellectual property right subsisting in the relevant Partner State in respect of protected goods; and

(b) the possessing, manufacturing, producing or making or applying to goods, whether in the Community or elsewhere, the subject matter of that intellectual property rights, or a colourable imitation of the goods so that the other goods are calculated to be confused with or to be taken as being the protected goods of the said owner or any goods manufactured, produced or made under his license without the authority of the owner of any intellectual property right subsisting in the relevant Partner State in respect of the protected goods;

“intellectual property rights” means—

(a) the rights in respect of a trade mark conferred by the relevant trade mark laws of a Partner State; and
(b) the copyright and related rights in any work or any right protected in terms of the relevant copyright laws of a Partner State.

4. The principal Act is amended by inserting after section 3, the following new section—

3A. The objects of the anti-counterfeit policy in the Community shall be to—

(d) establish a mechanism to eliminate counterfeiting and piracy trade in the Community in order to promote industrialization and economic growth;

(e) promote the creation, protection and exploitation of intellectual property rights in the Community; and

(f) create a conducive investment climate in the Community, free of unfair competition practices embodied in counterfeiting and piracy.”

5. The principal Act is amended by inserting after section 36, the following new section—

36A. The provisions of this Part shall, with the necessary modifications, apply to anti-counterfeit matters.”

6. Section 42 of the principal Act is amended in subsection(1) by—

(a) inserting the following new paragraph after paragraph (k)—
“(ka) in collaboration with national institutions, cause the impounding and disposal of counterfeit products;”

(b) substituting for paragraph (1) the following—

“(1) co-operate with regional organisations, international organisations and foreign authorities on competition and anti-counterfeit matters.”

8. The principal Act is amended by repealing section 43 and substituting for it the following—

43. (1) The Authority and the Partner States shall mutually co-operate in the implementation of this Act.

(2) The Authority shall be responsible for the initiation of policies on anti-counterfeit matters and related matters in the Community and the coordination of these policies in the Partner States.”