



East African Community

EAC Model Contract for Farmland Investments

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by

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EAC Treaty- Spells out Areas of Cooperation-

- Trade and Investment
- Industrial Development
- Monetary/Fiscal Affairs
- Infrastructure/Services
- Science & Technology
- Agriculture & Food Security
- Environment & Natural Resources
- Tourism & Wildlife
- Health
- Education
- Human Resources
- Defense/Security
- Legal/Judicial Affairs
- Foreign Affairs

EAC TREATY

Chapter 18 -Article 105-110 Cooperation in Agriculture and Food Security

**Customs
Union**

**Single Customs
Territory**

**Common
Market**

**4 Freedoms &
2 Rights**

**Monetary
Union**

**Single
Currency**

**Political
Federation**

**United East
Africa**

Article 45 of the CMP– focuses on enhancing production and productivity, Increase agricultural production and productivity; achieve food and nutrition security; promote investments in agriculture and food security; develop effective agricultural markets and marketing systems in the Community; and promote agro processing and value addition to agricultural products.

Projects and Programs under Agriculture and Food Security Department Agricultural Sector



1. Food and Nutrition Security Strategy & Action Plan
2. EAC CAADP Programme
3. SPS Programme
4. Aflatoxin Prevention and Control Project
5. Harmonization of Farm Inputs (seeds, fertilizers and pesticides)
6. EAC-FAO Youth Employment in Agriculture Project
7. Harmonization of 23 EAC Staple Foods Standards
8. Livestock and Fisheries
 - *Aquaculture Development*
 - *Veterinary Governance*
 - *Mutual Recognition Procedures for Veterinary Medicines (MRP)*
 - *Mutual Recognition Arrangement for Veterinary*



EAC Projects and Programmes (Ctd)

1. Food and Nutrition Security in the EAC

- The EAC Food and Nutrition Security policy (FNSP) was approved by the Council of Ministers in 2016
- A Strategy and Action Plan to implement the FNSP is under development.

2. EAC SPS Programme

- Adopted by the Council of Ministers in 2013.
- Ratified by 3 Partner States
- The foundation for implementation of the Protocol is being laid through development of various instruments to support its domestication in the EAC Partner States.
 - **Sanitary Measures for Fish and Fishery Products**
 - Plant health Measures and Measures on Food & Feed Safety.
 - SPS Bill in place

3. CAADP AGENDA

EAC has embraced the Continental CAADP Agenda

- The EAC CAADP Compact approved by Council of Ministers in September 2016 and formally signed in June 2017
- A draft EAC CAADP Agricultural Investment Plan (RAIP) has been developed.
 - It is designed to be a central instrument to rally financial and technical support towards implementation of the EAC CAADP Compact.

EAC RAIP Priority Investment Areas

- 1) Increasing Regional Agricultural Production and Food Supply;
- 2) Enhance Food Utilization;
- 3) Promote Agribusiness, Value addition, and Agro-industry;
- 4) Reduce Post-Harvest Losses at levels of the Value Chain;
- 5) Build Capacity for Sustainable Natural Resource Management; and

The EAC Model Contract for Farmlar Investments



- Three areas of law that are relevant to foreign investment in agriculture: **domestic law, investment treaties and contracts.**
- positive benefits from foreign investment requires a solid foundation of domestic laws that are properly enforced.
- In the case of the EAC, many of the domestic laws are in place but there is weak implementation and enforcement. In some cases, the necessary domestic laws are not in place or are not sufficiently detailed.
- To address the gaps in existing laws, while at the same time promoting responsible and sustainable investment in agriculture, the EALA with support from the IISD developed a regional model contract for farmland investments,
- developed Model is a tool for governments

The EAC Model Contract for Farmlar Investments



- EAC Model Contract for Farmland Investment (EAC MCFI) has five parts.
- Part I presents background information
- Part II describe the rationale towards the EAC MCFI
- Part III has 13 chapters presents the main content of the EAC MCFI followed by an explanation of the rationale behind each provision in part IV.
- Part IV has 10 sections that describes the weaknesses in the legal systems in the region as measured against international standards and benchmarks.
- Annexes are presented in part V.
 - i. Annex 1 is a comparative table that describes the differences and commonalities in the legal systems in each EAC country that forms the basis for the parts III and IV.
 - ii. Annex 2 presents a list of international standards used as a benchmarks for agriculture

The Content of EAC Model Contract for Farmland Investments



PART I. Background

PART II. Towards an EAC Model Contract for Farmland Investments

PART III. The EAC Model Contract for Farmland Investments

Chp 1. Terms of the Agreement

Chp 2. Definitions of the Terms

Chp 3. Land tenure and ownership

Land 3.1 Legitimate Tenure Rights Holders and Use Agreement

3.2 Grant of Rights

3.3 Location of Project Area

3.4 Permits, Licenses and Other Authorization

The Content of EAC Model Contract 1 Farmland Investments



PART III.....

Chp 4. Feasibility Study and Business Plan

Chp 5. Impacts Assessments and Management Plans

5.1 Environmental Impact Assessment and Management Plan

5.2 Social Impact Assessment and Action Plan

Chp 6. Financial Issues

6.1 Rent

6.2 Tax and customs duties

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PART III.....

Chp 7. Economic and Social Development Obligations

7.1 Employment

7.2 Training and Skills Development

7.3 Creation of Processing Facilities

7.4 Out-grower schemes

7.5 Local Business Development Plan

7.6 Community Development Agreement

The Content of EAC Model Contract for Farmland Investments



PART III.....

Chp 8. Environmental Obligations

8.1 National environmental laws

8.2 Improvement of Production Methods

8.3 Water-use permits and fees

Chp 9. Stabilization provisions

Chp 10. Transparency and access to information

Chp 11. Grievance mechanism and dispute settlement

11.1 Grievance Mechanism

11.2 Dispute Settlement

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PART III.....

Chp 12. Periodic Review

Chp 13. Termination of the Contract

13.1 Termination on Certain Events

13.2 Termination on Breach

13.3 Termination by the Company

13.4 Return of Unused Land (Partial
Termination)

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PART IV. The Path to the EAC Model Contract for Farmland Investments:

- Part IV has 10 sections that describes the weaknesses in the legal systems in the region as measured against international standards and benchmarks.

1. Land tenure and ownership

- Gender inequality in access to land
- Low levels of land registration for customary rights
- Legacy land disputes with deficiencies in resolution processes
- Confusion about who has authority over agricultural land
- Deficient procedures for termination and return of unused land
- Inadequate compensation for land expropriation

The Content of EAC Model Contract 1 Farmland Investments



2. Environmental and social issues

- Conflict between agriculture & forest conservation
- Ineffective environmental and social impact assessment and planning processes
- Weak regulatory framework to allocate water use rights and establish fees

3. Business Plan and Feasibility Studies

- Insufficient detail on the content of feasibility studies and business plans

4. Employment

- Insufficient detail on how to create local employment
- Insufficient detail on improving the skills of the local workforce

The Content of EAC Model Contract for Farmland Investments



5. Economic linkages

- Lack of detail on how to ensure transfer of new technologies
- Lack of detail on how to ensure value-addition to primary production
- Lack of detail on how to ensure use of local goods and services

6. Transparency and access to information

- Lack of transparency and access to information

7. Community engagement and development

- Lack of public participation in the environmental and social impact assessment process

The Content of EAC Model Contract for Farmland Investments



8. Investor rights and obligations

- Potential conflicts between investment rights and other laws
- Use of stabilization provision in investment law
- Deficiencies in the process for screening investors
Evidence suggests that all five countries have deficiencies in their approaches to screening investors.

9. Tax and Fiscal System

- Fiscal incentives leading to revenue losses for government

10. Grievance Mechanisms and Dispute Settlement

Thank you for your kind
attention