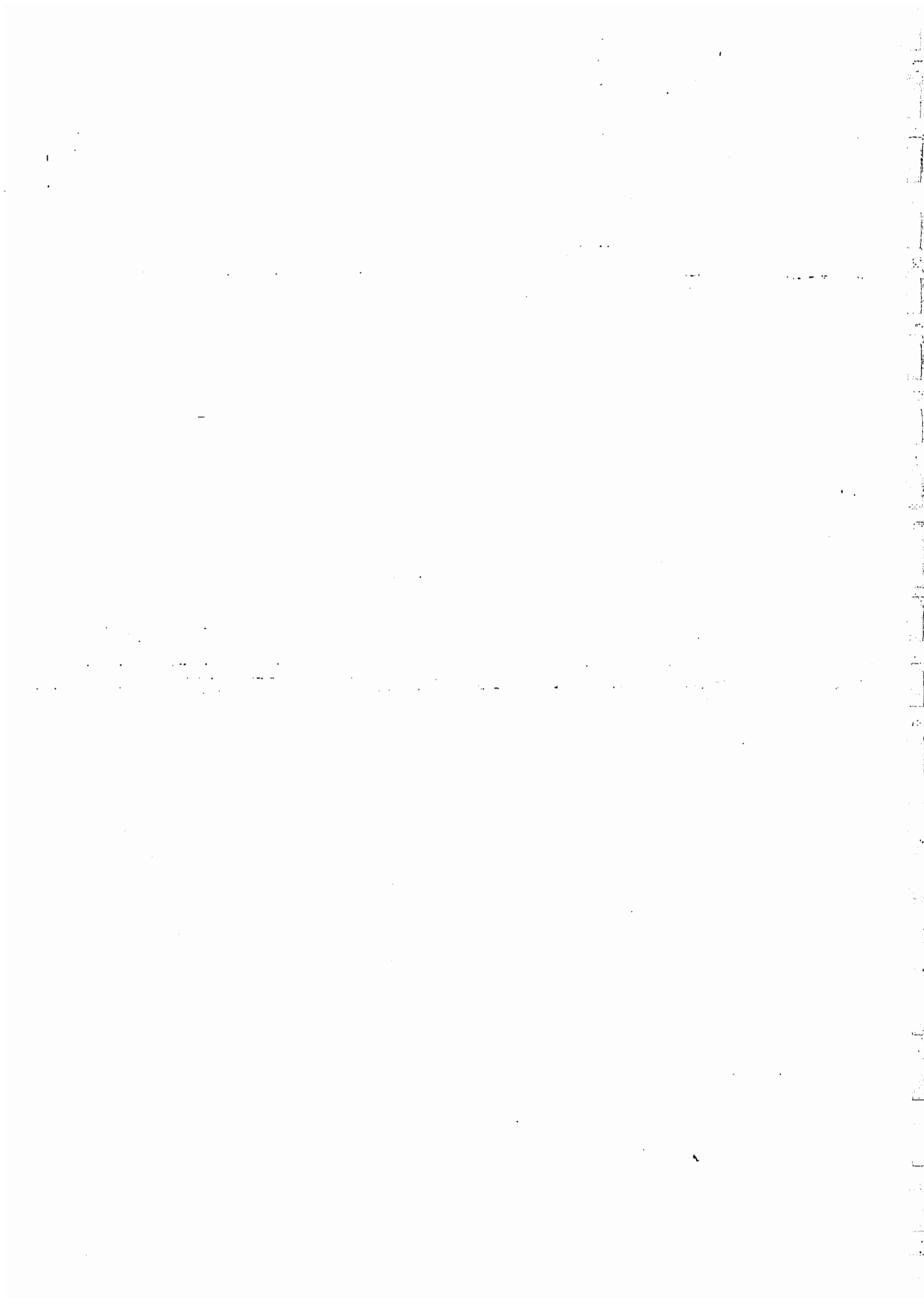


**Protocol on the Establishment of the East African  
Civil Aviation Safety and Security Oversight  
Agency**





**PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN  
COMMUNITY CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT  
AGENCY**

**PURSUANT TO THE PROVISIONS OF ARTICLE 92 OF THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY, THE PROVISIONS FOR THE ESTABLISHMENT OF THE CIVIL AVIATION SAFETY AND SECURITY OVERSIGHT AGENCY ARE HEREBY SET FORTH:**

**PREAMBLE**

**WHEREAS**, the Republic of Uganda, The United Republic Tanzania and the Republic of Kenya (hereinafter referred to as "the Partner States") signed the Treaty for the Establishment of the East African Community (hereinafter referred to as "the Treaty") on the 30<sup>th</sup> day of November 1999;

**AND WHEREAS** the Republic of Uganda, The United Republic of Tanzania and the Republic of Kenya and the are Contracting States to the Convention on International Civil Aviation signed in Chicago on the 7<sup>th</sup> day of December 1944 (hereinafter referred to as "the Chicago Convention") whose main objectives are the safe and orderly development of international civil aviation through the implementation of international standards and recommended practices relating to the safety and security of civil aviation;

**AND WHEREAS** the International Civil Aviation Organisation is the specialized agency of the United Nations charged with the implementation of the provisions and objectives of the Chicago Convention;

**AND WHEREAS** Article 92 of the Treaty requires the Partner States to harmonise their policies on civil aviation in order to promote the development of safe, reliable, efficient and economically viable civil aviation with a view to developing appropriate infrastructure, aeronautical skills and technology, as well as the role of civil aviation in support of other economic activities;

**AND WHEREAS** on the 12<sup>th</sup> day of November 2004, the Government of The United Republic of Tanzania, the Government of The Republic of Kenya and the Government of the Republic of Uganda signed a Memorandum of Understanding concerning cooperation in the enhancement of aviation safety, security, air navigation and capacity building within the Partner States;

**AND WHEREAS** Article 3 of the Memorandum of Understanding requires the Partner States to foster agreements for the establishment of the regional aviation

agencies such as the Safety Oversight Agency, Upper Flight Information Region, Search and Rescue Coordination Centre;

**AND WHEREAS** ICAO at the 35<sup>th</sup> Session of the ICAO General Assembly (under *Resolution A35-7 – Unified Strategy to resolve Safety Related deficiencies*) recognises the establishment of regional safety oversight organisations as necessary to assist Contracting States in meeting their Safety Oversight obligations under the Chicago Convention;

**AND WHEREAS** Article 9 (2) of the Treaty empowers the Summit of the East African Community to establish Institutions of the Community;

**AND WHEREAS** the Partner States share common goals and are committed to the orderly and safe development of aviation in the East African region;

**AND WHEREAS** it is necessary to collaborate and create the Civil Aviation Safety and Security Oversight Agency to promote civil aviation safety and security in the Partner States;

**NOW THEREFORE** the Government of the United Republic of Tanzania, the Government of the Republic of Kenya and the Government of the Republic of Uganda:

**AGREE AS FOLLOWS:**

**ARTICLE 1:  
Definitions**

1. Unless the context otherwise requires, the terms used in this Protocol shall have the same meaning as ascribed to them in the Treaty for the Establishment of the East African Community.

2. Without prejudice to paragraph 1 of this Article:

“**Agency**” means the Civil Aviation Safety and Security Oversight Agency established under Article 3 of this Protocol;

“**Board**” means the Board of Directors of the Agency established under Article 7;

“**Chicago Convention**” means the Convention on International Civil Aviation signed in Chicago on the 7<sup>th</sup> day of December 1944;

“**Civil Aviation Authority**” means the civil aviation administration of a Partner State;

**“Community”** means the East African Community established under the Treaty for the Establishment of the East African Community signed at Arusha on 30<sup>th</sup> November 1999;

**“Council”** means the Council of Ministers of the Community established by Article 9 of the Treaty;

**“Head of Civil Aviation”** means the Director General, Managing Director or Chief Executive Officer, howsoever designated, of the Civil Aviation Authority of a Partner State;

**“ICAO”** means the International Civil Aviation Organisation;

**“ICAO SARPs”** means international standards and recommended practices as contained in the Annexes to the Chicago Convention, 1944;

**“Memorandum of Understanding”** means the Memorandum of Understanding concerning cooperation in the enhancement of aviation safety, security, air navigation and capacity building within the East African region signed by the Government of the United Republic of Tanzania, the Government of the Republic of Kenya and the Government of the Republic of Uganda on the 12<sup>th</sup> day of November 2004;

**“Partner States”** means the parties to the Treaty;

**“Secretary General”** means the Secretary General of the Community appointed under Article 67 of the Treaty; and

**“Treaty”** means the Treaty for the Establishment of the East African Community signed at Arusha on 30<sup>th</sup> November 1999.

## **ARTICLE 2**

### **Application of Protocol**

The Protocol shall govern the Partner States cooperation in civil aviation safety and security oversight.

## **ARTICLE 3**

### **Establishment and Status of the Agency**

1. The Partner States hereby establish the Civil Aviation Safety and Security Oversight Agency.

2. The Agency is established as a self-accounting Institution of the Community.

3. The Agency shall possess legal personality and in particular, full capacity to:
- (a) contract;
  - (b) acquire, and dispose of movable and immovable property; and
  - (c) sue and be sued.

#### **ARTICLE 4** **Objectives of the Agency**

The principal objectives of the Agency shall be to:

- (a) promote the safe, secure and efficient use and development of civil aviation within and outside the Partner States; and
- (b) assist the Partner States in meeting their safety and security oversight obligations and responsibilities under the Chicago Convention and its Annexes.
- (c) provide the Partner States with an appropriate forum and structure to discuss, plan and implement common measures required for achieving the safe and orderly development of international civil aviation through the implementation of international standards and recommended practices relating to the safety and security of civil aviation.

#### **ARTICLE 5** **Functions of the Agency**

The functions of the Agency shall be to: -

- (a) strengthen the institutional framework within the Partner States in aviation safety and security within the Partner States and assist in the development of a harmonised regulatory regime for the Partner States;
- (b) co-ordinate civil aviation safety and security oversight activities amongst Partner States;
- (c) foster agreements among the Civil Aviation Authorities of the Partner States that will contribute to the timely implementation of ICAO regional (air navigation) plans and the adoption of ICAO SARPS;
- (d) liaise with ICAO to ensure that the Partner States' aviation safety and security oversight activities are in line with the ICAO objectives and plans;

- (e) monitor and provide input to the formulation of ICAO SARPS;
- (f) evaluate the status of aviation safety and security in the Partner States, provide information to the Partner States and recommend necessary interventions or corrective measures for the resolution of constraints or deficiencies;
- (g) assist the Partner States to meet or comply with ICAO SARPs, national standards and regulations in force;
- (h) plan and facilitate the sharing between Partner States of technical expertise and facilities in civil aviation;
- (i) provide advisory services and assistance as the Partner States may require;
- (j) mobilise and solicit technical and financial resources from external sources;
- (k) establish and maintain relations with other regional safety and security oversight organisations in all areas of civil aviation to facilitate the transfer of knowledge and expertise and adoption of best industry practices; and
- (l) perform any other functions that may be necessary for the proper implementation of its civil aviation safety and security oversight functions under this Protocol.

#### **ARTICLE 6** **Organs of the Agency**

The organs of the Agency are:

- (a) the Board;
- (b) the Secretariat; and
- (c) such other organs and officers as the Board may consider necessary.

**ARTICLE 7**  
**The Board**

1. The Board shall be the governing body of the Agency.
2. The Board shall consist of the following members:
  - (a) the Chairperson;
  - (b) the Heads of Civil Aviation other than the Chairperson;
  - (c) one aviation expert from each Partner State; and
  - (d) the Executive Director.
3.
  - (a) The aviation expert shall be nominated by the Minister responsible for civil aviation in each Partner State for a term of three years and shall be eligible for reappointment.
  - (b) The aviation expert shall:
    - (i) have a minimum experience of ten years at a senior position in the aviation industry; and
    - (ii) not be a person who is regulated by a Civil Aviation Authority ~~or has an interest in an entity regulated by a Civil Aviation Authority.~~
4. The Chairperson of the Board shall be one of the Heads of Civil Aviation. The position of Chairperson shall be held in rotation among the Heads of Civil Aviation for a term of one year.
5. The Chairperson of the Board shall preside at all meetings of the Board and in their absence the next Head of Civil Aviation in the line of rotation shall act as Chairperson.
6.
  - (a) If a member of the Board, other than an aviation expert, is unable to attend a meeting of the Board, that member may designate a representative to attend the meeting.
  - (b) The designated representative shall, for the purpose of that meeting, have all powers, duties and responsibilities of the member of the Board for whom that person is acting, except the duty to act as Chairperson of the meeting.



7. The functions of the Board shall be to exercise general control of the performance and affairs of the Agency and to give general directions on the implementation and achievement of the objectives and functions of the Agency.
8. Without limiting the generality of paragraph 7 of this Article the Board shall:
  - (a) consider reports submitted to it by the Executive Director and the Technical Committees;
  - (b) propose staff terms and conditions of service for approval by the Council;
  - (c) implement the decisions of the organs of the Community as may be addressed to it;
  - (d) formulate on recommendation of the Technical Committee, civil aviation safety and security regulations for approval by the Partner States and use by the Partner States and the Agency;
  - (e) approve on recommendation of the Technical Committee, civil aviation safety and security guidance materials and procedures for use by the Partner States and the Agency;
  - (f) recommend to the Council the suitable candidate to be appointed as the Executive Director and appoint senior staff of the Agency and review their performance as well that of the Executive Director;
  - (g) approve the annual programme activities and budget estimates of income and expenditure for the Agency for submission to the Council for consideration;
  - (h) approve the annual accounts of the Agency for submission to the Council for consideration;
  - (i) approve the annual report of the activities of the Agency for submission to the Council for consideration;
  - (j) assess and approve applications by Third States seeking assistance for technical expertise from the Agency; and
  - (k) exercise such other powers and perform such other functions as may be conferred on it by the Treaty or that may be necessary for the proper implementation of this Protocol.

(9) If a member of the Board:

- (a) dies;
- (b) resigns;
- (c) gets his or her appointment terminated;
- (d) ceases to hold office for any reason other than a reason under paragraph (a) (b) or (c),

then, in the case of the aviation experts, the Minister may appoint another person to take the place of that member, and the person so appointed shall hold office until the expiration of the term of office of the member in whose place she or he was appointed and in the case of the members who are Board members by virtue of their office, the person appointed to that office in his or her place shall become a member of the Board.

#### **ARTICLE 8** **Meetings of the Board**

1. The Board shall meet at least once in every three calendar months and may hold extraordinary meetings as and when necessary.
2. Meetings of the Board shall be held at the Headquarters of the Agency or such other place as the Board may decide.
3. The quorum for any meeting of the Board of Directors shall be a simple majority of the members of the Board including at least two Heads of Civil Aviation or their designated representatives.
4. Decisions of the Board shall be by consensus.
5. Subject to this Article, the Board shall determine its own rules of procedure including the convening of meetings and for the conduct of business at the meetings and the recording of its decisions and minutes.

#### **Article 9** **The Secretariat**

1. There shall be a Secretariat of the Agency headed by the Executive Director.
2. The Secretariat shall perform the following functions:
  - (a) coordinate all the activities within the scope of this Protocol;
  - (b) carry out the administrative and financial management of the Agency;

- (c) prepare for the approval of the Board an annual programme of activities and budget for the Agency, at least six months before the end of the financial year;
- (d) prepare working papers and reports on activities of the Agency for consideration by the Board;
- (e) implement the programme of activities and Budget approved by the Board;
- (f) maintain current records pertaining to the civil aviation activities in the Partner States;
- (g) exchange such information as is necessary with the Partner States;
- (h) coordinate with the participating States the designation of aviation inspectors and to assign such inspectors as required to conduct inspections;
- (i) manage the delivery of technical support to Partner States through the pooling of specialist technical resources;
- (j) carry out such other duties within the scope of the Protocol as may be directed by the Board or the Council from time to time.

**ARTICLE 10**  
**The Executive Director**

1. The Executive Director shall be appointed by the Council on recommendation of the Board and on such terms and conditions as the Council may determine.
2. (a) A person appointed as the Executive Director shall hold office for a period of five years and shall not be eligible for re-appointment.  
(b) The office of the Executive Director shall be filled on a competitive basis and under the principle of rotation among the partner states.
3. The Executive Director shall be the chief spokesperson of the Agency and the principal liaison between the Partner States and the Agency.
4. The Executive Director shall be responsible to the Board.

**ARTICLE 11**  
**Other staff of the Agency**

There shall be other officers and staff of the Agency as the Board may determine.

**ARTICLE 12**  
**The Technical Committees**

1. The Board may establish Technical Committees as may be necessary for specific areas of the Agency's functions.
2. The composition and functions of the Technical Committees shall be specified by the Board.
3. Without prejudice to the generality of paragraph 2, the Technical Committees shall be responsible for the preparation of comprehensive implementation programmes and the monitoring of the implementation of those programmes.
4. The Technical Committees shall meet as often as is necessary for the proper discharge of their functions.

**ARTICLE 13**  
**Relationship between the Agency and the Council**

- ✓ 1. The Agency shall at the end of each financial year prepare an annual report on the performance of its functions during that year for submission to the Council.
2. The Agency shall make a report on its activities to the Sectoral Council responsible for transport and communications at least once every six months.
3. The Council may make policy directions of a general nature to the Agency in respect of the performance of the Agency's functions, provided that such directions are consistent with the provisions of this Protocol.

**ARTICLE 14**  
**Role of the Partner States**

The Partner States shall:

- (a) contribute to the maintenance of a safe, secure and efficient civil aviation system as a means to support the social, economic and cultural development of the region;

- (b) develop and promulgate harmonised regulations that meet ICAO SARPs for the governance of civil aviation safety and security and harmonised technical guidance materials to implement the regulations;
- (c) participate in activities of the Agency aimed at assisting other Partner States for purposes of civil aviation safety and security oversight functions and activities;
- (d) endeavour to implement a cost effective safety and security system with a minimum regulatory burden but that meets ICAO SARPs so as to contribute to the competitiveness of the regional civil aviation industry;
- (e) adopt and support measures and programmes for the development of human resources in civil aviation in the region including the development and establishment of a regional training programmes for the technical personnel of the Partner States; and
- (f) adopt and support measures to promote a safety culture in the region including promoting a comprehensive systems approach to safety management within the Partner States by adopting and implementing the ICAO Safety Management System (SMS) concept.

#### **ARTICLE 15**

##### **Financial provisions**

1. The funds of the Agency shall be derived from:
  - (a) contributions by the Partner States through their respective Civil Aviation Authorities;
  - (b) resources mobilised by the Community;
  - (c) grants and loans from regional and international bodies;
  - (d) revenue from the activities of the Agency; and
  - (e) any other sources as may be approved by the Council.
2. The Agency shall within 3 months before the commencement of each financial year prepare and submit to the Council for its approval an annual programme of activities and estimates of expenditure and income for the Agency. Where estimates of expenditure require to be funded in whole or in part by contributions from Partner States the Council shall determine the

formula for contributions to be made by Partner States to the approved Budget

3. The Agency may with the approval of the Council borrow funds required for meeting its obligations and for carrying out its functions.
4. The Agency shall keep proper books of account of all its income and expenditure and proper records in relation to them.
5. (a) The accounts of the Agency shall in respect of each financial year be audited by the Audit Commission established under Article 134 of the Treaty or an auditor appointed by the Audit Commission.  
(b) The Agency shall within four months after the end of each financial year submit to the Audit Commission the accounts of the Agency for auditing.
6. The budget and accounts of the Agency shall be kept and maintained in United States Dollars.
7. The financial year of the Agency shall run from 1<sup>st</sup> July to 30<sup>th</sup> June each year.

#### **ARTICLE 16**

##### **Headquarters of the agency**

The Headquarters of the Agency shall be located in such Partner State as the Council may determine.

#### **ARTICLE 17**

##### **Privileges and immunities**

The Partner States shall grant the Agency the status, privileges and immunities pertaining to the Community in accordance with Article 138 of the Treaty.

#### **ARTICLE 18**

##### **Dispute Settlement**

1. In the event of a dispute between Partner States, or the Partner States and the Agency, the Partner States concerned or the Agency shall first seek solution by any of the alternative dispute resolution mechanisms which include negotiation, conciliation and arbitration.
2. Where the Partner States or the Agency fails to resolve the dispute by alternative dispute resolution mechanism within a reasonable time, any of the Partner States or the Secretary General may refer the matter to the East

African Court of Justice in accordance with Articles 27, 28 and 29 of the Treaty.

3. The decision of the East African Court of Justice on any dispute referred to it under this Protocol shall be final.

#### **ARTICLE 19**

##### **Entry into Force, duration and withdrawal**

1. This Protocol shall enter into force upon ratification and deposit of instruments of ratification with the Secretary General by all Partner States.
2. Any Party that has withdrawn from the Treaty shall be deemed to have withdrawn from the Protocol. The withdrawal shall take effect one year after the date of the receipt by the Secretary General of the formal notification of intention to withdraw from the Treaty. The withdrawal shall be without prejudice to any obligation incurred by the withdrawing Party under this Protocol prior to such withdrawal. This Protocol shall continue to be in force thereafter with respect to the other Parties.
3. The provisions of the Treaty relating to the rights and obligations of a member who has been suspended or expelled from the Community shall apply to the Protocol.

#### **ARTICLE 20**

##### **Accession**

1. A State, which becomes a party to the Treaty, may become a party to this Protocol by depositing an instrument of accession to the Protocol with the Depositary.
2. In cases of accession, the Protocol shall enter into force for the party acceding, thirty days after the date of the deposit of the instrument of accession.

#### **ARTICLE 21**

##### **Dissolution**

1. Subject to the provisions of the Treaty the Agency may be dissolved by the Summit.
2. On dissolution the rights, assets and liabilities of the Agency shall revert to the Community.

**ARTICLE 22**  
**Amendment of the Protocol**

1. This Protocol may be amended by the agreement of the Partner States.
2. Any Partner State or the Board may submit proposals for the amendment of this Protocol.
3. Any proposals for amendment shall be submitted in writing to the Secretary General who shall, within thirty (30) days of its receipt, communicate the proposed amendment to the Partner States.
4. The Partner States which wish to comment on the proposal shall do so within ninety (90) days from the date of dispatch of the proposal by the Secretary General.
5. After expiration of the period prescribed under paragraph 4 of this Article the Secretary General shall convene the Council to consider the proposals and the comments thereon received from the Partner States. The recommendations of the Council shall be submitted to the Summit.
6. Any amendment to this Protocol shall be valid only when adopted by the Summit and shall enter into force when ratified by all the Partner States.

IN FAITH WHEREOF the undersigned have appended their signatures hereto  
..... day of ..... in the year Two Thousand and Seven.

**FOR THE REPUBLIC OF  
UGANDA**

**FOR THE UNITED REPUBLIC  
OF TANZANIA**

**FOR THE REPUBLIC  
OF KENYA**

**Hon John M Nasasira, MP  
Minister of Works and  
Transport**

**Hon Andrew J Chenge  
MP,  
Minister for Infrastructure  
Development**

**Hon John Arap Koech,  
MP  
Minister of East  
African Community**