



Council of the  
European Union

Brussels, 8 December 2023  
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2023/0338 (NLE)

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## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: COUNCIL DECISION on the conclusion, on behalf of the Union, of the Economic Partnership Agreement between the European Union, of the one part, and the Republic of Kenya, Member of the East African Community, of the other part

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**COUNCIL DECISION (EU) 2023/...**

**of ...**

**on the conclusion, on behalf of the Union,  
of the Economic Partnership Agreement between  
the European Union, of the one part,  
and the Republic of Kenya, Member of the East African Community, of the other part**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(6), point (a)(v) thereof,

Having regard to the proposal from the European Commission<sup>1</sup>,

Having regard to the consent of the European Parliament<sup>2</sup>,

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

Whereas:

- (1) On 12 June 2002, the Council authorised the Commission to open negotiations on behalf of the Union for Economic Partnership Agreements (EPA) with the African, Caribbean and Pacific Group of States.
- (2) The negotiations between the Union and the East African Community (EAC) Partner States (the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the United Republic of Tanzania and the Republic of Uganda) for an EU-EAC EPA were concluded 14 October 2014 and the EU-EAC EPA was initialled on 16 October 2014.
- (3) The Republic of Kenya ('Kenya') signed and ratified the EU-EAC EPA on 1 and 28 September 2016, respectively. For the EU-EAC EPA to enter into force, all EAC members need to sign and ratify it. To this date, the signature and ratification of the other EAC members are still pending, thus preventing the EU-EAC EPA from entering into force.
- (4) On 19 December 2019, the Council updated the Commission's negotiating directives of 2002 by including the conclusion of a chapter on trade and sustainable development in EPAs.
- (5) On 27 February 2021, the EAC Summit authorised individual EAC members to proceed with the bilateral implementation of the EU-EAC EPA under the principle of 'variable geometry'. On 4 May 2021, Kenya notified the Commission of its request to move forward in that sense.

- (6) On 17 February 2022, the Union and Kenya signed a Joint Statement on the margins of the EU-African Union Summit agreeing to advance the negotiations on an EPA between the Union and Kenya ('the Agreement'), which is to remain open for accession by other EAC Partner States.
- (7) On 24 May 2023, the negotiations for the Agreement were successfully concluded.
- (8) In accordance with Council Decision (EU) 2023/...<sup>3+</sup>, the Agreement was signed on ...<sup>++</sup>, subject to its conclusion at a later date.
- (9) The Agreement should be approved on behalf of the European Union,

HAS ADOPTED THIS DECISION:

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<sup>3</sup> Council Decision (EU) 2023/... of ... on the signing, on behalf of the Union, of the Economic Partnership Agreement between the European Union, of the one part, and the Republic of Kenya, Member of the East African Community, of the other part (OJ L, 2023/..., ..., ELI: ...).

<sup>+</sup> OJ: please insert the reference for the Decision contained in ST 15954/23 and complete the corresponding footnote.

<sup>++</sup> OJ: please insert the date of signing of the Agreement contained in document ST 13573/23.

*Article 1*

The Economic Partnership Agreement between the European Union, of the one part, and the Republic of Kenya, Member of the East African Community, of the other part<sup>4</sup> ('the Agreement'), is hereby approved on behalf of the Union.

*Article 2*

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 139(3) of the Agreement<sup>5</sup>.

*Article 3*

The Agreement shall not be construed as conferring rights or imposing obligations which can be directly invoked before Union or Member State courts or tribunals.

*Article 4*

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

*For the Council*

*The President*

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<sup>4</sup> The text of the Agreement is published in OJ L, 2023/..., ..., ELI: ... [OJ: please insert the OJ reference for ST 13573/23].

<sup>5</sup> The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.