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MINISTRY OF FOREIGN AFFAIRS

Ref. No. MFA.REL/78.....

The Ministry of Foreign Affairs of the Republic of Kenya presents its compliments to the Embassy of the Argentine Republic in Nairobi and has the honour to refer to the latter's *Note* Ref. No. MREK/82/2021 dated 27th October, 2021 informing of the decision of the Government of the Argentine Republic to offer to the Republic of Kenya the donation of 400,000 doses of AstraZeneca vaccines against Covid-19.

The Ministry wishes to further refer to the proposal by the Argentine Republic on the exchange of notes between the respective Ministries of Foreign Affairs on the donation of the vaccines. The Ministry notes that on 29th November, 2021 the "Donation Agreement between the Argentine Republic and the Republic of Kenya" was signed to give effect and modalities for the donation of the vaccines.

The Ministry notes from the draft Agreement provided by the Argentine Republic "*In relation to articles five and eleven of the aforementioned agreement, the Republic of Kenya undertakes to comply with the provisions contained therein.*" By the interpretation of the aforementioned article therefore, the Republic of Kenya by signing the Donation Agreement, has already agreed to be bound by Articles 5 and 11 of the Agreement and is of the opinion that the exchange of notes is unnecessary.

The Agreement further provides that "*Should the above be acceptable to the Republic of Kenya, this Note and your Excellency's reply expressing acceptance shall constitute an agreement between our respective Governments, which shall become effective on the date of your reply Note.*" With regard to this statement, the Republic of Kenya notes that the Donation Agreement does not provide for any addendums to it, nor does it provide for any supplementary agreement as forming part of the Donation Agreement, raising doubts on the legal standing of the proposed notes to be exchanged. The Donation Agreement, as signed, is self-executing.

Under Article 8 of the Donation Agreement, the Parties appointed their respective operation liaisons who would take the necessary steps to achieve the intended purpose of the Agreement. It would therefore, be prudent for the focal points to agree on the practical

modalities of the donation owing to the fact that time is of essence as the doses of vaccines available for donation expire on 31st December, 2021 and on 31st January, 2022.

The Ministry of Foreign Affairs of the Republic of Kenya avails itself of this opportunity to renew to the Embassy of the Argentine Republic, the assurances of its highest consideration.

Nairobi, 6th December, 2021.



Embassy of the Argentine Republic
NAIROBI



Embassy of the Argentine Republic

MREK /103/2021

The EMBASSY OF THE ARGENTINE REPUBLIC presents its compliments to the MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF KENYA and has the honour to refer to its Note Ref. No. MFA.REL/78 dated 6th December, 2021.

In that regard, the Argentine Republic takes note of the Ministry of Foreign Affairs of the Republic of Kenya's agreement that the Republic of Kenya by signing the Donation Agreement dated November 29th, 2021, has already agreed to be bound by Articles 5 and 11 of the above mentioned Agreement.

The EMBASSY OF THE ARGENTINE REPUBLIC avails itself of this opportunity to renew to the MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF KENYA, the assurances of its highest consideration.

Nairobi, 8th December 2021



MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF KENYA
NAIROBI