

**UNIVERSITY OF NAIROBI**



**INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES (IDIS)**

**MA IN DIPLOMACY**

**RESEARCH PROJECT**

**TITLE: THE CHALLENGES OF REGIONAL INTEGRATION:**

**CASE STUDY OF EAC (2000-2019)**

**BY**

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**R51/8128/2017**

**RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENTS FOR THE AWARD OF DEGREE OF MASTER OF ARTS IN  
DIPLOMACY.**

**2020**

## **DECLARATION**

I declare that this research project is my original work and has not been presented for another academic award or qualification in any other institution.

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## **SUPERVISOR**

This research project has been submitted for examination with my approval as the assigned university supervisor.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Mr. Martin Nguru

## **DEDICATION**

This work is dedicated to my beloved wife Florence Kimeu and my beloved daughter Mary Mumbua who have been a source of hope and motivation to me throughout my life. Through this work I hope they will be more inspired and work hard to make a change in our life as a family and across the whole world.

## **ACKNOWLEDGEMENT**

I would first of all like to thank the almighty God for giving me the strength and the zeal which enabled me to complete this study. To accomplish this study there were many people who were involved. First, my supervisor Mr. Martin Nguru who I am very much grateful for his consistent guidance and support. He has always been there to offer any kind of guidance and encouragement without tiring up. He always read my work keenly and corrected me where necessary. My appreciation also goes to Winnie Mwangangi working in the ministry of Foreign Affairs. You were of great support for you offered technical and ideological support and without you I couldn't have made it. I applaud and thank you also.

Finally, my appreciation also goes to my wife Florence Kimeu who has been of great support to me throughout this work. She has been of great help financially and emotionally. She has been a source of support to me always inspiring me to work hard. I treasure you.

## **ABSTRACT**

This study focuses on the challenges of regional integration by looking at EAC. The new East African Community was initiated by its three founder member states i.e Tanzania, Uganda, and Kenya in 1999 and came into force the following year. Burundi and Rwanda became members of the community after signing the treaty ascension in 2007. South Sudan managed to join the EAC in 2016. Regional integration has been regarded as a prerequisite of accelerating economic growth and development in the continent. Over-the years, the East Africa Community has been regarded as a driver of Africa's regional integration process. The EAC collapsed in 1977 and was revived two decades later. The study tries to highlight the challenges faced by the community. The main challenge is that the members of the EAC are involved in other regional organizations such as the Common Market for Eastern and Southern Africa (COMESA), Intergovernmental Authority on Drought and Development (IGAD), and even the Southern Africa Development Cooperation (SADC). This question the importance of the EAC as a cornerstone of development in these countries, or just as an addition to other regional initiatives. The proponents of multiple memberships as a building block to regional integration have seen it as a mechanism that provides the state multiple fronts for it to achieve its interests in the global stage. However, multiple memberships have been described as a spaghetti bowl conundrum in the continent. These overlaying memberships have created situations of shallow memberships in the continent. As most countries have small and isolated economies, their commitment to pay their annual fees in these REC-s have not been honored. The multiple memberships have also resulted in competition and the lack of establishment of rule-based regimes due to the fragmentation of international law. However, the question remains, how has the issue of multiple memberships in the EAC been addressed.

Analysis of management of multiple memberships through the lens of the TFTA has provided various results. On one side, it is seen as a mechanism in which the EAC will solve its partner states memberships in the COMESA and SADC and provide a better environment for them to conduct business. However, the multiple memberships of the EAC partner countries and the other general TFTA member states bring concerns. The EAC, COMESA, and SADC are at varying levels of regional integration. Regional integration has been adopted in a superficial manner whereby the policies look good in paper but are hardly put in practice. Other problems such as competition among member states have had an adverse effect on the TFTA.

Another fundamental factor affecting regional integration is poor infrastructure. This has also been highlighted as an impediment in doing trade. Shared economic interests are seen as a driver of regional integration; however, this has not achieved its maximum benefits as there have been limited interests by member states. These factors include lack of enough capital to do trade, divisions among the states, lack of common market, poor road networks etc. This can be re-aligned by expanding the existing initiatives such as the adoption of a single visa to ensure benefits for all member states. Institutions such as the EALA, the EAC secretariat, and the Summit are analyzed. The weighing of more power on the summit has caused difficulties in the implementation of the EAC's agenda. There is also limitation of the role played by the civil society and the private sector in the EAC decision-making process. The involvement of these actors can lead to the sustainability of the EAC process. Actors such as nation-states involvement in the EAC have been hindered by the multiple memberships in the other REC-s. These can be remedied by actions such as the SADC EAC COMESA tripartite which seeks to harmonize different trade regimes within the EAC.

The paper suggests that there is a need for adopting more mechanisms that prompt the member states to honor their commitments in regional integration. External factors such as relations with donors, external debt, and the emergence of MNCs in the region have presented challenges to the EAC and therefore the need for a policy guideline on how to relate with other actors so as to ensure that they don't destabilize or interfere with the EAC affairs.

## **LIST OF ABBREVIATIONS**

<b>AU -</b>	African Union
<b>ASEAN -</b>	Association of South East Asian Nations
<b>COMESA-</b>	Common Market for Eastern and Southern Africa
<b>CET-</b>	Common External Tariffs
<b>DBFO-</b>	Design -Building-Finance-Operate
<b>EAC-</b>	East African Community
<b>EU-</b>	European Union
<b>FDI-</b>	Foreign Direct Investment
<b>IGAD-</b>	Intergovernmental Authority on Drought and Development
<b>KTA-</b>	Kenya Transport Association
<b>NRA-</b>	New Regionalism Approach
<b>OSBP-</b>	One-Stop Border Post
<b>RO-</b>	Regional Organization
<b>SADC-</b>	Southern Africa Development Cooperation
<b>SITPRB-</b>	Simple Trade Procedure Board
<b>REC-s-</b>	Regional Economic Groups
<b>RoO-</b>	Rules of Origin
<b>TFTA-</b>	Tripartite Free Trade Area
<b>TATOA-</b>	Tanzania Transport Association
<b>UNCA-</b>	United Nation commition for Africa.



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## CHAPTER ONE

### 1. Introduction

The connotation of the term 'regional integration' can be traced from the 1950s during the creation of the European Economic Communities.<sup>1</sup> Regional Integration can be defined as a summation of the political and economic harmonization of issues such as policies, production, and trade voluntarily among territorially adjacent states. Ernst Haas (1970) defined the integration process as "the attainment within an area of the bonds of a political community, of central institutions with binding decision-making powers and methods of control determining the allocation of values at the regional level and also of adequate consensus-formation mechanisms".<sup>2</sup> The existence of peaceful relations among states creates a base whereby the regional integration process can be initiated. This interstate integration requires supranational decision making and institutionalization. Political economy can be defined as interplay of politics and economics at the global stage. With its focus on economics and politics at the regional level, regional integration is considered a subfield of political economy.

In the years 1950s and 1960s, regional integration was mainly built around technical and economic factors. This was founded on the view that economic growth would spur peaceful coexistence among countries. This notion was challenged in the 1970s when empirical evidence indicated that economic factors could not spur growth independently. This saw the emergence of regionalism which had facets of multidimensionality and comprehensiveness combining both political and economic factors. Some examples of regional blocs include the following; The European Union (EU), North American Free Trade Area (NAFTA), the Association of South

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<sup>1</sup>Mattli, Walter. "Ernst Haas's Evolving Thinking on Comparative Regional Integration: of Virtues and Infelicities." *Journal of European Public Policy* 12, no. 2 (2005): 327-348

<sup>2</sup>Haas, Ernst B. "The Study of Regional Integration: Reflections on the Joy and Anguish of Theorizing." *International Organization* 24, no. 4 (1970): 606-646.

East Asian Nations (ASEAN) etc. Inasmuch as the concept and practice of regional integration has continued to evolve over the years, the general objectives of regional integration are ensuring peace and security of the societies has continued to prevail.

In the African context, regional integration has been more vibrant in the post-colonial era. This can be attributed to the coming into existence of the Organization of African Unity (OAU) in 1964.<sup>3</sup> The creation of the United Nations Commission for Africa also advanced regional collaboration among states on the continent. One of the most significant efforts was the formation of Regional Economic Communities (REC-s) through the Abuja Treaty under the auspices of the OAU. Despite efforts such as structural adjustments and donor-funded reform projects, most Sub Saharan countries have remained poor. This can be attributed to issues as globalization negative impacts of African economies, in appropriate policies and changes to capture unique African characteristics, corruption and even ethnic fragmentation. As most of these countries have struggled in advancing socio-economic and political development, the regional organizations offer a plausible way around those problems. Therefore, REC-s for example the East African community is deemed important. Notably, East African is considered as one of the most promising regional Integration initiatives in Africa.

However, it is important to highlight that African Integration has not yielded the much change required in the region. Drawing examples from the European Union and the ASEAN community, other regions have achieved benefits through regional integration. The continent contributes insignificantly to the total world trade. Most African population continues to live in abject poverty. This happens despite the existence of many national and regional policy plans

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<sup>3</sup>Herbst, Jeffrey. "Developing nations, regional integration, and globalism." *Handley/Mills (1998)* (1998): 29-39.

and visions.<sup>4</sup> The availability of capital flows, technologies, and expanding capital markets which contributes to economic growth is achieved in economic reform with policies favoring integration into the global economy. Notably, the continent requires acceleration to development than any other part of the world. The EAC as a regional bloc offers a good example to this.

### **1.1 Background to the Study**

The process of the East African regional integration efforts can be traced from the 1890s. By 1922 Kenya, Tanganyika and Uganda were British protectorates. The conceiving and implementing their colonial interests in East Africa as a region achieved administration efficiency. A customs union was established in Uganda and Kenya in 1917 where's Tanganyika joined in 1927. Later in 1948, the East African High Commission (EAHC) was founded with the aim of providing common services in the East African region. The commission was later replaced by the East African Common Services Organization (EASCO), (1961-1967). The promulgation of the East African Cooperation treaty in 1967 reinforced the unity needed in the region during the post-colonial era. On the peak of its operations, the organization operated an airline, postal services, power, railways, harbors, and several research organizations.<sup>5</sup> However, this union collapsed in 1977 citing political differences.

The revival of the EAC can be attributed to negotiations conducted as early as 1984, which provided for the Mediation Agreement on the Division of Assets and Liabilities which were managed by the union which collapsed in 1977. Additionally, article 14 of the agreement provided for provision for future cooperation. Other activities such as Memorandum of

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<sup>4</sup> Qobo Mzukisi, *The challenges of regional integration in Africa*. ISS Paper, 2007. Retrieved from: <https://www.files.ethz.ch/isn/98933/PAPER145H.pdf>

<sup>5</sup> Omoro, Mariam Fatuma Akoth. "Organizational effectiveness of regional integration institutions: A case study of the East African community." Unpublished Ph.D. dissertation, 2008.

Understanding on Foreign Policy Coordination and the establishment of counter-terrorism mechanisms further fast-tracked this process.

The new East African Community was signed by its three founder member states i.e. Uganda, Tanzania and Kenya in 1999 and came into force the following year. Burundi and Rwanda became full members of the community after signing the treaty ascension in 2007. South Sudan managed to join the EAC in 2016.<sup>6</sup> The EAC is built on the need to achieve the common aspirations of the East African people. The community is guided by the principles of sovereign equity, political goodwill, good neighborliness, and responsibility for all. Article 6 of the Establishing Treaty of the EAC advocates for cooperation to achieve a common advantage and distribution of all benefits. To stiffen the achievement of these aspirations of its people, the integration process of the EAC has conceptualized four stages: a common market, a Custom Union, monetary union, and ultimately achieve a political federation.<sup>7</sup>

The member countries have faced complex internal problems from 2001 to 2019. South Sudan, its newest member has been struggling with ending civil strife with its territory. Kenya has struggled to grow its stagnating economy due to factors such as corruption. Uganda has struggled with internal political tensions. Generally, problems such as poverty, low productivity, and unemployment have reduced the member states' competitiveness in the international system. Joining existing regional organizations such as COMESA has been seen as a plausible way for the member states to grow their economies.

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<sup>6</sup> Karuri Ken-(April 15, 2016) South Sudan officially joins East African Community, Africa News <https://www.africanews.com/2016/04/15/south-sudan-officially-joins-east-african-community//> retrieved on May 17, 2020.

<sup>7</sup>Kiraso, Beatrice B. "EAC integration process and enabling peace and security architecture." (2009).

## 1.2 Statement of the Research Problem

Regional integration has been regarded as a prerequisite of accelerating economic growth and development in the continent. This has gained scholarly attention and been highlighted in regionalization studies in statements such as:

“If Africa is not regionalized, it will be further marginalized: African states will not survive on their own in a highly competitive global economy”.<sup>8</sup>

This process of regionalization has been initiated and achieved success by varying degrees across the continent. The close analysis of various regional organizations in the continent has indicated a level of success when compared to its set objectives. However, the shortcomings of these organizations also stand out. The East African Community is a rather interesting organization to explore in this regard.

Over-the years, the community has been regarded as a driver of Africa’s regional integration process. The EAC collapsed in 1977 and was revived two decades later. Do these problems which led to its demise persist in the current relations among its member states? There are also concerns if issues that led to its collapse have been addressed in the revived bloc. Over the years, the community has admitted new members such as Rwanda, Burundi, and South Sudan. How have these changed power dynamics and the implementation of economic policies within the country? South Sudan has struggled with civil strife since its formation. Other countries such as Burundi have relatively small and underdeveloped economies. What policies exist with the EAC to manage their member states with weaker economies to manage their market weakness and develop the production of the infant industries?

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<sup>8</sup> Boås, Morten, “Regions and Regionalization: A Heretic’s view” in *Regionalism and Regional Integration in Africa: A Debate of Current Aspects and Issues*. Discussion Paper 11, Nordic Africa Institute (2001), Uppsala: Sweden, p.29.



The EAC member states are also involved in other regional organizations such as the), Intergovernmental Authority on Drought and Development (IGAD), Common Market for Eastern and Southern Africa (COMESA), and even the Southern Africa Development Cooperation-(SADC). This question the importance of the EAC as an integral part of the development of these countries, or just as an addition to other regional initiatives. Additionally, the EAC is one of the six regional economic blocs which were set out by the Abuja treaty. However, the community does not involve other countries in the greater East African region such as Ethiopia. This cites the concerns whether the EAC might be forced to collapse and lead to the development of a larger East African Cooperation Framework.

RECs within the continent including the EAC have encountered challenges especially in the uniformity of policies. The EAC had a grand plan of developing a customs union, followed by a common market, then an establishment of a monetary union which in the long run will lead to the creation of a political federation. This process has stalled. In the period between 2001 and 2019, what levels of economic regional integration have been achieved? What are the challenges?

### **1.3 Research Questions**

Through theoretical and empirical analysis of the interactions of various actors within the East African Community, policy implementations, and economic development within the region, the study shall focus on the following research questions.

1. What levels of economic regional integration have been achieved within the East African Community Regional Integration Process?
2. How has the EAC managed multiple memberships in other Regional Economic blocs?

3. What are the plausible strategies which can reduce the challenges of economic regional integration in the EAC?

#### 1.4 Research objectives

The broad objective of this study will be to analyze the challenges of regional integration through the analysis of the experience within the East African Community between the year 2001 and 2019.

The specific objectives of the study will be:

1. To analyze levels of economic regional integration that has been achieved in the East African Community.
2. To explore how the EAC has managed multiple memberships in other Regional Economic blocs
3. To determine the plausible strategies that can reduce the challenges of economic regional integration in the EAC.

#### 1.5 Literature Review

This literature review analyses the challenges of regional integration focusing on the analysis of various concepts such as regional integration, economic regional integration, EAC, and challenges experienced in regional integration.

##### 1.5.1 Regional Integration

Since the Westphalia Treaty, the international system has been dominated by states.<sup>9</sup> These actors have formed groups that are sometimes geographically proximate or share the same problems. In an attempt to define regional integration, the concept region and integration should be well defined. In the simplest terms, regions can be defined as interstate frameworks. Lausen F

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<sup>9</sup>Hassan, Daud. "Rise of Territorial State and the treaty of Westphalia." *Yearbook of New Zealand Juri* 1.6 *sprudence* (2006).

(2018) explains that the frameworks are larger territorial units between the 'state' and the global system.<sup>10</sup> Regions exist within various geographical levels. Macro-regional entities denote organizations such as the African Union. This research positions the state as the central actor of regionalism. As the regions are established by state and non-state actors, the identification of such has remained rather fluid.<sup>11</sup>

The concept of regional integration has evolved over the last century.<sup>12</sup> Regional integration can be seen as a process or an outcome.<sup>13</sup> From the perspective of a process, regional integration is viewed as the 'willingness of a country to share or unify'. This perspective can describe the occurrence of agreements within the international system such as the preferential trade, customs union, common market and political federation and free trade areas. As an outcome, regional integration implies the occurrence of regional integration when a preset criterion occurs. This can be owed to the development of treaties or institutions before the formation of the organization. This is achieved by revisiting the goals of previous engagements and evaluating the progress.

Regional integration is governed by regional integration institutions. These institutions can be referred to as 'Intergovernmental organizations' which (Vabulas et al, 2008) argues that it is an association of states, with a defined structure whose main purpose is to advance their common interest by way of cooperation.<sup>14</sup> These agencies are funded from the levies charged on the participating governments. According to Pevehouse et al 2005:2, these institutions have

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<sup>10</sup>Laursen, Finn. *Comparative regional integration: theoretical perspectives*. Routledge, 2018.

<sup>11</sup> Ibid.

<sup>12</sup>Van Langenhove, Luk, and Daniele Marchesi. "The Lisbon Treaty and the Emergence of Third Generation and Regional Integration." *Eur. JL Reform* 10 (2008): 477.

<sup>13</sup>

<sup>14</sup>Vabulas, F., & Snidal, D. (2013). Organization without delegation: Informal intergovernmental organizations (IIGOs) and the spectrum of intergovernmental arrangements. *The Review of International Organizations*, 8(2), 193-220.

specific characteristics such as (i) formal entity of three or more sovereign states (ii) permanent secretariat or indication of institutionalization with permanent staff.<sup>15</sup> Examples of these organizations include the Africa Union, the East African Community, and the Common Market for Eastern and Southern Africa (COMESA).

There are idiosyncrasies leading to the development of regional integration in Africa.<sup>16</sup> There have been concerns that the economies of countries in the continent are small. Their infrastructure is not well developed, limited primary commodities, and are generally vulnerable to external economic shocks. Regional integration is seen as a driver of structural transformation for the continent. The post-cold war era has also seen the adoption of neo-liberal policies which have resulted in the globalization of production and distribution of products, further creating a need for regional integration. Sometimes, regional integration is seen as a means to reduce the marginalization of the African continent. Drawing examples from the EAC, cultural interconnectedness, and colonial history has also shaped the emergence of cooperation.

### **1.5.2 Regional Economic Integration**

According to Salvatore 2006, this type of integration is achieved when there is the occurrence of reducing trade barriers between states.<sup>17</sup> Regional economic integration is driven by benefits such as (i) economies of scale, (ii) trade creation, (iii) product differentiation, (iv) efficiency gains through policy coordination which are outlined in regional integration agreements. Regional integration ideally can reduce a state's vulnerability to external shocks as a result of fluctuations and instability. According to UNCA (2006), Economic integration in

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<sup>15</sup>Pevehouse, Jon, and Bruce Russett. "Democratic international governmental organizations promote peace." *International organization* 60, no. 4 (2006): 969-1000.

<sup>16</sup>McMillan, Margaret, and Derek Headey. "Introduction—understanding structural transformation in Africa." (2014): 1-10.

<sup>17</sup> Salvatore, Dominic. *International Economics*, 8Ed, Willey International Edition, USA, 92 • Korea Review of International Studies 2006.

Africa has widened because of factors such as changes in international trade, whereby free trade is deemed important for growth and development. The transformation of the WTO has seen the reduction of tariff barriers encouraging bilateral trade relations between developed and non-developed ones. <sup>18</sup>Since 1995, global trade has increased by 25% due to developments in information technology and increased movements across borders. However, the share of Africa in the world trade remains less than 1%.<sup>19</sup> The development of a larger market provides an incentive for firms and other actors to compete effectively in the global system. The nature of negotiations in WTO and other forums has further necessitated the need for the establishment of economic integration.

### **1.5.3 Multiple Membership**

The issue of multiple memberships has been viewed as a challenge and at the same time a positive move toward achieving regional integration.<sup>20</sup> Arvind Panagariya (1999) and Gathii (2011) outlines that multiple memberships occur when the states use the market created by these international spaces to advance the domestic market.<sup>21</sup>In the EAC, most of its members in COMESA and Tanzania in SADC. The community has been in the process of creating its Customs Union and free trade area. Sometimes, the membership of states to multiple regional organizations can divert their willingness to act. Most of the countries on the continent have small economies. Therefore, the extra money being spent on ROs can be used to channel development within its territories. Overlapping memberships sometimes can lead to conflicts in the jurisdiction. Similarly, a country can be forced to implement conflicting obligations. The

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<sup>18</sup>Asante, Samuel KB. "The Political Economy of Africa's Region-Building and Regional Integration." In Daniel H, *Region-Building in Africa*, pp. 127-140. Palgrave Macmillan, New York, 2016.

<sup>19</sup>Verter, Nahanga. "International trade: the position of Africa in global merchandise trade." *Emerging Issues in Economics and Development* (2017): 64-89.

<sup>20</sup> Nzewi, "The Challenges of post-1990 Regional Integration, 2009, by O. NZEWI p. 7.

<sup>21</sup> Gathii, "Neo-Liberal Turn in Regional Trade Agreements", 2010-2011, by J. Thuo, pp. 647-648. See also, Arvind Panagariya, "The Regionalism Debate: An Overview", *World Economy* 22, no. 4 (1999), pp. 1-60.

conflicting membership has further complicated the RO's entrance into the international system such as making partnerships with larger organizations such as the EU.<sup>22</sup>

#### **1.5.4 East African Community**

The members of the community include Kenya, Uganda, the United Republic of Tanzania, Rwanda, Burundi, and South Sudan. As outlined in Article 5 of the treaty of the Establishment of the EAC, the main aim of the community is the creation of policies to deepen and strengthen cooperation between and among member states.<sup>23</sup> Cooperation in economic, political, social, cultural, research, defense, and judicial affairs, just to mention a few, are outlined as areas of cooperation within the community. This is a gradual process that is driven by the establishment of a customs union, a common market, followed by an establishment of a monetary union which in the long run will lead to the creation of a political federation.

According to the treaty for the establishment of the EAC the seven main organs of EAC are as follows;(i) Heads of state or government of the EAC member states, (ii) ministers responsible for the EAC affairs of each member state (iii) coordination committee consisting of the ministers of EAC affairs of each member state (iv) sectorial committee comprising of senior officials from each partner states (v) and the secretariat headed by a secretary-general<sup>24</sup>(vi) East African Court of Justice (vii) East African Legislative Assembly.

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<sup>22</sup>Amuhaya, Claire. "Kenya's overlapping membership in regional organisations." *Asia and Africa today* 9 (2018): 56-61.

<sup>24</sup>Katambo, Baruti. "Pan Africanism and Development: The East African Community Model." *Journal of Pan African Studies* 2, no. 4 (2008).

## **1.6 Hypothesis**

1. Regional economic integration in the EAC has had a positive effect on the growth and development in the economies of its member states.
2. Regional economic integration has helped in solving problems in the EAC.
3. Regional trade blocks have helped in solving regional problems in EAC.

## **1.7 Justification of the Study**

### **1.7.1 Policy Justifications**

Regional integration has been seen as a prerequisite for development, especially for the developing world. However, there exist questions regarding specific aspects of regional integration to validate if these regional organizations such as the EAC have led to economic development.

The findings of this study will benefit the EAC members, countries, and institutions to rethink their approaches towards aspects such as political structures, security arrangements, economic dynamics, and regional governance in terms of how they have influenced the benefits of the membership to the organization.

### **1.7.2 Academic Justification**

The study will also be beneficial to policymakers in terms of assessing gaps and plausible strategies for regional integration in the region to promote sustainable economic growth.

This study will advance the scholarly findings of the unique features of regional integration in the African continent. It will also serve as a basis for newer research on the achievement of regional integration in the continent.

## 1.8 Theoretical Framework

There is significant research indicating that most theories focusing on regionalism do not address the idiosyncrasies in the African continent.<sup>25</sup> Regional integration in the continent has been marked with various overlapping processes in Africa which have continued to evolve over the years. This paper will draw its theoretical framework from the New Regionalism Approach. (T. Shaw), this is a theory that focuses on a specific region and the problems in that region and how to address them in a holistic manner. This fits in the analysis of the EAC as most mainstream approaches focus on normative assumptions on the state and as a result facilitate normative assumptions about regionalism.

This theory came up after the end of the Cold war, whereby the international system was no longer dominated by competition between two superpowers. The new regionalism approach (NRA) concentrates on the dynamics and processes of regionalism during various activities and levels. An attempt to understand the motivating factors of regionalism not a set of pre-given activities can be complex.<sup>26</sup> This is owed to arguments that there is no agreed method in which a region should be formed. One of the major proponents of the NRA explains it as “a multidimensional form of integration which includes economic, political, social and cultural aspects and thus goes far beyond the goal of creating region-based free trade regimes. Instead, the political ambition of establishing regional coherence and identity seems to be of primary importance”.<sup>27</sup> The membership of the member countries in regional organizations such as the AU and COMESA provides a commitment towards the regionalist project.

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<sup>25</sup>Börzel, Tanja A. "Theorizing regionalism." *The Oxford handbook of comparative regionalism* (2016): 41-63.

<sup>26</sup>Hettne, Björn, and Fredrik Söderbaum. "The new regionalism approaches." *Politeia* 17, no. 3 (1998): 6-21.

<sup>27</sup> Hettne, B. et al (2001), *Comparing Regionalisms - Implications for Global Development*. Houndmills: Palgrave, p. xiii.



The EAC community was created to strengthen and deepen regional development and cooperation through the integration of economic, political and cultural integration of its member states. The multidimensionality of the EAC makes it apposite to be explained using the NRA Theory. However, Harrison, 2006<sup>28</sup> criticized the theory as “being too chaotic by bundling together too many diverse theories for it to be a coherent intellectual project”.

## **1.9 Methodology of the Research**

The study shall be conducted through an exploratory research design. This will be applicable to the subject matter as this research design is conducted in a new area of inquiry, in which the main outcomes of the study are to establish the extent of a particular problem, behavior or a phenomenon. This research is mainly conducted through interviews with government officials and experts. It has also been conducted through studying historical examples dealing with similar research problems providing definitive answers for the overall population as it involves only a relatively small group of people.

### **1.9.1 Data Collection**

The study will employ both secondary and primary sources for analysis of its data. Secondary data will be obtained from materials such as regional organizations, and private sources such as official and annual reports, press releases, mission statements, protocols, newsletters, official documents from states, research papers and other relevant publications concerning the issues dealt with. Most of this documentation will be accessed from the internet; their reliability will be attained via a proper indication of the sources while its validity would depend on the credibility of the original documents. The use of empirical evidence published by others will also minimize the subjectivity of the author. The study is concerned with the

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<sup>28</sup>Harrison, John. "Re-reading the new regionalism: a sympathetic critique." *Space & Polity* 10, no. 1 (2006): 21-46.

challenges of regional integration for two decades. It is understood that some changes might occur. Documents published earlier than 2001 will be reviewed in case of the absence of more current documents. Primary data will be obtained through questionnaires which shall contain both open-ended and close-ended questions administered to the target respondents. The target respondents include staff officials at the Ministry of Foreign Affairs, Kenya Ministry of East Africa Affairs, embassies of Uganda, Tanzania, Burundi and Rwanda in Kenya.

### **1.9.2 Data Analysis**

The study shall use qualitative data analysis methods to analyze the responses of the respondents guided by the New Regionalism approach. The content analysis shall be conducted since the study shall involve generating the respondent's views on the problem. The method does not limit the respondents from divulging information hence it is suitable for the study. Frameworks such as Institutional Development Analysis may be adopted to further expound on the data available.

### **1.9.3 Population and Sample Design**

The population for the study comprises of staff officials at the Ministry of Foreign Affairs, Kenya Ministry of East Africa Affairs, embassies of Tanzania, Uganda, Burundi, Rwanda and Sudan in Kenya. The research shall administer questionnaires to two respondents from each of the six-member states to allow for balance in the responses gathered.

### **1.9.4 Scope and Limitations of the Research**

The East African Region is unique, with its historical characteristics that have influenced aspects such as economic, political, and social motivations for integration. The New Regionalism Approach has shaped the study to focus on political stability and economic development as structural elements within the study. The challenges regarding political

structures, security arrangements, economic dynamics, and regional governance shall be addressed in the study. It is assumed that the four parameters shall provide reliable information to assess the challenges of regional integration within the EAC.

The study is limited in terms of geographical location, whereby it will only focus on the East African Community. This owed to the scope and time allocated for the study. The depth of analysis shall be limited to the parameters identified above: Political structures, security arrangements, economic dynamics, and regional governance.

### **Chapter Outline**

The study is presented in the following chapters:

Chapter 1: Introduction to the Study- The chapter introduces the topic of study, the Background of the study, statement of the problem, Objective of the Study and Research Questions, Literature review, justification, hypotheses, theoretical review, and methodology of the study.

Chapter 2: The levels of economic regional integration that have been achieved in the East African Community.

Chapter 3: An analysis of how the EAC managed multiple memberships in other Regional Economic blocs.

Chapter 4: Determining the plausible strategies which can reduce the challenges of economic regional integration in the EAC.

Chapter 5: Summary, Recommendations and conclusion.

## CHAPTER TWO

### ECONOMIC REGIONAL INTEGRATION LEVELS ACHIEVED IN THE EAST AFRICAN COMMUNITY

#### 2 Introductions

Regional Economic Integration has been termed as the adoption of commercial policies that reduces or does away with trade barriers between adjacent states but maintains barriers or tariffs to non-member states. <sup>29</sup>Trade is regarded as a primary level of integration. In contemporary interstate relations, trade negotiations have been conducted in the lens of regional arrangements. This has prompted many states to strengthen regional integration to harness the maximum benefits. Regional economic integration has been regarded as a key driver in the EAC.<sup>30</sup> It brings benefits to partner states for example increasing trade, attracting FDI, increasing bargaining power and strengthening conflict resolution mechanism in those states. However, the benefits above are not pre-determined. They are influenced by factors such as the internal design of the integration and actual political commitment of partner states. Factors such as historical and cultural similarities, complementary linkages, geographical proximity, and a common language are considered as prerequisites for regional integration.

Africa is considered to be the most fragmented region in the world. Regional economic integration is seen as a means to create linkages for these countries to achieve mutual economic, political, and social benefits. There have been various instances of regional integration in Africa. However, most of these efforts have been ineffective. This has been caused by various factors such as overlapping memberships due to the presence of multiple economic communities. Most of the African countries trade primary products in the international market. The similarities of

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<sup>29</sup> SMwasha, Ombeni N. "The benefits of regional economic integration for developing countries in Africa: A case of East African Community (EAC)." *Korea Review of International Studies* 1 (2011): 69-92.

<sup>30</sup>Madyo, Manone Regina. "The importance of regional economic integration in Africa." PhD diss., 2008.

these countries and competition in the international market for these products have impeded success in the continent.

The East African community is uniquely positioned to create a better understanding of regional integration in the continent. The EAC is endowed with benefits such as a common history, language, and infrastructure among member states creating a compatible framework for economic regional integration.<sup>31</sup>The EAC establishment treaty envisions regional economic integration covering wide areas such as money and fiscal affairs, human resources, science and technology, infrastructural services, and many other activities.<sup>32</sup> Regional economic groupings adopt various forms such as the Free Trade Area (FTA), Common Market, Customs Union to a political federation. Within the EAC, structural factors and history has necessitated the adoption of regional economic integration. This has further had an influence on its policy choices and effectiveness in implementation. Shared problems such as water shortages which subsequently lead to power shortages have facilitated reform. The shared history has encouraged the free movement of goods and insecurity in areas such as Somalia has resulted in regional security policies.

## **2.1 Benefits of Regional Economic Integration**

The benefits of economic integration are influenced by the willingness of a state to share their sovereignty and the scope and coverage of its provisions, nature and enforcement mechanism, and the instances in which the agreement may be modified.<sup>33</sup> There have been scholarly debates on the motivations and benefits of regional integration. Trade, development and political security are seen as the main motives of regional integration. This creates benefits

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<sup>31</sup>M'Mbesta, Joyce C. "The impact of economic partnership agreements on regional intergration in Africa: a case study of EAC 2001-2008." PhD dissertation, University of Nairobi, Kenya.

<sup>32</sup> EAC Official Website: <http://www.eac.int>.

<sup>33</sup>Mwasha, Ombeni N. "The benefits of regional economic integration for developing countries in Africa: A case of East African Community (EAC)." *Korea Review of International Studies* 1 (2011): 69-92.

such as trade creation, diversion, and transfers. Trade creation is realized when a similar external trade policy and internal free trade create a change in production from a high to a low-cost partner state within the community.<sup>34</sup>

The regional economic integration can result in spillover benefits such as reducing uncertainties and improving credibility, therefore creating a favorable environment needed by the private sector to plan and invest. There are concerns that the creation of many RECs is driven by political, not economic goals. These goals include security, governance, democracy, and human rights. Hoekman<sup>35</sup> points out regional economic integration may enhance security as well as increase the level of trade between member countries and reduces the level of misconception.

Many countries in the continent are at similar stages of industrial development characterized by similar market sizes. These factors stand to benefit if they synergize and create inward and outward-looking policies which can be achieved brought about by regional economic integration. Regional groupings of smaller countries, which can create larger internal markets can accelerate joint development. For these types of countries, regional economic development is a process that can promote a balanced division of labor among countries that are too small to benefit from the division of labor independently.<sup>36</sup> Many small economies are faced with the challenge of the formation and implementation of macroeconomic policies. Regional economic integration can facilitate the countries to harmonize their macro policies to achieve a stable macroeconomic environment. Despite the benefits outline above, the EAC has continued to face challenges in its process of achieving various levels of regional economic integration. The subsequent sections of this chapter will focus on the challenges of implementation of the

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<sup>34</sup>Torado, M. P., and S. C. Smith. "Economic Development", Delhi: Peason Education (Singapore) Pte Ltd." *Indiana Branch* (2003).

<sup>35</sup>B. Hoekman, 1995 "The Political Economy of the World Trading System"

<sup>36</sup> Ibid

Customs Union and the common market protocol as levels of regional integration within the EAC.

## **2.2 Customs Union**

A customs union is an international agreement establishing the free movement of goods or services, creating the common trade policy projected to nonmember countries. A functioning customs union is dependent on the principle of internal customs and border controls.<sup>37</sup> Ideally, it also controls other aspects of state policy such as security, taxation, protection of citizens to even property rights. Drawing examples from the European Union, the establishment of the customs union has been born out of political reasons and is popularly expressed in terms of economic gains. The Customs Unions present gains for member states in terms of; enhancing efficiency and effectiveness in production which is made possible by increased specialization as stated by the law of comparative advantage; high production levels realized due to better exploitation of economies of scale which is also made possible by the increased size of the market; an improved international bargaining position, made possible by the larger size, resulting to better terms of trade; enforced changes in economic efficiency and effectiveness which is also brought about by enhanced competition; and changes affecting both the quantity and quality of the factors of production due to technological advances.<sup>38</sup>

Adoption of a customs union can be based on a specific interstate agreement or a part of a more general economic agreement. When viewed from the paradigm of a specific international agreement, the customs union may have the status of a legal person with all the rights and obligations about the agreement. In the latter case, it might enjoy the status of a legal person or work via delegation of powers and responsibilities from regional institutions.

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<sup>37</sup>Viner, Jacob, *The Customs Union Issue*. Oxford University Press, 2014.

<sup>38</sup>El-Agraa, Ali M. "The Theory of Economic Integration: The Customs Union Aspects." In *Britain within the European Community*, pp. 59-74. Palgrave Macmillan, London, 1983.

The EAC Customs Union has been in force since 2005. The EAC disregarded the immediate step of establishing a free trade area. The implementation of the Customs Union occurred in a very tight schedule. So far, it has been regarded as a milestone for regional economic integration in the community. Drawing its legal mandate from Article 75 of the Treaty Establishing the East African Community, the EAC partner countries have established a zero on goods and services and created a common external tariff. Imports emanating from external countries are subjected to a similar tariff when their goods are sold in any other EAC country. Goods moving freely should comply with the East African Community RoO with certain provisions of the protocol.<sup>39</sup>

It has incorporated other measures to do with competition, duty drawback, refund, and remission of duties and taxes customs cooperation, re-exportation of goods, and harmonization procedures. The customs union also provides for the exemption regimes, documentation and procedures, harmonized commodity description, and coding system. The Common External Tariffs (CET) protocol charges 0% on raw materials, 10% for intermediate goods, and 2% for finished goods.

Geography plays a critical factor in the adoption and implementation of the customs union. Four of the member states of the EAC, Rwanda, Uganda, South Sudan, and Burundi are landlocked. This has prompted the introduction of infrastructural linkages through the need for the creation of roads, railways, airports to even seaports. Member countries have rejuvenated their railways. The investment of such infrastructure will lead to an easier movement of people, ideas, goods and services to boost intra trade.

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<sup>39</sup>Stahl, H. M. (2005). Tariff liberalization impacts of the EAC Customs Union in perspective. *Trade Law Centre for Southern Africa (TRALAC) Working Paper, 4*.



The EAC has invested in institutional building and strengthening its institutions. This has been indicated by the introduction of ‘one-stop’ border posts (OSBP). Before its introduction, the cross-border movement was characterized by lengthy clearance transactions, duplication of entry and exit procedures and in the long run, increasing the cost of doing business. The OSBP has alleviated the process by reducing these barriers and expediting the movement of people and goods across borders. The OSBP has made it possible for cargo, vehicles and passengers to stop once to process border crossing formalities to exit and enter the partner state borders. Documentation is done in a single clearance hall.<sup>40</sup>

There has been a rise in customs business partnerships. This move seeks to bring the private sector together to raise tax compliance. This move has been exemplified by the creation of the Business Action for Improving Customs and Administration in Africa. By working together with the Simple Trade Procedures Board (SITPRB) it has to a particular degree resulted in the implementation of customs reforms in the continent.<sup>41</sup> The EAC secretariat, EAC members, and various businesses have created a customs modernization program that includes mutual recognition. Specific policies that have been drafted under this framework include Risk Management, Authorized economic operators, and Post Clearance Audits. The introduction of the Customs Valuation Manual has boosted the union by providing guidelines on the methods of implementing and uniformly interpreting the EAC customs valuations.

Implementing the Common External Tariffs has been a challenge for the member States. Some companies have followed a legal suit citing the violation of the Customs Union. For

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<sup>40</sup>Cheruiyot, S., and G. Rotich. "Factors affecting the implementation of one stop border post strategy: A case study of the Malaba border." *International Academic Journal of Human Resource and Business Administration* 3, no. 1 (2018): 303-324.

<sup>41</sup>K’Ombudo, Alfred Ombudo, Philippe De Lombaerde, and Maria Borda. "The East African Community Common Market Scorecard." In *Indicator-Based Monitoring of Regional Economic Integration*, pp. 239-259. Springer, Cham, 2017.

example, a Tanzanian company, Kioo took the Kenya Revenue authority to the East African Court of Justice after KRA introduced a 25% excise duty on the imported glass. Currently, Kioo is one of the largest manufacturers of glass in the region majorly used for packaging drinks in Eastern and Central Africa. The application of the amended Business Laws Act 2020 which introduced the excise duty to imported glass breached the Customs Protocol. There are problems in the implementation of the Business Laws Act in Kenya as there are no exemptions granted on goods imported even from EAC partner states. Ideally, under the customs union, the Tanzanian company should have attracted 0% or 10% duty as outlined in the EAC Common External Tariffs (CET). This move by Kenya enabled exported glass to be more expensive than locally manufactured glass. This gradually reduced the demand for glass by Kenyan companies, pushing Tanzanian and other glass companies from the EAC partner states.<sup>42</sup>The Customs Union implementation process has been influenced by the country's political interests, especially with the developed countries. Major Powers such as the United States have adopted policies such as 'America First' to counter the emerging dominance of the Chinese in the global market. This has been epitomized by the proposed free trade agreement by Kenya and the United States with the sole aim of replacing the African Growth and Opportunities Act (Agoa) which will expire in 2023. This FTA might have a positive impact on Kenya's agriculture sector. The bilateral move will ensure that the country will not have tariffs on all US agricultural products. Additionally, Nairobi will be required to open its maritime, tele-communication, finance, and textile industries to US investors. This move has been critiqued as a breach of the Customs Union Protocol. However, this is also in line with the section 37 of the EAC protocol which necessitates before

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<sup>42</sup>Luke Anami (June, 8, 2020) Tanzanian glass company takes KRA to court over 25pc import tax. Retrieved from <https://www.theeastafrikan.co.ke/business/Tanzanian-glass-company-takes-KRA-to-court/2560-5572644-g0engkz/index.html> Retrieved on June 12, 2020

the signing of such a deal the EAC partner members should inform other member states of it intends to offer preferential market access to a third-party state, since they share a common customs territory.<sup>43</sup>

The EAC member countries have been largely successful in the implementation of Internal Tariff Elimination. Additionally, similar efforts have been conducted in other regional organizations whereby they are members such as COMESA and SADC. Despite these efforts, Non-Trade Barriers have continued increasing. Additionally, the community does not have a Single Customs Territory, even though it has implemented the protocol.

### **2.3 Common Market in the EAC**

The EAC Common Market protocol has been regarded as one of the most ambitious regional economic arrangements globally. The EAC adopted the Common Market Protocol (CMP) in November 2009, which became effective in July 2010. CMP aims to enhance and strengthen cooperation among partner states both in social and economic spheres. This was necessitated by the removal of restrictions of goods, persons, services, and rights of residence in the region. Article 5 of the CMP has facilitated for easier cross border movement of persons. The member countries have committed to not introduce new restrictions and eliminate the existing ones. According to the World Bank, when these restrictions are eliminated, they will lead to a positive change economically on the partner states.

The progress to implement the required protocols has been rather slow. For example, since its implementation, member countries such as Tanzania, Rwanda and Uganda have at least introduced 10 restrictions on the movement of capital in their countries. Despite ascending the

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<sup>43</sup> Anthony Kitimo, (June ,7 ,2020). US eyes a big chunk of Key Sectors in Trade Deal in Kenya. Retrieved from <https://www.theeastafrikan.co.ke/news/ea/US-eyes-big-chunk-of-key-sectors-in-trade-deal-with-Kenya/4552908-5571852-22dsivz/index.html>

customs union protocol, 51 non-tariff barriers have been introduced between 2008 and 2013.<sup>44</sup> These new introductions have not only restricted the movement but also made entry to the market expensive. There have been citations of discriminations when entering the market such as transaction fees, ceilings in the values of transactions, and limitations in personal capital transactions.

Most governments have adopted a lenient attitude towards the exemptions which facilitate the development of the common market. Exemptions can be described as the legal mechanisms for excluding partner countries from specific obligations in the common market. Notably almost all EAC members are also members in other regional economic integration schemes, thus creating an unstable market to enable free circulation of goods within the region.<sup>45</sup> As witnessed in Kenya and Tanzania, most of the member states restrict the free movement of capital without notifying each other, something which has negatively influenced private business.

There is a need for member states to adopt a disclosure approach by ensuring that the availability of sufficient information for investors to make informed judgments about the member states' market attractiveness. The current merit-based decision-making process has been ineffective. In the implementation of both the Common Market and Customs Union, there is a need to enforce a notification mechanism that which will create transparent and a credible system for free movement of people and goods across borders. The imposition of restrictions by partner states should be done temporarily. For example, the exemptions made in Article 25 of the Common Market should only be applied when it is necessary. Additionally, there is a need for

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<sup>44</sup>K'ombudo, Alfred Ombudo, Philippe De Lombaerde, and Maria Borda. "The East African Community Common Market Scorecard." In *Indicator-Based Monitoring of Regional Economic Integration*, pp. 239-259. Springer, Cham, 2017.

<sup>45</sup> Ibid

capacity building for effective financial integration, coordination of securities markets, market intermediaries and investment in public awareness.

## **2.4 Conclusion**

Regional economic integration presents countries with the means to advance their economic interests. However, the implementation does not occur in isolation, it is influenced by factors such as the willingness of the state to domesticate the economic policies introduced at the international level. An analysis of the Common Market and Customs Union in the EAC has indicated various challenges and successes. The common market and the customs union has been constrained by exemptions. Apart from Rwanda, other political elites in the EAC member states have indicated a lack of centralized control of the policies required under EAC integration in domestic policy. It has been cited that the EAC has limited capacity to monitor these implementation challenges. This has been indicated by the lengthy delays and blockages with implementation owing to divergent interests within the domestic economies. Various partner states have introduced various restrictions that have hindered the free movement of goods.

## **CHAPTER THREE**

### **MANAGEMENT OF MULTIPLE MEMBERSHIPS TO OTHER REGIONAL ECONOMIC BLOCKS IN THE EAC**

#### **3. Introduction,**

Regional integration in Africa has been a complex and confusing affair. Economic factors such as harsh macroeconomic disequilibria, increasing foreign debt and a narrow tax base have hindered the capacity of some African states to meaningfully participate in regional organizations. Through analysis of national and regional capacities, Maropeng 2005 posits that the two levels of governance have limited resources required for planning, coordination, implementation, and programmatic adjustment of programs.<sup>46</sup> Activities by national governments such as taxes to acquire foreign exchange and advance in import deposits and other protective import subsidies have hindered the development of regional commitments. Drawing examples from the EAC, the regional economic integration schemes have been inward-looking and the benefits are not evenly distributed among the member states resulting in mistrust in these organizations.<sup>47</sup> The regional integration efforts have been limited to a group of political elites limiting the flow of information on the benefits, costs, and opportunities arising from these efforts, therefore the regional attempts are not supported by all levels of the government or attract public opinion.

Despite the efforts of the African Union, the RECs in the continent continue overlapping like a spaghetti bowl. In the post-colonial era, the formation of regional organizations was seen as a plausible strategy for advancing economies of the newly independent states. Some scholars

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<sup>46</sup> Maruping, Mothae. Africa in the World Economy-The National, Regional and International Challenges, FONDAD, The Hague, 2005.

<sup>47</sup> Matthews, Alan. Regional Integration and Food Security in Developing Countries, Food and Agriculture Organization of the United Nations, Rome, 2003

such as Kinfu Abraham (2003) viewed them as a ‘way of achieving independence and dignity’ of Africa<sup>48</sup>. These efforts were also emphasized by founding leaders such as Kwame Nkrumah of Ghana who played a pivotal role in the formation of the Organization of the African Union. The mid-20<sup>th</sup> century regionalization efforts in Africa were characterized by similar cooperation agreements in each sub-region of Africa. Most of these organizations had almost similar objectives but with distinct characteristics in coordination and consultation. Drawing an example from regional integration experience in West Africa, Ahmad indicated that fifty regional organizations were formed within 25 years in the post-colonial era.

More recent attempts made by regional integration in Africa have been rather unique. Most organizations in the post-colonial era were based on the 20<sup>th</sup>-century exchange of market access at the expense of external actors. However, the new attempts such as the COMESA-EAC-SADC Tripartite Free Trade Area has offered a new bargain for the African state. These have led to the change in domestic reforms to increase FDI which in the long run ensures that the countries meaningfully participate in the global value chain. However, these new attempts also occur in situations whereby most of these countries are members of many regional organizations. The new environment is characterized by the exchange of services and intermediate goods.<sup>49</sup>

### 3.1 Management of Multiple Memberships to other Regional Economic Blocks in the EAC

The dilemma of overlapping memberships has attracted various scholars. Some have depicted it as an impediment regional integration, while others saw it as a means to achieve economic development in Africa. There exist two types of overlap: the overlap on policy areas

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<sup>48</sup> Abraham, Kinfu. *The African Quest: The Transition from the OAU to AU and NEPAD Imperatives: A Political and Economic History of Modern Africa and the Drive for the African Ren.* Eiiipd and Hadad, 2003.

<sup>49</sup> Jaime de Melo ‘The Tripartite Free Trade Africa: Is It the Way to Deepen Integration in Africa?’ Brooking Institution. Retrieved from: <https://www.brookings.edu/blog/africa-in-focus/2014/11/04/the-tripartite-free-trade-africa-is-it-the-way-to-deepen-integration-in-africa/> on July , 1, 2020.

and an overlap in the partner countries of regional institutions.<sup>50</sup> Weiffen et al 2003 describe the policy areas as the issues in which the regional organization covers. Membership is majorly concerned with the geographical reach of each institution. There are various instances of regional integration. Sometimes they can be nested, whereby all the members of a smaller regional organizations are a part of a larger regional organization. This can be epitomized by the Abuja treaty of the AU which mandated the formation of smaller Regional Economic Cooperation's (REC's) such as the EAC. In some instances, both the larger and smaller organizations are autonomous and independent; Membership can also overlap between two organizations. Regional organizations as international actors have the ability to expand their mandates or membership. <sup>51</sup>There are views that overlapping memberships may not have any consequences when there are no overlapping mandates. In an analysis of mandate, overlapping is viewed as a side effect of other objectives or strategies.

The attempt to understand the issue of multiple memberships also brings out questions such as, why do nation-states join or create a regional organization? From a realism point of view, regional organizations are formed to serve the interest of state actors.<sup>52</sup>The motivating factor for membership is the projection that they can benefit from this membership. Sometimes the membership can be attributed to the expected negative consequences if they are not members. For example, the proliferation of river and lake organizations indicates that states can join organizations due to the focus on different policy objectives of the state. Drawing examples from Latin America and South America which indicates that membership can be attributed to the

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<sup>50</sup> Weiffen, Brigitte, Leslie Wehner, and Detlef Nolte. "Overlapping regional security institutions in South America: The case of OAS and UNASUR." *International Area Studies Review* 16, no. 4 (2013): 370-389.

<sup>51</sup> Nolte, Detlef. "Costs and benefits of overlapping regional organizations in Latin America: The case of the OAS and UNASUR." *Latin American Politics and Society* 60, no. 1 (2018): 128-153.

<sup>52</sup> Trinkunas, Harold. "Reordering regional security in Latin America." *Journal of International Affairs* (2013): 83-99.



creation of a regional project or more importantly to meet objectives that have not been achieved by existing institutions.<sup>53</sup>

### **3.1.1 Multiple memberships as a building block of Regional Integration**

The nation-states involved in various regional organizations do not mostly focus on the problems resulted from multiple memberships. Instead, they more interested in the strategic options which are brought about by plurality regional organizations might accrue. The governments opt to join these organizations as they view each organization as independent with a distinct mission as representing different interests.<sup>54</sup> According to the Economic Commission for Africa (2004), multiple memberships in different regional organizations can maximize the benefits of regional integration by distributing risks.<sup>55</sup> This can mostly be achieved in nation-states with weaker economies. Kellow 2012<sup>56</sup> argues that multiple memberships to various regional organizations bring insurance against the risk that one organization might overlook or deliberately neglect an issue. When a particular focus area is ignored by one organization, it can be picked by another one. This creates a thriving environment for the creation of opportunities for development which could not exist if there was a single entity.

The lengthy process of decision making in one organization can be remedied by the existence of an alternative arena. This creates ‘institutional elasticity’. This can potentially minimize situations such as zero-sum politics. This reduces the bargaining failures of nation-

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<sup>53</sup> Nolte, Detlef. "Costs and benefits of overlapping regional organizations in Latin America: The case of the OAS and UNASUR." *Latin American Politics and Society* 60, no. 1 (2018): 128-153.

<sup>54</sup> Byiers, Bruce. "Regional organisations in Africa-Mapping multiple memberships." *ECDPM Talking Points blog* 15 (2017).

<sup>55</sup> Economic Commission for Africa, (2004). *Assessing Regional Integration in Africa*, Addis Ababa, Ethiopia.

<sup>56</sup> Kellow, Aynsley. "Multi-level and multi-arena governance: the limits of integration and the possibilities of forum shopping." *International Environmental Agreements: Politics, Law and Economics* 12, no. 4 (2012): 327-342.

states as they have the flexibility to push for desired policy outcomes on different fronts.<sup>57</sup> There are views that the progress of one REC results in the achievement of the larger block. The increase of regional organizations may increase the human and organizational resources within a particular issue or mandate. Ideally, this also reduces competition between regional organizations. From a democratic theory point of view, multiplicity in membership to regional organizations is viewed positively as it brings about competition and freedom of choice. Alter and Meunier 2009<sup>58</sup> posits that competition among member states can lead to positive effects through the promotion of innovation and experimentation. This can lead to an increase in total resources and the spread of risks.

The multiple memberships can result in the rise in standards and benchmarks for the accomplishment of certain objectives. This can also lead to the optimization of engagements between various organizations. Competing regional organizations memberships can result in a ‘variable geometry’ of membership. In this situation, member states are engaged in policy issues that are closer to their interest, something which could not be achieved in a larger regional organization. The policy changes in one organization can promote transformation in other regional organizations. The creation or membership in different organizations has been seen as a strategy to reform global norms, in which the favorable mandate in one organization can be used to challenge the original organization or reduce its authority.

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<sup>57</sup> Paul, Thazha Varkey, and Thazha Varkey Paul, eds. *International relations theory and regional transformation*. Cambridge University Press, 2012.

<sup>58</sup> Alter, Karen J., and Sophie Meunier. "The politics of international regime complexity." *Perspectives on politics* 7, no. 1 (2009): 13-24

Multiple memberships in regional organizations can create subsidiarity.<sup>59</sup> Subsidiarity in simple terms can be referred to as the set of activities whereby local actors create rules which seek to preserve their autonomy from dominance, neglect, violation, or abuse by more powerful (central actors). Norm subsidiarity can be used to adopt regional or global goals. This also uniquely offers an opportunity for ‘forum shopping’. This provides a platform for international actors to choose international arenas that favors their interests. According to Kellow 2012, forum shopping can be a promising strategy to advance multilateral agreements.<sup>60</sup>

### **3.1.2 Multiple Memberships as an impediment to Regional Integration**

The multiplicity of membership can result in competition over resources, members, and mandates. This can result in inefficiencies and coordination failures in addressing interstate problems. The membership to regional organizations as a way subsidiarity can lead to the creation of organizations with similar mandates. This can lead to the risk of the international mandate being watered down. The multiple memberships have created legal challenges. Sometimes legal issues related to the economy have been ruled ambiguous as a result of international law fragmentation. Disputes regarding the application of international norms can be allocated to parallel organizations that have lower standards. Overlapping groups can potentially bring the problem of repetition of conflicts between the provisions of the treaties of similar organizations.

The overlapping membership in various regional organizations has been worsened by the economic relations of African countries with external countries or other groups. Multiple memberships have also brought the problem of divided loyalty and costs to run then as they can

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<sup>59</sup> Acharya, Amitav. "Norm subsidiarity and regional orders: sovereignty, regionalism, and rule-making in the third world." *International Studies Quarterly* 55, no. 1 (2011): 95-123.

<sup>60</sup> Kellow, Aynsley. "Multi-level and multi-arena governance: the limits of integration and the possibilities of forum shopping." 2012

create a financial burden for the already weak economies. Most regional organizations in Africa have two sources of finance: member's contributions external assistance. In some extreme cases, the unavailability of finances has led to the collapse of regional organizations epitomized by the West African Economic Community (CEAO). In most cases, the states are pulled by divergent poles of economic integration therefore they cannot establish their priorities. This occurs as they are expected to attend various meetings, comply with divergent policy decisions, timelines instruments, and procedures.<sup>61</sup>

Nyong'o (1990) indicates that multiple memberships can slow the process of regional integration.<sup>62</sup> Regionalization attempts been influenced by the political, ideological, and related development strategies which might not fit the needs of a particular country. In the Cold War era, sub-regional political regimes were characterized by orthodox Marxism-Leninism (Ethiopia, Mozambique, and Zimbabwe), unbridled capitalism (Kenya and Malawi) and moderate socialism (Uganda and Tanzania) and some other countries in between. These challenges emanating from the affairs of the ruling parties have persisted in the post-cold war era. In some cases, it has led to a tendency of top-heavy structures characterized by political appointments. Multiple memberships can bring about tension among member states and can contribute to mixed results achieved by a larger regional integration organization.<sup>63</sup> The multiple memberships can potentially create bureaucratic, legal, and political problems that can slow down trade. This also results in heavy financial and administrative burdens

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<sup>61</sup> Mengistu, Muhabie Mekonnen. "Multiplicity of African regional economic communities and overlapping memberships: A challenge for African integration." *International Journal of Economics, Finance and Management Sciences* 3, no. 5 (2015): 417-425.

<sup>62</sup> Anyang' Nyong'o, Peter, ed. *Regional integration in Aafrica: Unfinished agenda*. Academy Science Publishers, 1990.

<sup>63</sup>Daniel C. Bach (ed) *Regionalism in Africa. Integration and Disintegration*. James Currey oxford. Indiana University Press; Bloomington and Indianapolis, 1999: p5

The risks and benefits of multiple memberships are contradictory. At one end it can result in fragmentation and gridlock between organizations. On the other end, diversity in regional organizations can result in to organizational flexibility and result in a new dynamic in the analysis of regional integration.

### **3.2 East African Community**

The EAC is one of the eight Regional Economic Blocs recognized by the Abuja Treaty of 1991. Multiple memberships are as a result of the activities of partner states. Whether the multiple memberships lead to benefits or problems is dependent on the strategies of the states that are members of different organizations. The EAC seeks to deepen relationships with member states by developing policies that enhance cooperation between member states in the economic, political, social, and cultural fields. The ultimate goal of the EAC is the creation of a political federation. For this to occur, the nation-states will have to surrender some of their sovereignty powers to the supranational organization. The organization will also have an international legal personality for it to interact with external parties. Even in the defunct EAC, the organization entered into an agreement with the European Economic Community through the Arusha Agreement. The EAC trade and negotiations act of 2008 allowed the community to form a joint negotiation of the partner states in bilateral, regional, and multilateral trade. The question remains, to what extent can the community enter into arrangements in the face of multiple memberships in other RECs?

Inasmuch as the EAC wants to form a political federation, it has not hindered the partner states from joining other regional organizations. The Eastern Africa region has the largest

number of intergovernmental organizations.<sup>64</sup> There have been attempts by partner states to reduce complications arising from multiple memberships. For example, Tanzania withdrew from COMESA in 1999 and in 2007 Rwanda withdrew from ECCAS and canceled its application to the EAC. The continued membership of Tanzania in SADC indicates that parallel memberships are maintained because one entity does not satisfy all the political and economic benefits of a member state. Ideally, the partnership of Tanzania with South Africa has allowed it to conquer the dominance of Kenya. The disunity has to a particular degree been reduced by the efforts of Uganda. Potential rivalry lurks can also emerge between South Africa, Kenya, and Egypt. If not carefully managed, it can lead to antagonism resulting in shallow integration.

	COMESA	IGAD	SADC	ECCAS
Burundi	*	*		*
Kenya	*	*		
Rwanda	*			*
Tanzania			*	
South Sudan		*		
Uganda	*	*		

Membership of EAC with other RECs

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<sup>64</sup> Ugirashebuja, Emmanuel, John Ruhangisa, Tom Ottervanger, and Armin Cuyvers. *East African Community law: institutional, substantive and comparative EU aspects*. Brill, 2017.

To provide an analysis of the management of multiple memberships in the EAC, the subsequent parts of this chapter explore the prospects and challenges of the COMESA-EAC-SADC Tripartite Free Trade Area and other experiences by the EAC and member states in advancing economic interests in the backdrop of dual membership.

### **3.3 COMESA-EAC-SADC Tripartite Free Trade Area**

The TFTA has been recognized as an alternative for regional economic integration in Africa. Collaborations like TFTA were recognized in the Lagos Plan of Action of 1980, whereby the EAC, COMESA, and SADC were viewed as building blocks of the greater African Economic Community (AEC). It has the potential of ailing problems that have resulted from multiple memberships within the EAC especially in trade.<sup>65</sup> Generally, a Free Trade Area is established when two or more countries have a consensus to eliminate duties and other barriers of trade to goods originating from those countries. The Rules of Origin are adopted to classify the goods emanating from those countries. This has posited by the EAC on the TFTA

*“In opening our markets to each other, the development of regional value chains will be enhanced. We would increase intra-Africa trade, stimulate economic growth and lift people out of poverty”<sup>66</sup>*

Over the years, the levels of intra-regional trade have been low. For COMESA, intra-regional trade has oscillated between 5-10%. For SADC intra-regional trade has declined due to the increase of commodity exports to other regions in the globe 2000. The EAC has maintained a higher level of intraregional trade between 18-20% of the total trade since 2008. In 2014, the total intraregional trade accounted for 16.7%

The negotiations establishing the FTA started in 2008 in Kampala under the “*Cape Town to Cairo*” initiative. One of the driving forces of the meeting was to identify how COMESA,

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<sup>65</sup> Makochekanwa, A. (2014). Welfare implications of COMESA-EAC-SADC tripartite free trade area. *African Development Review*, 26(1), 186-202.

<sup>66</sup> EAC. The 30th meeting of the council of ministers Report of the Meeting (2014)

SADC, and EAC would deepen their economic cooperation through facilitating trade and economic liberalization. Other areas that were also focused on included the free movement of persons, infrastructural development, and legal and institutional arrangements for regional cooperation.<sup>67</sup> This created the provision for the creation of the TFTA within a 5-year timeline complemented by the adoption of a roadmap framework for its achievement, designs, and coordination mechanisms. A similar meeting was also held in Egypt to finalize the adoption of the TFTA. In this summit, a three-pillar development approach was adopted. These pillars include market integration, infrastructure development, and in industrial development.

The 2011 summit was marked by significant success. A declaration for the negotiations for the COMESA-EAC-SADC tripartite FTA was adopted. The roadmap establishing the TFTA and its negotiating principles, processes, and institutional framework were also signed.<sup>68</sup> The bloc comprises of 26 countries. Its full implementation has the ability to create one of the largest FTA's globally. It would be characterized by a GDP of 1.2 trillion USD and a population of 683 million people. The 26 countries also make up 26% of the African Union membership. 22 of the 26 countries are already covered by the FTAs of COMESA, EAC, and SADC. The four additional members are Angola, the Democratic Republic of Congo, Ethiopia, and Eritrea.

In theory, the existing membership to other RECs should reduce the lengthy process of trade negotiations. Further negotiations can be relevant to the nation-states without any preferential agreement. The TFTA comprises of various countries which include resource-rich and resource-poor countries. It is also comprised of 15 landlocked countries in Africa, with both large and small artificial borders and various ethnic groups and languages. As outlined in Art 3 of the tripartite agreement, the main objectives of the establishing TFTA included the following:

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<sup>67</sup> Shayanowako, Petros. "Towards a COMESA, EAC and SADC tripartite free trade area." *Trade and* (2011).

<sup>68</sup> Anber, Mahmoud. "COMESA-EAC-SADC trepartite free trade area: challenges and prospects." (2018).



1. Creation of a larger single internal market with free movement of business persons, goods and services and eventually to establish a customs union and a common market.

2. Promotion of social and economic development of the people of the region by providing job and wealth creating and elimination of poverty, hunger and disease, by building skills, innovativeness and infrastructure.

Creation

3. To do away with the problem of multiple membership and expedite the regional and continental integration process.

4. To promote close cooperation in all sectors of economic and social activities.<sup>69</sup>

5. To build a strong people-based tripartite community.

For the efficiency of the TFTA, member states agreed that the negotiations would be conducted in two phases. The preparatory phase was created to ensure transparency among all countries through activities such as the exchange of trade and tariff data, trade regulations, and trade instruments. This would ensure the understanding of the existing trade regimes in the RECs. The member states were also expected to prepare national negotiating positions for core FTA items. The phase one would focus on the Trade in Goods. The movement of Business persons would also be negotiated during this phase as a separate track. Phase two was expected to focus on built-in agenda in services and trade-related areas, which would commence after the conclusion phase one.

Macro-economic indicators of the EAC are divergent. South Africa and Egypt account for more than 50% of the GDP. When the GDP of these two countries is combined with that of Angola, Sudan, Ethiopia, Kenya, and Tanzania, it accounts for 80% of the total GDP. In the analysis of trade, the EAC accounts for the smallest trade volume. In 2016, the COMESA, EAC, SADC accounted for 16%, 20%, and 25% respectively in the shares of African trade. An analysis

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<sup>69</sup> Anber, Mahmoud. "COMESA-EAC-SADC tripartite free trade area: challenges and prospects." (2018).

using the African regional integration index indicates that the EAC is the best performer in the economic integration process, followed by SADC and COMESA.

By April 2020, the TFTA has achieved varying degrees of success in its three pillars: market integration, infrastructural development, and industrial development. Under market integration, 22 countries have signed the TFTA agreement. Additionally, 8 members have signed and ratified the agreement. However, the agreement has not been operationalized as it requires the ratification of 14 member states. Kenya, Egypt, Eswatini, Rwanda, and Zimbabwe have already signed the agreement to operationalize the Single African Air Transport Market under the Yamoussoukro Declaration on the liberalization of the air market in the continent. Other activities in this sector include the adoption of one border posts, transport corridor development projects, and rehabilitation and upgrade of roads in the region.<sup>70</sup>

One of the potential impacts of the TFTA is the positive net real income gains for the whole region. The TFTA is expected to generate a total welfare gain of approximately 578 million.<sup>71</sup> South Africa is expected to enjoy the largest gain while countries with smaller economies such as Malawi, Rwanda, Angola, and Zimbabwe may accrue welfare losses due to the reduced terms of trade. The total volume of the TFTA is projected to increase by 7.7 billion with a 20% increasing rate.<sup>72</sup> The implementation of the TFTA can boost intra-region trade by 29.2%. The trade would be concentrated in areas such as light and heavy manufacturing and processed foods. However, the removal of tariffs will have a minimal impact as trade liberalization has been conducted in the existing RECs. The TFTA has will ensure that trade

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<sup>70</sup> EABW News.' COMESA Hands Over Tripartite Group Leadership To SADC' 27<sup>th</sup> April 2019 Retrieved from <https://www.busiweek.com/comesa-hands-over-tripartite-group-leadership-to-sadc/> on July, 1, 2020.

<sup>71</sup> Pearson, Mark, and C. Chaitezvi. "Trade facilitation in the COMESA-EAC-SADC tripartite free trade area." *TradeMark Southern Africa. Pretoria: South Africa* (2011).

<sup>72</sup> Willenbockel, Dirk. *A General Equilibrium Analysis of the COMESA-EAC-SADC Tripartite FTA*. No. 7232. EcoMod, 2014.

arrangements involving market access are negotiated easily and more quickly compared to multilateral arrangements. The formation of subsidiarity can ensure that the member states secure advantages which they could not have in bigger forums such as the World Trade Organization (WTO).

### **3.3.1 Challenges facing the TFTA**

Multiple memberships have affected the implementation of trade agreements within the RECS. The region has various integration initiatives in Africa such as EAC, IGAD, COMESA, SECU and the Indian Ocean Commission (IOC). The objectives of the EAC, COMESA, and SADC are similar, though they operate under divergent rules of origin, trade instruments and objectives of simplifying trade. The 26 member states are also members of other regional initiatives. Neo-realists view the state as a rational actor which has distinct characteristics such as self-interested manners and is influenced by domestic actors. As epitomized by the Empty Chair Crisis of the EU in 1965<sup>73</sup>, getting consensus at the supranational level can be slow. The TFTA brings members who have various allegiances and might hinder the adoption of consensus of substantive issues.

The creation or joining of a particular country to a regional organization is a policy choice. Tanzania is a party to various trade arrangements at regional and multilateral levels. Generally, the parallel membership has raised challenges in coordination and commitment of a particular country to various arrangements. This to a particular degree has affected the adoption of some protocols<sup>74</sup>. Tanzania is both a member of the EAC Customs Union and SADC customs union which requires the application of a Common External Tariff to none members and also the

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<sup>73</sup> J-M. Palavret et al. (eds.) *Visions, Votes and Vetoes: Reassessing the Luxembourg Compromise 40 Years On* (Peter Lang, 2006).

<sup>74</sup> Buigut, Steven. "Monetary integration initiatives in Eastern and Southern Africa (ESA): sorting the overlapping membership." *International Finance* 9, no. 3 (2006): 295-315.

same time a member of the SADC and FTA, putting the country in conflict over trade policy choices. There are concerns that competing trade blocs due to the multiple memberships can create losses to business firms. Between 2005 and 2012, the EAC business firms lost opportunities amounting to \$22.7 billion due to multiple memberships of partner states. This was attributed to instances such as the delay of the adoption of the Common External Tariff (CET). The preferential treatment granted to third party states reduces the expanded markets that the EAC offered regional industries.<sup>75</sup>

The larger member in the TFTA creates the one-size-fits-all constraint. Many actors have the necessity to achieve convergence of policies so as to increase 'deeper integration'. The adoption of this variable geometry approach might increase the support but delay the process of regional integration. Ideally, the establishment of the FTA was required to be a single undertaking, but these problems of multiple memberships can allow the co-existence of smaller arrangements that do not significantly increase regional integration.

Many countries in the continent have embraced regional integration in a superficial manner.<sup>76</sup> Most of them adopt agreements with eagerness but do not adopt the implementation of the agreements. There are concerns that the TFTA might not be accepted as a rules-based regime. This caused by a situation whereby more than one trade agreement applies to trade between two countries resulting in a legal dilemma. It can also lead to an increase in transaction costs and duplication of regional trade and trade with external parties. The question of sovereignty has slowed down the implementation of regional economic activities. In some

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<sup>75</sup> The East African. EAC losing billions in Trade COMESA, SADC March 92014. Retrieved from: <https://www.theeastafrican.co.ke/business/EAC-losing-billions-in-trade-to-Comesa--SADC/2560-2262168-8dr0e4z/index.html> Retrieved on July, 2 2020.

<sup>76</sup> Maruping, Mothae. "Challenges for regional integration in Sub-Saharan Africa: Macroeconomic convergence and monetary coordination." *Africa in the World Economy* 129 (2005).

instances, the nation-states have invoked their national law especially in the adoption of protectionist measures in trade. Except for South Africa and Egypt, most of the countries' economies are fragmented. There also varying degrees in the sense of allegiance to different RECs. Most states have isolated economies whereby the benefits of economic integration are unevenly distributed among them. Therefore, political and economic benefits regional integration can be seen as a plausible strategy to reap gains, exploit economies of scale, and reduce cross border challenges. However, the benefits of these attempts will not be unevenly distributed and the smaller countries may be reluctant to participate.

Many of the regional integration efforts have adopted a linear model of integration. As outlined in the EAC charter, it starts with a free trade area, then a customs union, a common market, monetary union to the establishment of a political federation. The TFTA has been adopted in two phases. Phase one focuses on trading activities such as tariff liberalization while phase two focuses on trade in services and other activities. This approach of the linear model has been criticized for failing to create end border-related issues which have hindered the creation of an open market in services whereby outsourcing has increased exponentially.

The three RECs have so far achieved varying levels of regional integration. In the EAC, Kenya, Tanzania, and Uganda formed a customs union in 2005 which was followed by the adoption of a common market in 2010. COMESA created FTA in 2000 and adopted a customs union in 2009. During the TFTA negotiations, there were also parallel discussions of joining the COMESA FTA with its Customs Union. SADC formed an FTA in 2009 followed by the Southern Africa Customs Union.<sup>77</sup> All the members of the EAC apart from Tanzania are members of the COMESA. Intra SADC trade has progressed slower compared to the other two

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<sup>77</sup> Angwenyi, Vincent. "The Tripartite Free Trade Area: A Step Closer to the African Economic Community?" In *European Yearbook of International Economic Law 2016*, pp. 589-613. Springer, Cham, 2016.

regions. This creates the probability of conflict. EAC and COMESA may accuse SADC of internationally slowing down trade liberalization.

Even with the regional integration attempts, non-tariff barriers have continued to persist. This can be attributed to the non-commitment of the member states. Key issues such as the Rule of Origin have continued to be manipulated to achieve protectionist objectives. The non-recognition of RoO's have decreased investment in value-added activities such as textile and agro-processing sectors. SADC adoption of 'made-to-measure' on the RoO to determine eligibility has been viewed differently from other RECs and complicated.<sup>78</sup> Countries such as Kenya have also adopted technical regulations on sugar imports barring sugar from Mauritius. Egypt has continued to impose a 45% value addition rule of origin as opposed to other COMESA countries that apply the prescribed 35%. Additionally, Non-Tariff Measures have not decreased in the region despite multilateral, regional, and bilateral trade liberalization. Some NTMs such as quotas, subsidies, and export restrictions have been used as instruments of trade policy.

The source of funding for TFTA remains rather unclear. Most of the member states have weaker economies are caught in the multiple membership spaghetti bowl conundrum. Most of them do not normally pay their annual fees in the organizations they are currently part of. Most of the RECs are dependent on donor funding. With this backdrop, the tripartite task force has adopted various actions to source funds to finance their activities. So far, they have begun discussions with the Africa Development Bank, the European Union, and the United Kingdom Department of International Development (DFID). However, it is safe to note that these sources of funding are unstable. If this persists in the TFTA, the integration plans will potentially be compromised. In SADC, the payment of the annual levies is dependent on the individual

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<sup>78</sup> Saurombe, Amos. "A synopsis of problems and prospects of SADC, EAC and COMESA tripartite free trade area." *International Journal of Liability and Scientific Enquiry* 6, no. 1-3 (2013): 116-124.

membership economic levels. This has resulted in South Africa contributing 20% of the annual budget. The methodology can be a source of conflict in the TFTA. Due to the changes in the international economy, many donors have not honored their commitments and aid disbursements.

Many of these countries have been affected by political tensions. There is a concern about how the TFTA will be applied in the political dimension. In SADC, there have been political tensions in the DRC, Madagascar, and Zimbabwe. Their views that the position of new members in the EAC such as South Sudan remains rather unclear. As witnessed in other RECs, the states are more likely to scramble for positions of influence in the TFTA. There are concerns about the economic geography implications of the changes brought by the implementation of the TFTA. In the 1990s there was increased scholarly attention on how the EU single market might affect its member countries especially in the location of industries.<sup>79</sup> There were concerns that a single market would lead to the concentration of industry in core countries such as Germany and Luxembourg at the expense of smaller economies such as Spain and Portugal. This might occur in the bloc as the largest economies, Egypt and South Africa account for 50% of the total GDP. These might result in instances whereby some countries might opt to form a carcass using the current RECs in a bid to protect their interests.

### **3.4 Recommendations**

To avoid problems arising from multiple memberships, there is a need for the creation of a legal framework to govern the TFTA. This can be built on the process which began in 2011 negotiations. There is also the need for the TFTA to be recognized by the AU and other important organizations such as the WTO and the UN. Working with regional powers such as

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<sup>79</sup> Corado, Cristina, and Jaime De Melo. "An ex-ante model for estimating the impact on trade flows of a country's joining a customs union." *Journal of development economics* 24, no. 1 (1986): 153-166.

Kenya, South Africa, and Egypt can create a hub-and-spoke scenario. This will lead to the polarization of investment towards larger economies which are linked to smaller economies through the larger FTA. The referral of trade disputes to the smaller regional organizations can be problematic and ambiguous. There is a need for the creation of supranational institutions such as a court or tribunal. These institutions will also be pivotal in neutralizing the effects of the Assembly of Heads and States and Government which may hinder the implementation of regional integration objectives. The court will also be required to be strong enough to enforce the commitments to member states under the treaty and also change the general structure of conducting business in the continent.

There is a need for deeper integration to be achieved, there will be a need to lockout some prevailing challenges that have hampered regional integration. Apart from the dilemma of multiple memberships, other challenges include, persisting non-tariff barrier on goods, infrastructural challenges such as trade facilitation and the protectionist stances have been adopted by various nation-states on goods and services. Infrastructure has continued to be a barrier to trade in the region. Within the TFTA framework, there is a need to provide for the financing of infrastructural development among its partner states. To promote the interest of partner states in the regional organizations, there is a need to compensate members who incur costs in terms of tariff revenue losses. There will also be the need for the member states to forge a more sustainable mechanism to finance the regional organizations by contributing 1% of their GDP to a fiscal pool. This initiative should also take into consideration of the current burdens of the member states as some do not have the mechanisms to finance domestic projects.



### **3.5 Conclusion**

The African states have joined and created many regional organizations. These organizations have had varying degrees of success. The multiple membership scenarios have attracted the attention of many scholars. The proponents of multiple memberships as a building block to regional integration have seen it as a mechanism that provides the state multiple fronts for it to achieve its interests in the global stage. Additionally, it creates situations such as subsidiarity and forum shopping which can potentially advance the interest of the state. On the flip side, multiple memberships have been described as a spaghetti bowl conundrum in the continent. These overlaying memberships have created situations of shallow memberships in the continent. As most countries have small and isolated economies, their commitment to pay their annual fees in these RECs have not been honored. The multiple memberships have also resulted in competition and the lack of establishment of rule-based regimes due to the fragmentation of international law. However, the question remains, how has the issue of multiple memberships in the EAC been addressed.

Analysis of management of multiple memberships through the lens of the TFTA has provided various results. On one side, it is seen as a mechanism in which the EAC will solve its partner states memberships in the COMESA and SADC and provide a better environment for them to conduct business. However, the multiple memberships of the EAC partner countries and the other general TFTA member states bring concerns. The EAC, COMESA, and SADC are at varying levels of regional integration. Regional integration has been adopted in a superficial manner whereby the policies look good in paper but are hardly put in practice. Other problems such as competition among member states will have an adverse effect on the TFTA.

## CHAPTER FOUR

### PLAUSIBLE STRATEGIES THAT CAN REDUCE THE CHALLENGES OF ECONOMIC REGIONAL INTEGRATION IN THE EAC.

#### 4. Introduction

The EAC is marked with an aura of regionalism. This has led to the creation of a community which in the subsequent years has outlined its ambitions, targets, and strategies across various policy areas.<sup>80</sup> These strategies have been adopted by varying degrees with the partner countries. Most importantly, these regional policies have been key in combating issues that cannot be solved at the national level, which affect the countries citizens in terms of human securities, access to infrastructure, climate change to even trade. Since its creation, the EAC has focused on promoting economic growth through the adoption of reforms such as the formation of a customs union, common market, and infrastructural development. However, the maximization of these reforms has been hampered by various challenges.

The challenges of regional economic integration are not unique to Africa. EAC is regarded as one of the most successful regional integration initiatives in the continent. There have been efforts to unravel how various challenges affect regional integration. This paper is shaped by a five-lens approach that has been adopted by The European Center for Developing Policy in various studies around regional integration initiatives in Africa.<sup>81</sup>

Generally, five broad sets of political economy factors and actors interact with each other to shape regional integration. The ‘five lens approach’ which borrows the classification from Political Economy studies identifies the drivers and obstacles to regional economic agreements.

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<sup>80</sup> Adar, Korwa G. "New regionalism and regional reconstruction: The case of the East African Community." *Politeia* 24, no. 1 (2005): 28-48.

<sup>81</sup> ECDPM Website. <https://ecdpm.org/dossiers/political-economy-regional-integration-africa-peria/>

This will provide a clear avenue to unpack how the interplay of structural and institutional actors can be tuned to promote regional integration within the EAC. It uniquely identifies what the EAC is doing, why, and how the current approach can be made better.

Lens	Factors
Foundational/ Structural factors	Geographic, historic, demographic, and economic characteristics of the region which are hard to change.
Formal and informal institutions	The interaction of formal (treaties, agreements) and informal (beliefs and customs) institutions.
Actors, Incentives, and Agency	Partner states, civil society, business sector
Nature and Technical Features	Interests and incentives in trade such as infrastructure, customs union and common market
External factors	Global trade, investment partners, major powers, and extra-regional trade.

Five lens approach.<sup>82</sup>

#### 4:1 Foundational Factors

These factors have promoted and hindered EAC policy choices in economic regional integration. The EAC countries have shared characteristics such as poor infrastructure.<sup>83</sup> The problems in this sector can be attributed to factors such as under maintenance, budget execution failures, communication, navigating, and substantial hidden costs. This has slowed economic growth whereby it increases the cost of doing business limiting trade and growth opportunities.

<sup>84</sup>The large infrastructure deficit in the railway network has increased the cost of transportation.

The degradation of roads and congestion in the road network has created huge losses in the

<sup>82</sup> Adopted from <http://ecdpm.org/peria>

<sup>83</sup> Lee, Margaret C. *Africa's world trade: Informal economies and globalization from below*. Zed Books Ltd., 2014.

<sup>84</sup> Adero, Nashon, and Eric Aligula. "Challenges Facing Transport Infrastructure in the East African Community." *Research Networking and Regional Development Policy-Making in the East Africa Community (EAC)*, 90 113 (2012).

freight sector. Airfreight is also significantly low compared to other regions. Maritime transport is also hindered by the congestion in ports, inadequate container capacity, and limited trans-shipment performance. The challenges facing the transport sector can also be attributed to institutional challenges within the EAC.

Various strategies can be adopted to ensure that the transportation sector is more efficient in the EAC. Despite the efforts undertaken through various fronts such as the COMESA-EAC-SADC tripartite agreement, there is a need to develop cost-effective ways of maintenance and regulation. Ideally, the sector should also be integrated with other crucial infrastructures such as energy and geophysical exploration networks infrastructure. There is also a need to expand innovative infrastructure funding models, mechanisms, and private-public partnerships such as Design-Build-Finance-Operate (DBFO). The increase in investment in transportation has been mainly as a result of national government intervention and has occurred independently from the EAC. There is a need for the community to identify low hanging fruits on how they can be involved in the sector to fast track harmonization of the EAC transport sector. For example, the Northern Corridor initiative has been driven by Kenya and includes Uganda and Rwanda. A particular level of oversight from the EAC secretariat can ensure that the project is more regionally oriented.

Most countries in the region have shared economic interests. This has been depicted especially in the relations between Kenya, Uganda, and Rwanda. This has resulted in Kenya investing in the export market by ensuring that the Mombasa port remains dominant in the region. Uganda and Rwanda have secured import channels and improving the time and the cost of transporting goods from the coast. 80% of all imports to Uganda pass through the Mombasa port Burundi and Rwanda depend on the Mombasa and Dar es Salaam ports for imports and

exports. Uganda, Rwanda, and Burundi have been concerned about their diplomatic relations with Kenya and Tanzania. Ideally, landlocked countries are regarded to be eager to be members of a regional organization that enhances trade. However, Tanzania is not constrained by such factors. The expulsion of Rwandan refugees from Tanzania has hindered regional integration. There has also been the expulsion of Kenya and Ugandan private English teachers in the school. These nationalistic actions have led to the alienation of Tanzania in the EAC.

To mitigate this challenge, the concept of variable geometry has been adopted in the EAC to address the concerns raised by Tanzania. The variable geometry is applied when some members of a large group of states are willing to enter into an agreement.<sup>85</sup> These temporary steps have been used for example when Kenya, Uganda and Tanzania fast-tracked some projects such as the adoption of a single tourist visa and the use of the national cards as travel documents to their mutual borders.<sup>86</sup> There is a need to launch more of these initiatives which can spur development, instead of isolating the particular country through the adoption of various terminologies such as the council of the willing.

#### **4:2 Institutional factors**

The institutional framework within the EAC can be traced from the collapsed attempt in which systematic development has led to the adoption of an elaborate framework with organs and commissions. The regionalization attempt in 1967 led to the establishment of institutions such as the East African Authority, the East African Legislative Assembly, The Common Market council, and many other organs. The 1993 cooperation between Uganda, Tanzania, and Kenya obliged the countries to identify further areas of cooperation underscoring the importance of

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<sup>85</sup> P. Lloyd, 'The Variable Geometry Approach to International Economic Integration', University of Melbourne, p. 51. Retrieved from [http://journals.usb.ac.ir/Business/en-us/Articles/Article\\_172/](http://journals.usb.ac.ir/Business/en-us/Articles/Article_172/) Retrieved on July 2, 2020.

<sup>86</sup> G. Ajumbo, 'Is Variable Geometry Leading to the Fragmentation of Regional Integration in East Africa?', available on <http://www.afdb.org/en/blogs/integrating-africa/post/is-variable-geometry-leading-to-the-fragmentation-of-regional-integration-in-eastafrika-12524/>

frameworks. The current EAC structure pays attention to the new regionalism approach whereby it addresses further areas of integration such as accountability and legitimacy through cooperating with other actors. In the assessment of the EAC structure, it is an intergovernmental, supranational, and closed organization.<sup>87</sup> It is uniquely positioned to deepen the cooperation through building stronger participation of the civil society and the private sectors. However, institutional factors have impeded regional cooperation in the community.

There are views that the EALA has created a rather weak means to ensure that the partner states comply with the state policies. This has resulted in challenges whereby the EAC policies are seen as national when they have a national focus. The EALA has also been criticized for not representing the interests of the general East African population. The members of the assembly are not directly elected by the East African electorate. In as much as they are selected by the national assemblies, they do not have a constituency they report to. If they were involved in the election process, they would adopt campaigns that would allow people to learn more about the EAC. There are few debates about the problems and the prospects of the EAC which are known to the general public. However, this can be challenged by the fact that it is only in the European Union whereby the international assembly is directly elected.

Following the cases which have been presented due to the erratic appointments to the EALA<sup>88</sup>, there is a need to rethink strategies that can ensure that the ascension to the assembly is transparent and fair. Working with bodies such as the EU who have attempted international assembly elections can be a plausible way to ensure the ownership of the EAC regional

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<sup>87</sup> C.F. Amerasinghe, *Principles of the Institutional Law of International Organizations*, 2nd edn, Cambridge, Cambridge University Press, 1996 pp. 9–13

<sup>88</sup> Kaburu, Mercy Kathambi, and Korwa Gombe Adar. "Kenya Citizens' Sovereignty, Popular Participation, and the EAC Integration and Democratization." *Popular Participation in the Integration of the East African Community: Eastafricanness and East Africanization* (2020): 55.

integration attempt is felt within its member countries. There is also a need to give the assembly more formal rights. To get the public value the EAC requires, there is a need for the assembly to represent the people's interests, not the member states' interest. This goal can be complex to achieve but can be experimented through attempting this in informal structures involving youths and other groups to evaluate its efficacy.

There have been limited processes for consulting the civil society, private sector, and other non-state actors. Power is narrowly concentrated in the EAC summit and the Council which is composed of politicians. This has created scenarios whereby the EAC policies lack a domestic constituency. This has also hindered the sustainability of EAC projects as they miss out on the 'buy-in' of more members.<sup>89</sup> There should be a mechanism to roll out clear consultation mechanisms between the EAC and national and regional civil society bodies. Specifically, the East African Business Council (EABC) and East African Civil Society Organizations (EACSO) can be involved in regular meetings. Their budgetary allocations can also increase their impact in reaching out to various grassroots initiatives.

The private sector to a particular degree has been engaged in formulating the EAC policies.<sup>90</sup> The Kenya Association of Manufacturers has advocated for regional integration because most of their activities are export-oriented. In other instances, the Kenya Transport Association (KTA) and the Tanzanian Transport Association (TATO) have derailed some of the common market reforms. Even in this environment, activities are being undertaken in the sector and have not been fully captured by the EAC. The EAC can establish linkage with local and international firms expanding their operations across the EAC. This has been done especially in the finance,

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<sup>89</sup> Ibid

<sup>90</sup> Byiers, Bruce, Jan Vanheukelom, and Christian KM Kingombe. "A five lenses framework for analyzing the political economy in regional integration." *Africa Economic Brief* 6, no. 3 (2015).

telecommunication, and retail sector. Their concerns in specific agendas can fast track the adoption of various policies. Supermarkets have created reliable backward linkages in food processing. Many citizens are involved in agriculture and it has the potential to increase regional integration.

There have been tendencies whereby the Council uses power to constrain the EALA.<sup>91</sup> The Council has continuously dismissed the implementation of Protocols citing technicalities. It is composed of ministers from each partner state and has the power to pass Protocols that translate the principles of a treaty to specific policies that are legally binding. The council is comprised of national politicians that advance national interests. In some cases, they have included extended protocols. The council also influences the Secretariat as it approves all appointments and procurement. The council has divided the available appointments according to a set ratio between the states. This has resulted in having policies that are packaged as regional but have a national focus. For example, the EAC Industrialization Policy (2012) as a regional policy received donor support. However, the development of Small and Medium Enterprises has been confined to national boundaries without issue polices which would ensure developing comparative advantages and produce a regional market.

Many of the states have not adhered to the required EAC contributions.<sup>92</sup> This has limited the autonomy of the EAC. For example, in 2013, the arrears accruing from member states stood at US\$12 million. The late contributions have negatively impacted their work. In some instances, it has led to the dependence on donor funding. The donor funding has reflected their agendas which do not have any backing of the member states. The 2011/12-15/16 Development strategy

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<sup>91</sup> Gastorn, Kennedy. "The inevitable reforms of the legislative competencies of the East African Legislative Assembly." *Verfassung und Recht in Übersee/Law and Politics in Africa/Asia/Latin America* (2015): 28-48.

<sup>92</sup> Byiers, Bruce, Jan Vanheukelom, and Christian KM Kingombe. "A five lenses framework for analyzing the political economy in regional integration." *Africa Economic Brief*



contained commitments around the social sector and the environment reflecting the interests of donors. However, these commitments have not been honored by member states. There should be increased participation of the East African Development Bank to create more innovative ways of financing projects adopted within the EAC.

The EAC implementation of policies especially in the area of trade liberalization has been blocked due to levels of patronage and corruption within the member state bureaucracies.<sup>93</sup> The EAC countries a similarity whereby they have a set of political elites with a small set of business interests. This situation can be attributed to the adoption of crony capitalism or the control of the state in the economy. There is a need for the EAC member states to adopt mechanisms to prevent restrictions on issues such as the free movement of goods due to corruption and a small set of businesses interested. There should be the creation of an enforcement mechanism to remove the discretionary taxes and charges equivalent to tariffs. The recognition of the RoOs over local goods can ensure that the countries have the maximum benefits through the institution of the Customs Union. The enforcement mechanism can also address the EAC policies which have been blocked by informal institutions and national bureaucracies. The levels of corruption can also be reduced at the level systems of rent extraction which involves customs agents, police, private groups, and politicians in ports.

#### **4:3 Actors and Incentives**

EAC as a supranational organization has experienced various challenges. The AFDB strategy paper on regional integration outlines four challenges to regional integration in the EAC which include: weak institutional and human capacity of the EAC, poor performance reducing their capacity to deliver the benefits of regional integration, limited capacity to mobilize the

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<sup>93</sup> Condliffe, Kate, Wangari Kebuchi, Claire Love, and Radha Ruparell. "Kenya coffee: a cluster analysis." *Professor Michael Porter, Microeconomics of Competitiveness. Harvard Business School, May 2 (2008): 2.*

participation of other non-state actors. One of the main challenges affecting the EAC is its ambitious nature against its actual capacity. Its great ambition to achieve the ultimate goal which is the formation of a political federation has been set according to specific timelines. There have been concerns that the EAC has been adopting the process set by the European Union integration experience. However, in reality, integration is a rather complex process.<sup>94</sup> It requires time and a sustainable source of resources. The EAC should adopt policies that reflect the realities of its capacity. It should strategically work with its member states to improve the capacity for it to plan, coordinate, and monitor the processes required to achieve regional integration. Specifically, in the transport sector, the EAC cannot monitor and evaluate the complex corridor projects adopted by member states.

The reliance of donor has created an incentive towards developing policies which appeal to donors, but in many cases do not appeal to the interests of the member states. Traditional donors have contributed up to 65% of the budget of the EAC. This has created the need for the member state to create projects that are appealing to donors.<sup>95</sup> There has been a proliferation of Chinese in the economy. However, they have been less interested in polices. There are concerns that these donor funding are geared at achieving international standards which do not match local realities. The EAC should increase their output in diplomacy whereby they can conduct policy dialogues which go beyond the provision of trade. Ideally, this would provide a platform whereby the community can interact with national and international actors and facilitate collective action.

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<sup>94</sup> Ugirashebuja, Emmanuel, John Ruhangisa, Tom Ottervanger, and Armin Cuyvers. *East African Community law: institutional, substantive and comparative EU aspects*. Brill, 2017.

<sup>95</sup> Große-Puppenthal, Sebastian. "Understanding industrialization and youth employment policy in the East African Community." Retrieved from <https://ecdpm.org/wp-content/uploads/EAC-Industrialisation-Background-Paper-PEDRO-Political-Economy-Dynamics-Regional-Organisations-Africa-ECDPM-2017.pdf> on July 12 2020.

The member states have been reluctant to cede requisite competencies to the regional organization.<sup>96</sup>This has ensured that the EAC has little authority in the integration process. The regional integration policies have not reflected in the national policies, therefore giving the process little regard. Ideally, the increase in sectorial linkages and consistency in various policies would improve the challenges of regional integration in the EAC. With this, there would be a need for strategic planning and the actual adoption of time frames, indicators, and progress. There is a need for the Community's objectives to be prioritized as members make agreements with other external parties. External agreements such as the TFTA between the community, COMESA, and SADC can be beneficial if they sustain the already achieved common development among the partner states. There are projections that a regional oriented strategic development by the partner states can advance the existing collective identity and to an extent reinforce the implementation of the regional initiatives.

There is a need for the benefits accruing from the community to be shared equally in the community to conquer the challenge of 'one country benefiting more than the others. Kenyan increasing involvement in the EAC integration process can be drawn from the interest of the private sector in increasing participation in the regional market. Although this has been largely successful in having buy-in from countries such as Uganda and Rwanda, it has also affected the relations between Kenya and Tanzania. Incidences such as in 2014 where an informal grouping consisting of Kenya, Uganda, and Rwanda was used as alternative policy forum should be restrained to maintain the regional integration. Wendt outlines three variables of interdependence, common fate, homogeneity, and self-restraint. The two countries, Tanzania and

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<sup>96</sup> Ugirashebuja, Emmanuel, John Ruhangisa, Tom Ottervanger, and Armin Cuyvers. *East African Community law: institutional, substantive and comparative EU aspects*. Brill, 2017.

Kenya can relate a means to reduce the competition over the control of the regional transit market

World Trade Organization (WTO) at least in theory prohibits multiple memberships in the various customs unions.<sup>97</sup> Ideally, the EAC member states are party to a customs union in SADC, COMESA, and EAC.<sup>98</sup> This has also complicated their relationship between the EAC and other international bodies such as the EU. Within the region, multiple memberships it has created a complex web of commitments. These have different rules, structures, and standards that have negatively affected intra-regional trade. Creating the COMESA EAC SADC tripartite can solve the issue of harmonization of the different trade regimes within the EAC. Other actions that can be taken under the tripartite agreement include the removal of tariffs and NTBs and trade facilitation to harmonize the RoOs, application of the subsidiarity principles to facilitate the improvement of the transport network, and create incentives for industrial development.

This ideally can boost the involvement of the EAC as a fully coherent collective actor in the global stage. Attempts such as Tanzania deciding to join the EAC to negotiate Economic Partnership Agreements can be seen as a small win towards deepening regional integration. Kenya has a vested interest in advancing the regional integration process. The subsequent regimes have focused on private sector concerns. They have also adopted regional integration through pushing for policies by implementing projects such as increasing the efficiency at the Mombasa port, regional Standard Gauge Railway network, and rallying Rwanda and Uganda in easing visa transactions. The regional integration theory outlines that a regional initiative is most likely to be successful when at least one government takes a leading role in the implementation

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<sup>97</sup> Hoekman, Bernard M., and Petros C. Mavroidis. *World Trade Organization (WTO): law, economics, and politics*. Routledge, 2015.

<sup>98</sup> Dirar, Luwam. "Common market for eastern and southern african countries: multiplicity of membership issues and choices." *African Journal of International and Comparative Law* 18, no. 2 (2010): 217-232.

process. Regional integration is costly for some sectors of the national economies of its partner states. Harnessing the willingness of Kenya can rally members who are not interested in implementing the EAC policies.

#### **4:4 Nature and Technical Features**

The EAC adopted policies in facilitating regional economic integration. It includes the adoption of the Customs Union and Common Market. These preferential Trade Agreements (PTAs) reduce costs of trading through the reduction of tariff and non-tariff barriers and improving trade facilitation mechanisms. The EAC has adopted trade facilitation increasing tangible infrastructures such as roads, highways, ports, and telecommunications.<sup>99</sup> Intangible institutional factors relating to transparency and customs management have also been adopted to ease trade. Some NTBs can be easily implemented through shallow integration processes. Other NTBs and generally trade facilitation can be achieved through deep integration. Generally, PTAs can harness the maximum benefits if the member states are natural trading partners with complementary production profiles, harmonized regulatory frameworks, and provide technical assistance to weaker states. De Melo and Tsikata (2014)<sup>100</sup> also posit that PTAs have benefits such as reducing the probability of war through increased discussions on political issues.

The community has been regarded as one of the most advanced regional integration blocs on the continent. Just like other blocks, the EAC has adopted a linear model of integration. This step by step integration begins with the easier movement of goods, labor, and capital markets across national boundaries to ultimately creating a political federation. There have challenges in completing goods market integration and the availability of funds to offset the uneven

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<sup>99</sup> Kingombe, Christian. "Hard and soft infrastructure development in Africa." *Diakses Maret 12* (2014): 2019.

<sup>100</sup> De Melo, J., and Y. Tsikata. "Regional integration in Africa: Challenges and prospects, WIDER working paper 2014/037." (2014).

distribution of benefits among member states. There have also been varying degrees of success in attempting to adopt behind-the-border measures to facilitate trade.

The EAC has adopted a customs union in 2005 which established a CET on imports from external countries and set in motion plans to eliminate internal tariffs. This process was adopted through an asymmetric tariff reduction which Rwanda and Burundi joined later due to the size and structure of their economies. Despite these policies adopted, Non-Trade Barriers have continued to persist. These technical and administrative imposed by partner states include non-harmonized technical regulations, sanitary and phytosanitary requirements, rules of origin and roadblocks, and weighbridges that have continued in affecting trade. These are embedded in national and local levels laws, regulations, and requirements. There is a need for the EAC to strengthen the existing committees which include the EAC Sectorial Committee on Trade, Industry, Finance and Investment, the EAC Trade and Remedies Committees, and the EAC secretariat. Apart from writing reports and investigations, more actions can be undertaken to persuade the member state to adopt the requirements.

The EAC Elimination of Non-Tariff Barriers Act 2015 set a legal mechanism for the removal of existing NTBs as the mechanisms adopted such as the committees had not produced significant changes in the elimination of NTBs.<sup>101</sup> The bill set in motion Article 13 of the Customs Union Protocol which created a provision for the member states to remove all the existing NBS by observing the RoOs. The aim of the act to facilitate trade through an eased mechanism of transporting goods through the region. The act has also provided for the adoption of National Monitoring Committees consisting of public and private sector to monitor the process. It also includes categories such as restrictive practices tolerated by the government's

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<sup>101</sup> Oiro, Rosebela, Boniface Owino, and Max Mendez-Parra. "Non-tariff barriers and 'complaints' in the East African Community's reporting process." *CUTS International Policy Briefing* (2017).

customs and entry procedures, technical barriers to trade to even specific limitations including quantitative restriction. However, the bill has been acquiesced by Kenya, Uganda, and Tanzania. However, the bill has also been critiqued from a gender perspective whereby it does not give specific consideration for women traders and the obstacles they face. The act is rather vague concerning the actions to be taken to a member state if it fails to eliminate NTBs. There EAC can also adopt a mechanism to monitor the act which does not include the potential beneficiaries of NTBs.

The common market within the EAC has been adopted to widen and deepen cooperation among member states in the social and economic fields. The EAC common market has a focus on the goods, labor, services, and capital markets. Generally, in regional integration, the common market occurs after the establishment of an FTA. This encourages the flow of factors of production, a CET, and the elimination of tariffs and quotas. However, there concerns that the EAC common market is a concept on paper that is not widely practiced. This not entirely limited to the EAC. It is a lengthy process as the member states and their legal systems need time to adjust to the process. These stages adopted are confusing in practice whereby the European Common Market achieved partial flow of goods, services, capital, and labor before it became a fully-fledged free trade area and customs union in 1968.

Despite the adoption of the Common Market, there have been various sectorial laws and regulations within the EAC partner states which have hampered free movement of the factors of labor identified. This can be remedied through the legal analysis reform whereby all measures which are inconsistent with the protocol are identified.<sup>102</sup> This should create a basis for liberalizing restrictions and the alignment of member states legislation with the EAC policies.

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<sup>102</sup> Kotschwar, B. K. "East African Common Market Scorecard 2016: Tracking EAC Compliance in the movement of Capital, Services and Goods." *The World Bank* (2016): 1-232.

There should also be the adoption of a mechanism to ensure the member states are consistent and fully implement its national legislation regarding liberalization. There is a need for various factors such as the member states, the EAC secretariat, CSO, and business community to come up with a practical agenda to address the persisting inconsistent measures. Various existing committees can develop a specific agenda that includes the target, milestones, and actions which have been completed to reevaluate a particular policy. The states should also inform the EAC Council in the instances of the adoption of new laws and guidelines which might affect trade.

#### **4:5 External Factors**

The EAC was created to develop programs that widen and deep cooperation among the member states within the social-economic, political, and cultural fields. To achieve this, the partner states are required to transfer or surrender some of their levels of sovereignty to the EAC. As an international actor, the EAC has the capacity to interact with external actors. Article 9(4) posits that the EAC organs and institutions should perform their functions and power by the treaty. According to Seyested<sup>103</sup> restrictive framing like the one at the EAC has not limited International Non-Governmental organizations from performing sovereign and international acts. In relation to external relations, the EAC has acted directly. This can be indicated by its activities such as signing development agreements and receiving diplomats. The summit can also take action on behalf of the EAC whereby the chairperson can sign an accession treaty with a new partner state. This can be epitomized by the decision of the summit to negotiate as a block in negotiations between the African Caribbean and Pacific countries, the European Union, and the World Trade Organization.

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<sup>103</sup> Seyested, F. "Objective International Personality of Intergovernmental Organizations: Do their Capacities Depend Upon the Conventions Establishing Them?" *Nordisk Tidsskrift for International Ret* 34 p. 3



Most of the EAC countries have a narrow production and export structure. The trade of primary goods in the international markets leads to accruing of low amounts for the member states. In most cases, these states have a negative balance of payments whereby they import more than what they sell. This has also been depicted by the high competition from imports from developing countries reducing intra EAC trade.<sup>104</sup> This can be remedied by creating linkages to the small economies of the member states to increase competitiveness and gains from economies of scale.

The global advancement in the flow of FDI has greatly influenced investment mechanisms in the EAC. Many Multinational Corporations have adopted the internationalization strategy hereby they take their business to other countries to ensure that their businesses stay afloat. In some instances, these MNCs want to invest in developing countries as a return on investment in their home countries may not be sufficient. For many developing countries such as the EAC partner states, host countries anticipate that the presence of MNCs can lead to the development of services. And infrastructure which can speed up development.<sup>105</sup> These forms can enhance domestic firms' capacity by boosting their innovative capacity. However, due to the resources which the MNCs have, the local firms are unable to compete at a more equal level with the MNCs. The proliferation of MNCs has also raised eyebrows concerning issues such as illicit financial flows and cross border tax avoidance. The EAC has developed its model tax treaties. This has also been conducted in other regional organizations such as SADC. Due to its dual membership in the two organizations, Tanzania has faced the challenge of coordinating regional

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<sup>104</sup> Mwasha, Ombeni N. "The benefits of regional economic integration for developing countries in Africa: A case of East African Community (EAC)." *Korea Review of International Studies* 1 (2011): 69-92.

<sup>105</sup> Ng'ayo, Rickline S. "Changing Perceptions Towards Multinational Corporations: The East African Experience." PhD diss., University of Nairobi, 2014.

tax issues through its national revenue authority.<sup>106</sup> Illicit financial flows have become a major concern in the region as it has negatively its development agenda. This creates a position whereby the EAC can rally with other organizations to exact standpoints on global tax coordination. The community can also leverage its influence through working with the UN Committee of Experts in Tax Matters to create international instruments which favor its member states.

#### **4:6 Cross-Cutting Issues**

Many of the ruling elites have indicated that the EAC is a top regional integration priority. However, there have been limited tangible commitments to the ownership of the community.<sup>107</sup> Despite the fact that many achievements have been made in the harmonization of policies in the region, many nation-states have adopted a lenient attitude towards the EAC. Many of the EAC activities are run by donors. In the 2013/2014 budget, the EAC partner states contributed 28% of the budget while development partners contributed to the rest of the budget. The current EAC funding arrangement which requires the partner countries to contribute equally regardless of the GDP or population size has been a burden for smaller countries such as Burundi. This can be amended by establishing a system whereby the countries such as Kenya which have a larger economy contribute more. There is a need to focus on the national states which have ‘owned’ some of the EAC policies, and create an environment whereby there can be ‘spillover’ effects for other states. There is little knowledge and interest in the EAC is by various stakeholders in Burundi. Most of these actors have been focused on the protracted civil strife in the country. The need for the EAC to work with other member states to facilitate its entry in addressing the

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<sup>106</sup> Kibuuka Paul, “Tanzania in International Tax Law: Engendering global tax cooperation” The Citizen. Retrieved from <https://www.thecitizen.co.tz/oped/-Engendering-global-tax-cooperation-/1840568-5540818-sm9wtw/index.html> on 10 July 2020.

<sup>107</sup> Byiers, Bruce, Jan Vanheukelom, and Christian KM Kingombe. "A five lenses framework for analyzing the political economy in regional integration." *Africa Economic Brief* 6, no. 3 (2015).

challenges which face a particular country, therefore creating a level of importance. The secretariat should work with the summit to ensure that the community is viewed as a priority in the country's agenda.

The EAC has low institutional capacity despite the community's increasing mandate.<sup>108</sup> Specific key industries such as energy only have two staff that are responsible for coordinating policy across the EAC. There is a need for the revision of the institutional capacities of the EAC. There should be an establishment of a clear structure to govern the institutional expansion process. This will ensure that the organs and institutions have the required personnel to effectively and efficiently discharge their expected mandate. This upgrading will fast track regional integration whereby it will be having staff to focus on a wide range of responsibilities adopted. The EAC secretariat can also work with national organs of member states which have sometimes taken a leading role in the EAC initiatives. For example, the success of the EAC transport initiatives has been driven by a member state's organs. A clear system can be identified to harness these capacities of member states.

Gender equality is one of the guiding principles of the EAC integration process. It has been highlighted in various articles such as Article 5(3), 121, and 122.<sup>109</sup> Research indicates that women lag in access to education, political participation, wages, employment, and decision making. The EAC attempted to remedy this through the adoption of a Gender and Community Development Committee. The committee has achieved various successes such as the development of the Gender and Community Framework in 2009 and the Strategic Plan on Gender, Youth, and Persons with Disabilities, Social Protection and Community Development

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<sup>108</sup> Ibid

<sup>109</sup> UN Conference on Trade and Development. East African Community Integration: Trade and Gender Implications. 2018. Retrieved from: [https://unctad.org/en/PublicationsLibrary/ditc2017d2\\_en.pdf](https://unctad.org/en/PublicationsLibrary/ditc2017d2_en.pdf)

2012-2016. However, there have been concerns that the committee has been unable to influence the broader EAC agenda. There should be memberships in other EAC directorates to ensure gender mainstreaming in key sectorial plans and alignment in broader plans and budgets. Although the member states have taken adopted various policies to resolve concerns regarding gender, the ratification of international instruments has been weak. The EAC should also focus on the specific issues which women face in undertaking cross border trade such as harassment by border guards which sometimes result in violence.

#### **4:7 Recommendations**

The EAC is affected by various challenges that have hampered its ability to harness the maximum benefits of regional integration for the member states. In attempting to find a solution to all the challenges identified through the political economy lens ambitions, the brokerage and champions approach can be applied. Specifically, under ambitions, there is a need for the community to reevaluate what is feasible in terms of its characteristics which are hard to change, and how they are affected by regional integration. The developed approach should aim for ‘best fit’. The adoption of ‘best practices’ has not been very helpful in this regional integration attempt as they have created formalism as they do not pay attention to the idiosyncrasies of the partner states. There should also be mechanisms to facilitate political traction to identify areas in which the member states can benefit from regional integration. The EAC can take a lead role in brokerage whereby it can identify and harness the interests of various stakeholders. This can reduce information asymmetries, facilitate collective action. A brokerage can also lead to the adoption of public-private-CSO engagement to create traction for the demand for regional integration and cooperation. Identifying national leaders, businesses and CSO can set in motion

policy reform the EAC. There is a need to understand the capacities of technical and political actors to form coalitions driving regional agendas.

Apart from the mechanisms above, there is a need for policymakers within the EAC to adopt development differently. The organization has adopted a linear model of integration. This only offers the vision. There is a need to build flexibility and adaptability to reforms and interventions undertaken by the community. An attempt to alter the existing structural and foundational features can be difficult. However, adopting mechanisms such as improvement of infrastructure which has a long-term influence can facilitate policy change. There is a need for a learning session within the EAC framework whereby the success and challenges affecting one area can be used to identify entry points in determining the interests of actors in various sectors affecting them. They can avert political blockages which have been a hindrance to the much-needed reform in the EAC. Some policy reforms might be attractive to policymakers. However, there is a need for the EAC secretariat to wait or facilitate the propitious conditions for adoption.

#### **4.8 Conclusion**

This chapter adopts a five-lens framework in the analysis of the challenges facing the EAC and the generation of plausible strategies that remedy these challenges. On focusing on foundational factors, poor infrastructure is highlighted as an impediment in doing trade. Shared economic interests are seen as a driver of regional integration; however, this has not achieved its maximum benefits as there have been limited interests by member states. This can be re-aligned by expanding the existing initiatives such as the adoption of a single visa to ensure benefits for all member states. Institutions such as the EALA, the EAC secretariat, and the Summit are analyzed. The weighing of more power on the summit has caused difficulties in the

implementation of the EAC's agenda. There is also limited involvement of the civil society and the private sector in the EAC decision-making process. The involvement of these actors can lead to the sustainability of the EAC process. Actors such as nation-states involvement in the EAC have been hindered by the multiple memberships in the other REC-s. These can be remedied by actions such as the SADC EAC COMESA tripartite which seeks to harmonize different trade regimes within the EAC.

In nature and technical features lens, the paper focuses on the PTAs adopted within the community such as the Customs Union and the Common Market. The adoption of a rather linear mode of integration has to a particular degree resulted in a lenient approach by member states. Despite the development achieved, issues such as NTBs and non-recognition of RoOs have continued to persist. The paper suggests that there is a need for adopting more mechanisms that prompt the member states to honor their commitments in regional integration. External factors such as relations with donors, external debt, and the emergence of MNCs in the region have presented challenges to the EAC. Other cross-cutting issues such as gender and administrative functions of the EAC are also analyzed in this chapter. The paper recommends that the adoption of ambitions, brokerage, and champions approach can be instrumental in resolving challenges within the organization.

## **CHAPTER FIVE**

### **SUMMARY, RECOMMENDATIONS AND CONCLUSIONS**

#### **5.1 Summary**

The study focused on the challenges of regional integration by focusing on the EAC. Regional integration is regarded as a prerequisite of accelerating economic growth and development in the continent. As seen in the EAC, the process of regionalization has been initiated and achieved success by varying degrees across the continent. However, the shortcomings of these organizations also stand out. The East African Community is a rather interesting organization to explore in this regard. Ideally, the community has been regarded as a driver of Africa's regional integration process. The EAC collapsed in 1977 and was revived two decades later. Are these problems which led to its demise persist in the current relations among its member states? There are also concerns if issues that led to its collapse have been addressed in the revived bloc. Over the years, the community has admitted new member states such as Burundi, Rwanda, and South Sudan. How have these changed power dynamics and the implementation of economic policies within the country? What policies exist with the EAC to manage their member states with weaker economies to manage their market weakness and develop the production of the infant industries?

The study also highlighted that the member states of the EAC are also involved in other regional organizations such as the Common Market for Eastern and Southern Africa (COMESA), Intergovernmental Authority on Drought and Development (IGAD), and even the Southern Africa Development Cooperation (SADC). This questions the importance of the EAC as an integral part of the development of these countries, or just as an addition to other regional initiatives. Additionally, the EAC is one of the six regional economic blocs which were set out

by the Abuja treaty. However, the community does not involve other countries in the greater East African region such as Ethiopia. This cites the concerns whether the EAC might be forced to collapse and lead to the development of a larger East African Cooperation Framework. In a bid to address the specific challenges in regional integration guided by the New Regionalism Approach framework, the study focused on the following research questions:

4. What levels of economic regional integration have been achieved in the East African Community Regional Integration Process?
5. How has the EAC managed multiple memberships in other Regional Economic blocs?
6. What are the plausible strategies which can reduce the challenges of economic regional integration in the EAC?

In chapter two, the study focused on the levels of economic regional integration that have been achieved in the EAC through focusing on the customs union and common market. The EAC customs union has been in force since 2005 after the EAC disregarded immediate step of establishing a free trade area. Drawing its legal mandate from Article 75 of the Treaty of the Establishment of the East African Community, the EAC partner countries have established a zero on goods and services and created a common external tariff. Challenges arising from the implementation of include creation of a list of Sensitive Items (SI) under the common external tariff, varying customs evaluation procedures and issues arising from its members being landlocked. The EAC common market has provided for the free movement of goods, services, labor, and the right of establishment and residence within the members. The study focused on the movement of capital, freedom to provide services, and freedom of movement of goods. In all of these reforms, the issue of Nontrade barriers has a major concern. Additionally, the slow



implementation of the required operations and policies was seen as a major impediment to the common market.

Chapter three focused on the management of multiple members of the EAC countries to other economic blocs. The study focused on the COMESA-EAC-SADC Tripartite Free Trade Area which offered a new bargain for these African states as all members of the EAC are also COMESA member states apart from Tanzania which is member of SADC. The TFTA is faced by problems arising from its multiple memberships in other regional organizations that have divergent rules of origin, trade instruments, and objectives of simplifying trade. Many members of the TFTA have superficially embraced regional integration as the implementation of the agreements has been rather slow. The TFTA also is comprised of three RECs that have so far achieved varying levels of regional integration which the varied interests of these regional organizations may slow down liberalization. The source of funding to run the organization remains rather unclear.

Chapter four focused on the plausible strategies that can reduce the challenges of regional integration. The chapter adopted a political economy analysis framework whereby it focused on specific 'lens' such as foundational factors, formal and informal institutions, actors and agency, nature and technical features, and external factors. Transport has been a major constraint to regional integration. The study highlighted that there is a need for the community to identify low hanging fruits on how they can be involved in the sector to fast track harmonization of the EAC transport sector. The increased public opinion such as reducing erratic appointments and strengthening the mandate of the legislation of the activities of EALA can have benefits of ownership of regional economic integration. The increase of consultations with the civil society, private sector, and other non-state actors can also address challenges hindering regional

integration. In the study, cross cutting issues such as gender and institutional capacity were also addressed.

## **5.2 Recommendations**

In the analysis of the levels of regional economic integration achieved in the EAC, there is a need for member states to adopt a disclosure approach by ensuring that the availability of sufficient information for investors to make informed judgments about the member states' market attractiveness. The current merit-based decision-making process has been ineffective. In the implementation of both the Customs Union and Common Market, there is a need to enforce a notification mechanism that will create transparent and a credible system for free movement of people and goods across borders. The imposition of restrictions by partner states should be done temporarily. For example, the exemptions made in Article 25 of the Common Market should only be applied when it is essential. Additionally, there is a need for capacity building for effective financial integration, market intermediaries, coordination of securities markets, and investment in public awareness.

There is a need for the EAC Secretariat, partner countries to agree on practical ways to solve inconsistencies within regional economic integration. Many of the inconsistent measures are anchored in the national laws, administrative amendments, and regulations by specific institutions. There is an opportunity for EAC countries to harness the maximum benefits by aligning their national legislation with regional commitments. However, these alignments may not exactly yield sustainable results. There is a need to ensure that these measures are consistent and fully applied. There is also the need for the member states to notify the secretariat on any new laws and regulations that may hamper the process.

To avoid problems arising from multiple memberships, there is a need for the creation of a legal framework to govern the TFTA. This can be built on the process which began in 2011 negotiations. There is also the need for the TFTA to be recognized by the AU and other important organizations such as the WTO and the UN. Working with regional powers such as Kenya, South Africa, and Egypt can create a hub-and-spoke scenario. This will lead to the polarization of investment towards larger economies which are linked to smaller economies through the larger FTA. The referral of trade disputes to the smaller regional organizations can be problematic and ambiguous. There is a need for the creation of supranational institutions such as a court or tribunal. These institutions will also be pivotal in neutralizing the effects of the Assembly of Heads and States and Government which may hinder the implementation of regional integration objectives. The court will also be required to be strong enough to enforce the commitments to member states under the treaty and also change the general structure of conducting business in the continent.

There is a need for deeper integration to be achieved; there will be a need to lockout some prevailing challenges that have hampered regional integration. Apart from the dilemma of multiple memberships, other challenges include, persisting non-tariff barrier on goods, infrastructural challenges such as trade facilitation and the protectionist stances have been adopted by various nation-states on goods and services. Infrastructure has continued to be a barrier to trade in the region. Within the TFTA framework, there is a need to provide for the financing of infrastructural development among its partner states. To promote the interest of partner states in the regional organizations, there is a need to compensate members who incur costs in terms of tariff revenue losses. There will also be the need for the member states to forge a more sustainable mechanism to finance the regional organizations by contributing 1% of their

GDP to a fiscal pool. This initiative should also take into consideration of the current burdens of the member states as some do not have the mechanisms to finance domestic projects.

The EAC is affected by various challenges that have hampered its ability to harness the maximum benefits of regional integration for the member states. In attempting to find a solution to all the challenges identified through the political economy lens ambitions, the brokerage and champions approach can be applied. Specifically, under ambitions, there is a need for the community to reevaluate what is feasible in terms of its characteristics which are hard to change, and how they are affected by regional integration. The developed approach should aim for best fit. The adoption of best practices has not been very helpful in this regional integration attempt as they have created formalism as they do not pay attention to the idiosyncrasies of the partner states. There should also be mechanisms to facilitate political traction to identify areas in which the member states can benefit from regional integration. The EAC can take a lead role in brokerage whereby it can identify and harness the interests of various stakeholders. This can reduce information asymmetries, facilitate collective action. A brokerage can also lead to the adoption of public-private-CSO engagement to create traction for the demand for regional integration and cooperation. Identifying national leaders, businesses and CSO can set in motion policy reform the EAC. There is a need to understand the capacities of technical and political actors to form coalitions driving regional agendas.

Apart from the mechanisms above, there is a need for policymakers within the EAC to adopt development differently. The organization has adopted a linear model of integration. This only offers the vision. There is a need to build flexibility and adaptability to reforms and interventions undertaken by the community. An attempt to alter the existing structural and foundational features can be difficult. However, adopting mechanisms such as improvement of

infrastructure which has a long-term influence can facilitate policy change. There is a need for a learning session within the EAC framework whereby the success and challenges affecting one area can be used to identify entry points in determining the interests of actors in various sectors affecting them. This can avert political blockages which have been a hindrance to the much-needed reform in the EAC. Some policy reforms might be attractive to policymakers. However, there is a need for the EAC secretariat to wait or facilitate the propitious conditions for adoption.

### **5.3 Conclusion**

Regional economic integration presents countries with the means to advance their economic interests. However, the implementation does not occur in isolation, it is influenced by factors such as the willingness of the state to domesticate the economic policies introduced at the international level. An analysis of the Customs Union and the Common Market in the EAC has indicated various challenges and successes. The common market and the customs union have been constrained by exemptions. Political elites in the EAC member states have indicated a lack of centralized control of the policies required under EAC integration in domestic policy. It has been cited that the EAC has limited capacity to monitor these implementation challenges. This has been indicated by the lengthy delays and blockages with implementation owing to divergent interests within the domestic economies. Various partner states have introduced various restrictions that have hindered the free movement of goods.

The African states have joined and created many regional organizations. These organizations have had varying degrees of success. The multiple membership scenarios have attracted the attention of many scholars. The proponents of multiple memberships as a building block to regional integration have seen it as a mechanism that provides the state multiple fronts for it to achieve its interests in the global stage. Additionally, it creates situations such as

subsidiarity and forum shopping which can potentially advance the interest of the state. On the flip side, multiple memberships have been described as a spaghetti bowl conundrum in the continent. These overlaying memberships have created situations of shallow memberships in the continent. As most countries have small and isolated economies, their commitment to pay their annual fees in these RECs have not been honored. The multiple memberships have also resulted in competition and the lack of establishment of rule-based regimes due to the fragmentation of international law. However, the question remains, how has the issue of multiple memberships in the EAC been addressed.

Analysis of management of multiple memberships through the lens of the TFTA has provided various results. On one side, it is seen as a mechanism in which the EAC will solve its partner states memberships in the COMESA and SADC and provide a better environment for them to conduct business. However, the multiple memberships of the EAC partner countries and the other general TFTA member states bring concerns. The EAC, COMESA, and SADC are at varying levels of regional integration. Regional integration has been adopted in a superficial manner whereby the policies look good in paper but are hardly put in practice. Other problems such as competition among member states will have an adverse effect on the TFTA.

Chapter four provides the generation of plausible strategies that remedy these challenges. On focusing on foundational factors, poor infrastructure is highlighted as an impediment in doing trade. Shared economic interests are seen as a driver of regional integration; however, this has not achieved its maximum benefits as there have been limited interests by member states. This can be re-aligned by expanding the existing initiatives such as the adoption of a single visa to ensure benefits for all member states. Institutions such as the EALA, the EAC secretariat, and the Summit are analyzed. The weighing of more power on the summit has caused difficulties in the

implementation of the EAC's agenda. There is also limited involvement of the civil society and the private sector in the EAC decision-making process. The involvement of these actors can lead to the sustainability of the EAC process. Actors such as nation-states involvement in the EAC have been hindered by the multiple memberships in the other REC-s. These can be remedied by actions such as the SADC EAC COMESA tripartite which seeks to harmonize different trade regimes within the EAC.

In nature and technical features lens, the paper focuses on the PTAs adopted within the community such as the Customs Union and the Common Market. The adoption of a rather linear mode of integration has to a particular degree resulted in a lenient approach by member states. Despite the development achieved, issues such as NTBs and non-recognition of RoOs have continued to persist. The paper suggests that there is a need for adopting more mechanisms that prompt the member states to honor their commitments in regional integration. External factors such as relations with donors, external debt, and the emergence of MNCs in the region have presented challenges to the EAC. Other cross-cutting issues such as gender and administrative functions of the EAC are also analyzed in this chapter. The paper recommends that the adoption of ambitions, brokerage, and champions approach can be instrumental in resolving challenges within the organization.

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# APPENDICES

## Appendix I: Turnitin Report