

UNIVERSITY OF NAIROBI

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**CHALLENGES AND PROSPECTS OF EAST AFRICAN COMMUNITY
REGIONAL INTEGRATION PROCESS (2001- 2009)**

BY

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**This Research Project is submitted in partial fulfillment for the Degree of Master of
Arts in International Studies, at the Institute of Diplomacy and International
Studies (IDIS), University of Nairobi.**

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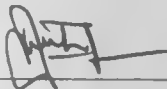


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September, 2010

DECLARATION

This research project is my original work and has not been presented for the award of a degree in any other university.


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

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DEDICATION

To my father Samuel Yego, the hardworking peasant farmer in Elgeyo Marakwet county who tirelessly inculcated the value of education in his children.

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I take this opportunity to acknowledge with great humility those who provided support for the completion of this research project. I acknowledge my supervisor Prof. Ambassador Maria Nzomo for her patience and intellectual guidance throughout the project duration.

Her stimulating and challenging ideas kept me on the edge and enabled me to see the big picture of the academic world.

I salute other lecturers and my colleagues at IDIS whose contributions helped me stick to the study even during low moments.

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ABSTRACT

Regional integration had a long history in East Africa. The main focus of this study was to investigate the impact of challenges and prospects of East African Community Regional Integration Process (2001- 2009). The study too sought to establish the measures the five East African countries have undertaken in the four-stage regional integration process to address the above in EAC, suggest policy options for regional integration in East Africa and to examine the process of development of regional integration in East Africa.

The study found out that the implementation of the four pillars of EAC integration process- the customs union, the common market protocol, the monetary union and the political federation will not guarantee quickly mutually beneficial cooperation. The East African countries are characterized by low income from agricultural production and heavy dependence of primary exports. In Tanzania, Uganda, Burundi and Rwanda, agriculture accounts for nearly 50 per cent of the Gross Domestic Product. Only Kenya has a relatively diversified economy and has exploited better the opportunities offered by the East African Market.

In political development, the post colonial East Africa states are characterized by centralization of power, reluctant move towards democratization, political instability in Northern Uganda, Rwanda and Burundi. These factors affect the EAC regional integration process.

The study recommends full support by all the stakeholders in the region to the EAC regional integration process to facilitate the achievement of political federation by 2015 and thus accord East Africans maximum benefit. As the partner states wade through the regional integration process, they should construct common regional public goods, adopt common regional approaches, recognize the role of core states in regional integration, adopt common foreign, infrastructural, and investment policies.

LIST OF ABBREVIATIONS

ACP	-	African Caribbean and Pacific
AGOA	-	African Growth Opportunity Act
AU	-	African Union
CET	-	Common External Tariff
COMESA	-	Common Market for Eastern and Southern Africa
EAC	-	East African Community
EACSO	-	East African Common Services Organization
EADB	-	East African Development Bank
EADS	-	East African Development Strategy I and II
EAHC	-	East African High Commission
ECA	-	Economic Commission for Africa
ECSC	-	European Coal and Steel Community
EEC	-	European Economic Community
EU	-	European Union
IC/GLR	-	International Conference on the Great Lakes Region
NEPAD	-	New Partnership For African Development
PTA	-	Preferential Trade Area
SACU	-	Southern African Customs Union
SADC	-	Southern Africa Development Community
USA	-	United States of America
WTO	-	World Trade Organization

CHAPTER ONE: INTRODUCTION TO THE STUDY- East African Community

The East African Community (EAC) is the regional intergovernmental organization of the Republic of Burundi, Rwanda, Kenya, Uganda and Tanzania. Together, the five East African countries cover an area of 1.85 million square kilometers and have a population of over 126 million who share a common history, language, culture and infrastructure. These advantages provide the partner states with a unique framework for regional co-operation and integration. The combined Gross Domestic Product (GDP) of the five countries is US\$ 73 billion.¹

The vision of the EAC is a prosperous, competitive, secure, stable and politically united East Africa while its mission is to widen and deepen economic, political, social and cultural integration in order to improve the quality of life of the people in the region through increased competitiveness, value added production, trade and investment.²

Kenya, Tanzania and Uganda have enjoyed a long history of cooperation under successive regional integration arrangements. The formal economic and social integration commenced with, among other things, the construction of Kenya Uganda Railway 1897 – 1901, the establishment of the Customs Collection Centre 1900, the East African Currency Board 1905, the Postal Union 1905, the Court of Appeal for Eastern Africa 1909, the Customs Union 1919, the East African Governors Conference 1926, the East African Income Tax Board 1940, the East African High Commission (1948 – 1961); the

¹ *The East African Community Brochure, Department of Corporate Communications and Public Affairs, Arusha, Tanzania, P.1*

² *Ibid*

East African Common Services Organization (1961 – 1967); the East African Community (1967 – 1977), and the East African Co-operation (1993 – 2000).³

The 1967 Treaty that established the EAC enabled the three countries to control and administer certain matters of common interest and to regulate the commercial and industrial transactions between them. Through the common legislature, the three countries were able to enact laws that were relevant and governed the EAC affairs.⁴ The collapse of EAC in 1977 followed official dissolution of the Treaty. The main reasons that contributed to the collapse of the EAC were lack of strong political will, lack of strong participation of the private sector and civil society in the co-operation activities, the continued disproportionate sharing of benefits of the community among the Partner States due to their differences in their levels of development and lack of adequate policies to address this situation.⁵

The collapse of EAC left a vacuum in a region with a long history of co-operation. However, Kenya, Tanzania and Uganda signed on 14th May, 1984, at Arusha, Tanzania, the East African Mediation Agreement (1984) for the division of assets and liabilities.⁶ However, as one of the provisions of the Mediation Agreement, the three states agreed to explore areas of future co-operation and to make concrete arrangements for such co-operation. This eventually led to a meeting of the East African Heads of State held in Harare, Zimbabwe in 1991 where they agreed to revive cooperation in the region.

³ The Treaty for the Establishment of the East African Community, Arusha, Tanzania, 2002, p.1

⁴ Ibid

⁵ Ibid

⁶ Ibid

Serious efforts to re-establish the EAC began when the Commission was launched on 14th March 1993. Subsequent meetings of the three Heads of State led to the signing of the Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation on November 30, 1993. Full operations of the East African Co-operation started on 14 March 1996 when the Secretariat for the Permanent Tripartite Commission was established in Arusha Headquarters, Tanzania. The first Secretary General of the EAC, Ambassador Francis Muthaura of Kenya, was appointed in March 1996 and served a period of five years up to March 2001.⁷

Considering the need to consolidate regional co-operation, the East African Heads of State, at their second Summit in Arusha on 29 April 1997, directed the Permanent Tripartite Commission to start the process of upgrading the Agreement establishing the Permanent Tripartite Commission for EAC which was then signed on 30th November 1999. It entered into force on 7 July 2000 following the conclusion of the process of its ratification and deposit of the ratification instruments with the Secretary General by all the three partner States. When the Treaty came into force, the EAC came into being. On 18 June 2007, Rwanda and Burundi signed the Treaties of Accession into the EAC, formally joining the enlarged Regional Economic Community (REC).⁸

It was during Ambassador Francis Muthaura's tenure that the first EAC Development Strategy (1997-2000) was formulated. The first Development Strategy focused on the development of the policy framework for regional co-operation. In addition, the second

⁷ East African Community (EAC) Update Publication, Directorate of Corporate Communications and Public Affairs, Arusha, Tanzania, p.6

⁸ *ibid*

Development Strategy (2001- 2006) was formulated during Ambassador Muthaura's tenure. The second Secretary General of the EAC, Hon. Amanywa Mushega of Uganda, was appointed on 24th April 2001. His immediate task was to implement the second EAC Development Strategy, which include prioritized regional projects and programmes, institutional development, and most significantly, the establishment of the Customs Union in January 2005. The third Secretary General of the EAC, Ambassador Dr. Juma Volter Mwapachu of Tanzania was appointed on 2nd April 2006. His immediate task was to oversee the conclusion of the formulation and implementation of the third EAC Development Strategy (2006 – 2010).⁹

Under Mwapachu's administration, the third EAC Development Strategy was launched in November 2006. It focused on the consolidation of the Customs Union, establishment of the EAC Common Market, deepening infrastructure development, industrialization, promoting EAC agricultural and rural development programmes and the Lake Victoria Basin Development Programme. Under the strategy, the EAC is also expected to develop a sustainable financing of regional infrastructure, other critical development projects and programmes, vibrant regional capital market for the mobilization of domestic resources and transformation of the East African Development Bank into an effective financial vehicle for regional development.¹⁰

⁹ East African Community (EAC) Update Publication, Directorate of Corporate Communications and Public Affairs, Arusha, Tanzania, p.6-7

¹⁰ Ibid.

1.1 THE STATEMENT OF THE RESEARCH PROBLEM

Regional integration and co-operation in Africa since the colonial period to the present day have been characterized by ups and downs. They have always been influenced by the functional strategy which avoid specifying a structural blue print for the regional bloc but instead prefers incremental structural integration based on a convergence of interest over time.

The EAC integration scheme has had challenges and prospects throughout its long history. However weak the socio-economic and political institutions of the five partner states are today, and whatever challenges they confront in the new integration processes, a development strategy is necessary for the rational management of the scarce resources in the regional bloc.

Therefore regional co-operation and integration are being enhanced to promote joint ventures, common understanding and peaceful international relations.¹¹ Therefore the development strategies of the EAC constitute the systematic ways of achieving regional integration among the five community members in political, economic, socio-cultural, field research and technology, defense, security, legal and judicial affairs for their mutual benefits.¹²

The importance of regional integration to the five East African countries socio – economic and political transformation cannot be underestimated. However, despite the

¹¹ Robert Maxon, “The Colonial Roots of EAC” in Walter O. Oyugi (ed.), *Politics and Administration in East Africa* (Nairobi: East African Educational Publishers Ltd, 1994), p.80

¹² The second East African Community Development Strategy 2001 – 2005, p. VIII.

several efforts being made towards achieving the regional integration, success has been limited due to the challenges inherent in the regional integration process. The current political and socio- economic structures of these countries influenced by colonialism have made the implementation of the regional integration process ineffective. While the regional economies are tailored towards the export of primary products and are so much dependent on foreign trade, the centralized political structures are yet to cede authority to the EAC as an institution.

The Treaty for the re-establishment of the EAC was signed in 1999 to deal with fiscal, immigration, infrastructural services and other policy issues. The second EAC Development Strategy (2001 – 2005) was to create a more unified EAC, a Customs Union, a Common Market, a Monetary Union and finally a Political Federation. Given that the Treaty established first a Customs Union and secondly a Common Market, there are obviously challenges realized in the conclusion of the protocols, among them socio-cultural, political and economic problems. Likewise, the 3rd Development Strategy (2006 – 2010), like the first one, addresses the distribution of benefits and costs, and imbalances arising from the common market or the customs union protocols. However, doubtful political will, general mistrust on trade and weak socio- economic structures exists despite the existence of the Treaty and subsequently the development strategies.

A major question to the EAC stakeholders is what effect does the EAC transformation have on regional integration? Why is Kenya's economic dominance causing constant fear and suspicion among the other partner states? The long drawn out negotiations on the

Treaty establishing the EAC brought out these fears to the public domain. Therefore the relatively developed Kenyan economy has been an obstacle rather than a catalyst for regional integration. Another question is that could the regional leaders and people continue to accept such an economic imbalance for the sake of regional unity? However, as the regional integration process proceeds with political federation being the ultimate goal, it is important to ask the measures being put in place to tackle the poor infrastructure and high dependence on foreign trade. In such a scenario, a trade led integration will continue to favour Kenya which is the economic giant in the region. The other four member states would resist this and would finally be a major obstacle to the regional integration. The various dynamics of integration process would be examined in the study as the stakeholders respond to the questions on the challenges and prospects that will arise.

This study seeks to investigate the socio- economic and political challenges and prospects arising from the implementation of the EAC Treaty, and subsequently the development strategies, and then analyze how they affect the regional integration process. It will also seek to elaborate that state sovereignty being upheld by the governments in the region, makes the regional integration process ineffective.

1.2 THE OBJECTIVES OF THE STUDY

This study will be guided by the following objectives:-

1.2.1 Overall objective

- i) To investigate the potential challenges and prospects facing the implementation of the EAC regional integration process with a view to generate new knowledge that can assist policy-makers in the implementation process.

1.2.2 Specific objectives

- i) To examine the effect of the EAC Treaty on the implementation of the EAC Customs Union and Common Market protocols.
- ii) To examine the socio- economic and political challenges and prospects arising from the EAC regional integration process.
- iii) To suggest policy options for regional integration in East Africa.

1.3 THE JUSTIFICATION OF THE STUDY

The study has both academic and policy justification.

1.3.1 Academic Justification

Regional integration is an important field in the post Cold – War period especially on international economic relations. Scholars have often focused on the economic aspects of regional integration driven by the state. In view of the fact that political and socio-economic factors drives the regional integration process, the study will attempt to illustrate how they affect the process. This study will also examine the interplay of the socio- economic and political aspects in EAC regional integration. No doubt the study will contribute more literature on the impediments of regional integration in East Africa, and how to overcome them.

1.3.2 Policy Justification

To the East African countries interests, regional integration is still significant. It is important that the problems faced should be understood and confronted by the policy makers through informed policy actions and choices. The study will contribute to the achievement of EAC noble goal by offering alternative options of how to pursue the process more effectively in the quest for a single market, free trade area and unity.

1.4 HYPOTHESES

This study is based on the following three working hypotheses

1. EAC Treaty enhances regional integration
2. Unequal levels of development hinder regional integration in East Africa.
3. Lack of political will has effect on regional integration in East Africa.

1.5 LITERATURE REVIEW

Paul R. Viotti and Mark V. Kaupi observes that David Mitrany was interested in investigating the possibility of how transnational ties might lead to international integration, the reduction of extreme nationalism, and enhance a stable international peace. Mitrany argued that by definition modern society has created a myriad of technical problems that can be resolved by experts as opposed to politicians. Hence, the non-political problems (economic, social, and scientific) should be assigned to non-political experts from the affected countries for resolution. Mitrany argued that successful

technical field or functional area would lead to further collaboration in other related fields.¹³

The interest in Mitrany's functionalist theory and integration in general- was spurred by the successful creation of the European Coal and Steel Community (ECSC) in 1952 and the European Economic Community (EEC) or Common Market, in the 1956 Treaty of Rome. The EEC's initial success in the realm of economic integration seemed to hold out promise for the eventual integration of Western Europe. The two scholars also notes that Ernest Haas, a regional integration theorist concluded that the theory of regional integration ought to be subordinated to a general theory of interdependence.¹⁴

A regional integration theorist, Ernest Haas, defined integration as a process "whereby political actors in the several distinct national settings are persuaded to shift their loyalties, expectations and political activity toward a new centre, whose institutions posses or demand jurisdiction over the preexisting national states – the neofunctionalism".¹⁵ Where Haas parted company with Mitrany was in his rejection of the notion that one could separate technical tasks from politics or welfare from power. For integration to occur, Haas argued that it must be perceived by political elites to be in their self – interest.¹⁶

¹³ Paul, R. Viotti and Mark, V. Kauppi, *International Relations Theory: Realism, Pluralism, Globalism*. (New York: Macmillan Publishing Company, 1987), p. 207

¹⁴ *Ibid.*, pp. 207 - 208

¹⁵ *Ibid.*, p.207

¹⁶ *Ibid*

Karl W. Deutsch says that the theory of functionalism in international relations is based on the hope that more common tasks will be delegated to such specific functional organizations that will become superior to its member governments in power and authority and gradually become integrated into a single community within which war will be impossible. Deutsch however accepts that though these organizations perform various tasks and adopt majority voting, they cannot legislate and their decisions do not bind any government until it has ratified them.¹⁷ Mr. D.A.K. Mbogoro points out that the outstanding lesson from efforts at regional integration is that if an economic union is to be effective, it must be a strong one and most proposals for regional integration have not yet shown this capacity for sufficient cohesion.¹⁸

Peter Anyang' Nyong'o, says that regional integration and cooperation among African States is still an objective worth pursuing if Africa is to benefit from economies of scale in her industrialization process.¹⁹ Jeggan C. Senghor also says that behind the functionalist thought is the belief that progress in international economic and social cooperation is a prerequisite for the elimination of political conflicts and war. The assumption is that a coordination of man's individual welfare needs will gradually direct man's loyalties away from the nation-state and towards functional international organizations. At the minimum, the end product would be a reduction in the states'

¹⁷ Karl, W. D. *The Analysis of International Relations*, 3rd Edition (New Delhi, Prentice – Hall of India Private Limited 1989), pp. 22- 223

¹⁸ D. A. K. Mbogoro, *Regional Grouping and Economic Development: Some lessons from the East African Integration scheme*, in W. A. Ndongko (ed.). *Economic Cooperation and Integration in Africa* (Dakar: CODERSIA, 1985), p.229.

¹⁹ P. Anyang' Nyong'o, *Regional Integration in Africa*: in Anyang' Nyong'o (ed.), *Regional Integration in Africa: Unfinished Agenda* (Nairobi: Africa Academy of Sciences, 1990), p.12

political function and authority. At the maximum, nation-states would disappear and be replaced by a global political authority.²⁰

Integration is a socio-economic and political process, and is therefore fragile. The people must see the benefits. Negotiations and consultations are time – consuming due to many discordant cultural, economic and political issues to be factored into the regional integration. Therefore consolidation of the Customs Union, the Common Market and then laying of concrete foundations for moving towards the Monetary Union and the Political Federation ought to be done carefully to enhance the integration process.

The EAC Budget and Programme for Financial Year 2008/2009 took into account the broad strategic objectives under the EAC Development Strategy (2006 -2010) and the priorities set. These priorities were to (i) develop and harmonize laws and judicial systems, protocols, policies, regulations, procedures and standards; (ii) promote defence, peace and security; (iii) strengthen the financial, legislative oversight, Administrative and Information and Communication Technology (ICT) processes and systems, capacity building and human resource support of the EAC; (iv) promote sustainable social, economic and political integration, climate change and environmental management; (v) develop and implement the EAC Branding strategy; (vi) enhance bilateral, multilateral and intra EAC negotiations with regional and international organizations; (vii) initiate legislation, administration of cases, encourage arbitration and institutional building; and

²⁰ Jeggan C. Senghor, *Theoretical Foundations for Regional Integration in Africa: An overview*, in Anyang' Nyong'o (ed.), *Regional Integration in Africa: Unfinished Agenda* (Nairobi: Africa Academy of Sciences, 1990), p.19

(viii) provide statutory advice and services to the organs and institutions of the community.²¹

According to Hon. Monique Mukaruliza, chairperson of the Council of Ministers of the East African Community and Rwandan Minister for East African Community, another challenge is mobilization of resources for upgrading and modernization of infrastructure, and hospitality industry. Inadequate financial resources are a hindrance to the region's tourism marketing in Europe and Asia.²² EAC economy is centrally linked to the wider Eastern and Central African market. The potential for the region to grow and expand into a significant centre of regional integration and development in Africa is there, but inadequate resources have made it difficult for the dream to be realized soon. The East African Road Network Project financed by the African Development Bank and Japan is yet to be completed.²³ Tanzania Railways that serves Rwanda and Burundi are in poor shape and are not doing very well. Kenya – Uganda Railway which is a lifeline for the economies of Rwanda, Uganda, Burundi and Eastern DRC is performing poorly.²⁴

There are also challenges that relate mainly to financial resources necessary to support the Community. In 2009, the EAC faced financial shortfalls due to delayed remittances of contributions by the partner States. Had it not been for funding from development partners, many EAC projects and programmes would not have been implemented. This

²¹ East African Community Budget Speech 2009/ 2010 Financial Year, Bujumbura, Burundi, 21st May 2009, pp. 9-10

²² Hon Monique Mukaruliza, East African Community Budget Speech 2009/ 2010 Financial Year, Bujumbura, Burundi, 21st May 2009. Op. cit pp. 19 - 20

²³ Ibid, pp. 22-23

²⁴ Ibid., pp.23-24

fact raises the concern about the increasing reliance on external funding for critical projects and programmes. Such financial over reliance on donors could affect the sustainability of the regional integration process. Minister Mukaruliza said that only 70% of development partners pledged assistance is disbursed to the EAC, while in Regional Integration Support Programmes (RISP) resources, EAC is able to absorb 74% of the funds due to delays in disbursements though the absorption capacity is 82%.²⁵

Thus, whereas support should be appreciated, it is critical that partner States realize that implementing priority projects and programmes should fundamentally be funded by partner States themselves to enhance ownership. However, partner States have budgetary constraints while donor support is dwindling due to the global financial and economic crisis.

On political and security issues, the Migingo border issue which is yet to be resolved is a challenge affecting Kenya and Uganda. The dispute over Migingo Island (4,000 square metres area) has raised questions on whether the current leadership in the region is serious about regional integration.²⁶ Inadequate funding for the East African Legislative Assembly programmes is also a major challenge. The East African Court of Justice requires funding for capacity building in order to function effectively.²⁷ The minister further said that delays in the partner States' ratification of protocols has made the

²⁵ East African Community Budget Speech 2009/ 2010 Financial Year, Bujumbura, Burundi, 21st May 2009, Op. cit p.56

²⁶ Business Journal Africa: Empowering Entrepreneurs, Issue No. 113, May 2009.

²⁷ East African Community Budget Speech 2009/ 2010 Financial Year, Bujumbura, Burundi, 21st May 2009, Op. cit, p.66

Council of Ministers to re-define the scope of these protocols in order to facilitate their smoother translation into legislation.²⁸

Effective regional integration requires the mobilization of vast resources, both within and outside the region. For instance, the East African Road Network Project, was estimated in 1998 to involve a capital outlay of US \$ 9 billion.²⁹ Similarly, due to globalization, market access will increasingly become more difficult for small and weak economies. Then EAC is forging partnership with global institutions like the European Union (EU) and regional organizations like COMESA and SADC, EU – ACP, AGOA, WTO, AU – NEPAD and the International Conference on the Great Lakes Region (IC/GLR) in order to tap the opportunities available in such arrangements and access other markets.³⁰ Despite such arrangements, what is emerging as critical however, is the urgent need to strengthen the East African Development Bank (EADB) in financing regional projects, especially with focus on small and medium scale enterprises (SMEs); and promotion of the EAC Agriculture and Rural Development Strategy.

While the five States are in favour of the East African Federation, informal polls indicate that most Tanzanians (80%) have an unfavourable view. Tanzania has more land than the other EAC nations combined, and some Tanzanians fear land grabs by the current residents of the EAC member nations.³¹

²⁸ East African Community Budget Speech 2009/ 2010 Financial Year, Bujumbura, Burundi, 21st May 2009, Op. cit, p.70

²⁹ East African Community Update, Arusha, Tanzania, p.20

³⁰ Ibid

³¹ Ibid., p.21

The protocol establishing the EAC customs union was signed in December 2004, and the implementation of the customs union commenced on 1st January 2005. The fully-fledged customs union was achieved in January 2010. EAC Customs Union as the first pillar in the EAC integration process will allow for the free movement of goods and services throughout the region. The second pillar, the EAC common market protocol, was signed on November 20, 2009 and would come into force on July 1, 2010 after ratification by all the five partner states. The common market will allow for the free movement of goods, people, services, labour, rights of establishment and rights of residence within EAC. The next stage after the common market is the East African Monetary Union and then the Political Federation, which is expected to be attained by 2012 and 2015 respectively.³²

Tanzanians have apparently been the hardest to convince that EAC integration provides opportunities for increased profits. President Jakaya Mrisho Kikwete, EAC Chairman has dismissed fears that Tanzania and the wider EAC would become a market for Kenyan goods with the coming of the East African Common Market. President Kikwete said that in 2008 for instance, Tanzania sold US \$ 353 million worth of goods to the EAC region as opposed to just US \$48 million in 2000. In 2008, he added, Tanzania sold more goods to Kenya than she bought from Kenya.³³ He assured Tanzanians that he could not take them into a trade pact that would hurt the country's interests³⁴ and President challenged

³² JUMUIYA NEWS, A Newsletter of the Ministry of the East African Community, Issue No. 16, October – December 2009, p.10

³³ Ibid., p.18

³⁴ ibid

them to take advantage of the bigger regional economy brought about by the common market.³⁵

The regional integration process should not just be between governments and the elite in our society. The ordinary people should be involved in the exercise so that they can own it and benefit from the economic growth and the increased opportunities that will emanate from it. This is the only way to build an enduring and sustainable EAC. The EAC Secretariat advances the view that the second EAC Treaty has withstood the test of time and weathered setbacks unlike the predecessor which broke up on its 10th birthday. The EAC Custom Union has been in operation since January 1, 2005. Rwanda and Burundi admission into the community have enhanced stability in resolving conflicts and the speeding up of the negotiations towards the common market protocol.³⁶

In moving together as one region, the challenge will be how the five member States will harmonize their administrative structures in the areas of good governance, democratic practice and the rule of law, among other social dynamics. As it is, Tanzania and Kenya already have a political system that limits the terms of their Heads of State while it is not clear yet whether Rwanda and Burundi will do the same once they stabilize their national politics. Uganda on the other hand amended its constitution a few years ago to revert to an unlimited term for President.³⁷

³⁵ JUMUIYA NEWS, A Newsletter of the Ministry of the East African Community, issue No. 16, October – December 2009, Op. cit.p.18

³⁶ Ibid., p.24

³⁷ Ibid

The common market takes over from the successful implementation of the customs union. The implementation of the Common External Tariff (CET) and the elimination of internal tariffs have been on course. It is a fact that partner States have to cope with some loss of customs revenue that has been key to meeting each country's budgetary provisions. Even President Kagame said EAC member States will require mechanisms to compensate for short- term revenue losses after harmonization of policies and laws on taxation by partner States, while discussions on political federation of the EAC region threatened to derail the signing of the common market protocol.³⁸

Kenya's East African Community Ministry Permanent Secretary Mr. David Nalo said: "We are engaged in carrying out activities aimed at thrashing out some of the sticking challenges, through information dissemination and training of line ministries on what a fully-fledged customs union affects Kenya in terms of trade, transit of goods, tax, tariffs, and then produce information packs."³⁹ Kenya's EAC Minister Amazon Jecha Kingi said: "The slow implementation of the EAC protocols is partly blamed on limited access to information."⁴⁰ The integration process is facing challenges, which if not addressed, could build resistance against regional integration. An example is East African citizens' fears of loss of sovereignty.⁴¹

Busia and Malaba town councils are not happy about loss of revenue as some traders have gone underground after the border posts were computerized to seal off all loopholes

³⁸ JUMUIYA NEWS, A Newsletter of the Ministry of East African Community, Op. cit p.6

³⁹ David Nalo, Business Daily, Wednesday February 24, 2010, p.15

⁴⁰ Luke Anami, The East African Standard, Thursday, February 25, 2010, p.32

⁴¹ Ibid

that tax evaders exploited. The two towns get 90% of their internal revenues from toll charges.⁴² Their officials and business people have resisted regional integration, saying the two towns may become extinct if borders are fully opened for free trade since the two towns evolved into commercial hubs because of the restrictions on the cross border commerce that has persisted since independence. Busia Mayor John Ojiolo says that the town runs a Sh 60 million annual budget and his condition for supporting the regional project is that the government also agrees to double direct funding (such as Latif) to make up for the expected revenue shortfalls when the border opens.⁴³

While acknowledging in Arusha that the Community's customs union implementation had progressed more slowly than expected, the EAC deputy Secretary –General, Ms Beatrice Kiraso, said lack of central political authority was one of the biggest hurdles facing the regional integration scheme. She said: "We don't have an enforcement mechanism other than to ask the individual countries themselves to report to one another what they have done about the agreements they signed."⁴⁴ At the Namanga border point, goods entering Tanzania from Kenya, were being subjected to duty, with officials at the Tanzania Revenue Authority (TRA) saying they had not been advised not to charge tax. Exporters were being forced to submit documents showing payment of duty before their goods could be allowed to cross the border. The same situation applies to Kenya – Uganda border at Malaba and Busia.⁴⁵

⁴² See Donald Kaberuka, President of African Development Bank, *Business Daily*, Friday, February 26, 2010, p.15

⁴³ George Omondi, *Business Daily*, Monday, March 1, 2010, p.8

⁴⁴ *Ibid.*, p.9

⁴⁵ Geoffrey Irungu, *Business Daily*, *Op. cit.*, p.9

There is also the ethnic mistrust between the Hutus and Tutsi that cannot be washed away under a carpet. The challenge has the potential to blow out of proportion if not handled with care.⁴⁶ On procurement, Kenya has the Public Procurement and Disposal Act (PPOA). There are also similar legislations among partner states that include Capital Markets and Central Banks among others. In EAC most regulatory environments are similar. So, the challenge to partner states will be the domestication of some dissimilar agreements in their local statutes. The international agreements on trade and development partners also pose challenges in meeting the ability of EAC member states to achieve their objectives.⁴⁷

Implementation of the agreement is not wholly domestic driven. There are in some cases the donor influences in terms of their priorities and loans conditionality which sometimes do not wholly get aligned to the needs of recipient EAC member states. For example, the European Union (EU) through assistance programme of European Development Fund (EDF) and European Investment Bank (EIB) do a lot to give regional and individual country support. There could be cases where partner States jointly and individually support some programmes but donors will consider their priorities first.

The trade agreements which individual partner States have signed at World Trade Organization (WTO), African – Caribbean and Pacific Countries and European Union (ACP- EU), African Growth and Opportunity Act (AGOA), EBA (Everything Else but Arms (EBA) and Generalized System on Preferences (GSP) can also slow a country's

⁴⁶ Felix O. Okatch, Multilateral Trade Expert, Accountant, Journal of the Institute of Certified Public Accountants of Kenya, February – March 2010, p.25

⁴⁷ Ibid.

abilities to achieve the ambitious programmes and projects as expressed in the common market protocol.⁴⁸ Historical matters could also affect the regional integration process since EAC partner states have a long and chequered history characterized by peaceful coexistence, turbulent military coups, dictatorships and displacement of civilians leading to internal and external refugees. These range from colonization, the East -West politics of former presidents Julius Nyerere and Milton Obote on one side and Kenyatta. The Belgians and French in Rwanda and Burundi including past ethnic cleansings are all part of past mixed history.⁴⁹

Historical records show that border disputes have been common. In 1979, Ugandan dictator Idi Amin invaded Tanzania claiming that Ugandan territory extended deep inside Tanzania up to the Kagera River. In 1974, he had angered Kenya by claiming that Ugandan territory extended up to Naivasha during the colonial era.⁵⁰ Kenya and Tanzania had also ideological and economic set up differences as Kenya adopted capitalist economic system while Tanzania adopted socialist mode of economy. And to make matters worse Kenya and Tanzania were trading insults against each other over their national radio stations. Tanzania was referring to Kenya has “man –eat – man society” while Kenya called Tanzania, “man – eat – nothing society”. In 1977, Tanzania closed its borders with Kenya.⁵¹ Our leaders must have learnt from the past mistakes and should never allow the state of affairs to recur again. These historical factors are to serve as

⁴⁸ Felix O. Okatch, Multilateral Trade Expert, Accountant, Journal of the Institute of Certified Public Accountants of Kenya, Op. cit

⁴⁹ Ibid

⁵⁰ JUMUIYA NEWS, A Newsletter of the East African Community, Issue No.16, October – December 2009, p.23

⁵¹ Ibid.

learning lessons for our leaders and people to build on as they confront the challenges and tides of unfavourable regional integration process.

Shortly after the EAC member countries Heads of State signed the common market protocol, Tanzania has been the EAC reluctant bride, while Uganda supports the implementation of the integration process with or without Tanzania's participation. President Museveni said: "They should join later when they are ready."⁵² Not a wholly misplaced opinion. In Europe, the United Kingdom was left out in monetary issues in the push for an integrated European Union. Kenya, the diplomat, has taken the role of mediator to try and reconcile these positions, in a sense maybe out of guilt for having engineered the collapse of the Community in 1970s. Kenya's position has been that the process should be fast –tracked but not in a way that will push out any member. Rwanda, which joined EAC in 2007, is more eager to see the integration process fast –tracked. Being a landlocked country, Rwanda stands to benefit more with a free market. It is the same motivation for landlocked Burundi.

But Tanzania's reluctance goes further than just refusing to play along. It owes allegiance to a different regional group. While Kenya, Uganda, Rwanda and Burundi, are all members of COMESA, Tanzania belongs SADC. This complication played itself up when the EAC approached the EU to negotiate the Economic Partnership Agreement (EPA) in 2007. The agreement expected to replace the non – reciprocal duty –free market

⁵² Felix O. Okatch, Multilateral Trade Expert. Accountant, Journal of the Institute of Certified Public Accountants of Kenya, Op. cit. p.32

to the EU ended in December 2007.⁵³ EU wanted to negotiate with the EAC as a block. Tanzania refused saying it want to negotiate under SADC, prompting the then EU Trade Commissioner Peter Mandelson to say he was “seriously concerned” about progress in East Africa. He said: There are long – standing issues of regional grouping and configuration in East Africa. All I can do today is to reiterate my plea that these issues be resolved now. It will not serve the interests of any country in the region to be seen to be holding up the region as a whole.”⁵⁴

As it stands, the issues have not held back the progress of integration. EAC Director-General in charge of Customs and Trade Mr. Peter Kiguta said it is estimated that intra - EAC trade has grown by over 40% since 2005 while the region has attracted more Foreign Direct Investment (FDI). Inflows of FDI almost tripled from \$692 million in 2002 to \$ 1, 763 million in 2007, with Uganda and Tanzania receiving the largest proportion.⁵⁵

Despite the challenges in the implementation of the EAC regional integration process, the Community ranks globally as the fastest integration economic bloc. The common market, for instance, has been attained only a short 10 years after the signing of the Treaty establishing the EAC on November 30, 1999 by presidents Daniel Arap Moi (Kenya), Benjamin Mkapa (Tanzania) and Yoweri Kaguta Museveni (Uganda). In comparison, it took a much longer period for the European Union, cited as the global benchmark of

⁵³ Felix O. Okatch, Multilateral Trade Expert, Accountant, *Journal of the Institute of certified Public Accountants of Kenya*, Op. cit

⁵⁴ Ibid

⁵⁵ Ibid

regional integration, to become a formal common market.⁵⁶ However, Katete Orwa, pointed out that economic self-reliance principles in Kenya and Tanzania derailed the EAC integration process. He gives an example of uncompromisingly antagonistic personality clash between Amin and Nyerere that led to the collapse of EAC in 1977 and deprived the region of stabilizing political institution.⁵⁷

Korwa G. Adar and Mutahi Ngunyi, said that one can rightly argue that the politics of integration in East Africa from the pre-colonial period, to the defunct EAC, present SADC and COMESA arrangement and re – established EAC rotates around the axis of benefits distribution. The present EAC need to de-emphasize the centralization of power in the EAC Summit of Heads of State and Government. Such a framework would give the legislature flexibilities. By allowing the experts (technicians) in the region to work – out the implementation modalities of the EAC, the regional bloc would progress faster, reduce conflicts in the area and the region would have a greater negotiating position with an integrated Europe and the rest of the world.⁵⁸

1.6 THEORETICAL FRAMEWORK

The study attempts to investigate the socio- economic and political challenges arising from the EAC regional integration process which include the development strategies, the customs union, the common market, the monetary union and the political federation. Various theories of integration are suitable for this study, though functionalism is the

⁵⁶ Diplomat East Africa Magazine, January – February 2010, volume 001, p.10

⁵⁷ Katete Orwa, Kenya's Foreign Policy, 1963 – 1986, in W. R. Ochieng' (ed.), *A Modern History of Kenya 1895 – 1980* (Nairobi: Evans Brothers Limited 1989), p.237

⁵⁸ Korwa G. Adar and Mutahi Ngunyi, *The Politics of Integration in East Africa since Independence* in (ed.), Oyugi, W. O, *Politics and Administration in East Africa* (Nairobi: East Africa Educational Publishers Ltd, 1994).

most preferable. David Mitrany who favoured constructing an international system to solve the problem of security after world war II was the leading advocate of functionalism. Mitrany argued for the definition of concrete areas of cooperation from which states could reap immediate benefits. Therefore he was not supportive of an institutionalized supranational system as the federalists wanted.⁵⁹ He believed in the gradual development of transnational networks of economic and social organizations though he assumed that political and economic functions of the State could be separated from each other which is unlikely in most developing countries due to the weak class formation and the limited role of interest groups.

Ernest B. Haas later modified Mitrany's functionalism when he developed a neo – functionalism theory at a time when European Coal and Steel Community was formed. He combined the method of functionalism with federalist objectives.⁶⁰ Interest groups and integrationist technocrats are important actors in functionalism and neo- functional theory than governments, and they both agree that international co-operation should be initiated in technical or core functional areas. Once success has been achieved in these areas, functionalists argue, spillover effect will be realized in other areas. Ernest B. Haas stated that the attainment of sector cooperation in one area would create incentives to initiate integration on other areas to centre the imbalance that might have been caused. As functional sectors merged after the realization of political spillover from the integration in functional areas, politicians will enter the stage to control the new system while interest

⁵⁹ David Mitrany, *The Prospects of Integration: Federal or Functional?*, (Boston: LittleBrown and Company, 1968)

⁶⁰ Jeannette Edbled, "The Political Economy of Regional Integration in Developing countries", *Regional Dimensional Working Paper No. 3 1996*, Centre for Regional Science, Cerumunea University), p.17

groups would prefer to work on the regional level that would serve their interests better than at the national level.

The degree of centralization and transfer of authority according to functionalists should be away from the nation – state to a supranational body structure. They stress elites economic and political determination to seek positive outcomes while the economy and technology are seen as generating demands and pressures on existing political institutions and decision – makers to force them to adopt more creative policies and bargaining skills. The five EAC member states therefore strives to achieve finally a political federation but knowing very well the inherent socio- economic and political challenges that makes it difficult to implement faster the integration projects and programmes on the ground. The theory will be appraised against the principles of the organization and will examine critically why it is difficult to fast –track the EAC integration process. The study will also investigate whether EAC as an organization in consideration of the customs union, common market protocol, monetary union and political federation aspirations can be understood through the lenses of functionalism.

1.7 METHODOLOGY AND DATA COLLECTION

This study draws from both primary and secondary sources.

1.7.1 Secondary data

Secondary data was collected through library research from sources such as academic papers, scholarly journals, books, Newspapers, periodicals, documents from the EAC secretariat.

1.7.2 Primary data

This was collected through interviews with knowledgeable persons and technocrats from the ministries of East African Community, information and communications, foreign Affairs, the Public Service and the corporate world, and EAC Secretariat, Arusha, Tanzania.

1.7.3 Research Design

This study will adopt descriptive or survey research design. Descriptive design is appropriate because it is concerned with discovering relationships between variables. The design is concerned with certain predictions and narration of facts and characteristics.

1.7.4 Sampling method/ Technique

Purposive sampling method will be used. This is appropriate because it gives factual information found amongst a specific respondents conceptualized by the researcher.

1.8 THE SCOPE AND LIMITATIONS OF THE STUDY

The study of the EAC regional integration process from 2001 – 2009 is therefore a rigorous and challenging area. As provided by the Treaty for the Establishment of the

EAC, the stages in the development of the East African regional integration are a Customs Union, as the entry point of the Community, a Common Market, subsequently a Monetary Union and ultimately a Political Federation of the East African States. Other finer details to be examined include: policy framework and institutional development, projects and programmes, development of regional infrastructure, development partnership and strategic regional integration. Limitations of the study will be classified information and financial resources since travelling to the other four member states to source for primary data outside their embassies in Nairobi will be too costly. However, the EAC Secretariat based in Arusha, Tanzania, would hopefully provide adequately the much needed data for the project.

CHAPTER OUTLINE

CHAPTER ONE: Introduction to the study – East African Community

Is the background to the study. It includes the statement of the problem, the objectives of the study, the justification, hypotheses, literature review, theoretical framework and methodology.

CHAPTER TWO: Historical Context of Regional Integration Processes in East Africa.

Gives background of the study from the colonial period to the year 2003.

CHAPTER THREE: New East Africa Community four- stage Regional Integration Processes (2004-2009)

Gives an in-depth study of the EAC Customs Union, the Common Market, the Monetary Union and the Political Federation.

CHAPTER FOUR: Socio-economic and Political dimensions emerging from the New East African Community Regional Integration Processes.

A critical analysis on the socio-economic and political challenges and prospects of East Africa Community regional integration process and how they act as springboard as well as road blocks in search for East African Federation.

CHAPTER FIVE: Summary, Conclusions and Recommendations of the study

It is the last chapter. It gives a synopsis of the other chapters. It is the Summary of the Study. Apart from the conclusion, it also offers findings of the study and recommendation for future research.

CHAPTER TWO: HISTORICAL CONTEXT OF REGIONAL INTEGRATION

PROCESSES IN EAST AFRICA

2.1 Introduction

East African integration has its roots in the British colonial administration. The British argued that successful developments of the region could be achieved through integration.⁶¹

Formal East African Cooperation started in 1895 with the construction of the Uganda Railway from Mombasa to Kampala. White settlers influence of the Kenyan economy led to the establishment of the first common customs collection arrangement in 1900 which collected customs levies on all Uganda bound goods in Mombasa and Dar es Saalam.

East African Currency Board was created in 1905 and a postal Union in 1911. The Ormsby – Gore Commission Report of 1924 on the East African Federation led to the establishment of a Governors Conference in 1926. It facilitated policy and executive management of all common East African issues such as customs, common currency, Court of Appeal, posts and telegraph and the common market.

Although the commission approved increased economic coordination from the East African Federation and recommended the holding of conferences of territorial governors

⁶¹ Korwa Adar, "An Investigation and Analysis of the causes of the Disintegration of East African Community" (MSC – Scholarly Paper, Indian a State University, 1981), p.47

to achieve it, it concluded that the federation was undesirable because it was expensive and it faced strong opposition from Indians and Africans.⁶²

The issue of federation of the colonies remained a contentious issue. Whereas settlers were ready to establish a federal capital in Nairobi so as to reduce British influence in the area, the Kabaka of Buganda and the Lukiko (Buganda Parliament) resisted the idea because they feared that the ties with Kenya and Tanganyika would jeopardize their special position under the 1900 agreement with the British and would subject their people to the designs and whims of the settlers in Kenya.⁶³

Another issue that weakened hope for federation was the recommendation of the Hilton – Young Commission of 1928 which concluded that time was not ripe for a federation.⁶⁴ The commission recommended the institutionalization of the common services such as tax collection.

The establishment of the East African High Commission (EAHC) in 1948 put into operation the East African Railways and Harbours, the East African Post and Telegraph, the mechanism for revenue collection, the East African Income Tax Management and the Makerere College.⁶⁵

⁶² Arthur, Hazlewood, *Economic Integration: The East African Experience*, (London: Heinemann, 1975), pp. 29-30

⁶³ W. P. Lineberry, *East Africa* (New York: Penguin Books, 1964), p.40

⁶⁴ Delupis I. D. *East African Community and Common Market* (London: Longman, 1970), p. 11

⁶⁵ Korwa Adar and Mutahi Ngunyi, "*The Politics of Integration in East Africa*," Op. cit, p. 397.

The EAHC's main organs were the High Commission and the Central Legislative Assembly. The High Commission was composed of the governors of Kenya, Uganda and Tanganyika. It was given powers to legislate upon the advice and consent of the Assembly, and to enact laws with the advice and consent of the three legislatures.⁶⁶ The Central Legislative Assembly consisted of seven ex-officio members, three nominated (one from each territory), 13 un-official members of the Legislative Council of each territory, one Indian and one African member appointed by the High Commission.⁶⁷ The High Commission was the supreme organ. The role of the Legislative Assembly was centred on the consideration of East African Legislation before it became law by the assent of the High Commission.⁶⁸

The Raisman Commission was appointed in 1960 to study the activities and the persisting problems of the EAHC. It recommended that EAC should have its own revenue independent of the territories. It also recommended equitable distribution of profits within East Africa through a formula designed to favour Uganda and Tanganyika.⁶⁹

The EAHC was disbanded in 1960 and replaced by the East African Common Services Organization (EACSO). This was because Tanganyika was approaching independence in 1961. The EACSO was seen as a forerunner of a federation of East Africa since it was running important activities such as external trade, fiscal and monetary policy, the transport and communications infrastructure, and university education.

⁶⁶ Delupis I. D. *East African Community and Common Market*, Op. cit, p.28

⁶⁷ Ibid.

⁶⁸ Ibid., p.29

⁶⁹ Korwa Adar and Mutahi Ngunyi, *The Politics of Integration in East Africa*, " Op. cit; p. 398

In 1960, Mwalimu Julius Nyerere proposed that the independence of Tanganyika be held back until both Uganda and Kenya were independent so that the three East African countries could form a federation on a simultaneous attainment of independence. Nyerere argued later that: "If Kenya says yes to federation, we will sit down and federate tomorrow".⁷⁰

Nyerere's efforts were fruitless because White Hall, the Colonial British Governor, did not share the same vision. Again, Kenyan nationalists such as Jomo Kenyatta were in detention and Uganda's leading nationalists had no clear vision of East Africa. The East African countries attained independence without a shared vision. For East African cooperation; Tanganyika on 9th December 1961, Uganda on 9th October 1962 and Kenya on 12th December 1963.

After the end of the First World War defeated Germany, the colonial power in Tanganyika ceded Tanganyika to Britain under the Peace Treaty of Versailles of 1919.

Having economies that were primarily agricultural with insignificant manufacturing, Tanzania and Uganda had little to export significantly to the rest of East Africa while Kenya's economy though predominantly agricultural had a sizeable manufacturing capacity and was able to export significantly to the East African market. The economic structures characterized by the predominance of primary exports provided a difficult terrain for regional integration in East Africa, hence the frequent complaints about Kenya's lopsided benefits.

⁷⁰ See an Article in the Kenya Weekly News, 25 June 1965, from a Tanzania correspondent.

2.2 Post – Independence Efforts

In June 1963, President Nyerere, Prime Minister Kenyatta of Kenya and Dr. Milton Apollo Obote of Uganda declared: “We, the leaders of the people and government of East Africa assembled in Nairobi and on 5 June 1963, pledge ourselves to the political federation of East Africa.”⁷¹

This declaration caused heated debate in the three countries. In Kenya, KANU and KADU accepted the idea of federation but personal ambitions and regionalism (majimboism) could not be accepted against the vital move towards East African Unity.

In Uganda, the government had accepted the idea of federation. However, the Buganda Kingdom opposed the idea of federation and Uganda’s independence as a unified state the autonomous position of the Kingdom in Uganda was enshrined in Uganda’s federal constitution. It has been argued that this internal opposition made Uganda to shift its stage on Nairobi declaration.⁷²

In Tanganyika, the leadership was supportive of the federation issue to alter economic disparities among the three countries. The federation did not take-off steadily because of the changing policy positions of the three countries. However, Tanganyika wanted immediate federation while Kenya and Uganda had their own interests which hampered the federation.

⁷¹ A. J. Hughes, *East Africa: The search For Unity, Kenya, Tanganyika, Uganda and Zanzibar* (Baltimore; Penguin Books, 1963), p. 265

⁷² Joseph S. Nye, *Pan Africanism and East African Integration*, (Cambridge: Harvard University press, 1965), p. 185.

Kenya, the most developed of the three countries got most of the benefits that arose from regional integration in East Africa, while Tanzania and Uganda complained about the unequal distribution of benefits which led to the establishment of the Distributive Pool Fund to address the imbalances. One half of the proceeds were retained by the Authority to operate the common service and the remaining balance was shared equally among the member states.⁷³

It is notable that unequal distribution of benefits and costs has been a major impediment in many integration schemes including the well known case of the collapse of the former East African Community.

The concerns about the inequalities within the common market led to Kampala- Mbale Agreements of 1964. It set out five ways to correct imbalances in inter-territorial trade. These were; an arrangement to a shift in territorial distribution of production by a number of firms which operated in two or more countries (for example East African Tobacco Company, Bata Shoe Company), allocation of certain major industries between the countries (for instance tyre, bicycle parts, fertilizer manufactures were to be exclusively located in Tanzania or Uganda), instituting quotas on inter- territorial trade, to increase sales from a county in deficit in surplus, and to devise a system of inducements and allocations of industry to serve an equitable distribution of industrial development between the three countries.⁷⁴

⁷³ O. Ojoi, *Regional Co-operation and Integration*, in O. Ojo et al, *African International Relations* (London: Longman Group, 1985), p.157

⁷⁴ A. Hazelwood, *African Integration and Disintegration* (London: Oxford University Press, 1967), p. 96

2.3 The Treaty for East African Cooperation

The Treaty of 1967 that saw the establishment of the EAC by the East African Post-colonial governments was just a continuation of the efforts started by the British colonial authorities to foster regional integration in East Africa.⁷⁵

This was signed in 1967 to deal with economic activities in the region. In their interest and desire for wider unity of the continent, the countries resolved to cooperate with one another and with other African countries in the economic, political and cultural fields.⁷⁶

The treaty's objective was to strengthen and regulate the development of the three countries (industry and commerce) and fairly distribute the benefits of co-operation. It gave the EAC a personality enabling it to enter into agreements with other international entities. What the treaty failed to do was to provide for a mechanism for conflict resolution in the event of disagreement among member states.⁷⁷

The treaty tried to help Tanzania and Uganda against Kenya's perceived favourable position in the region. It thus established a transfer tax system designed to protect industries in Tanzania and Uganda, against those in Kenya. This, it was assumed, would allow the two countries to protect competition from Kenya industries.⁷⁸

⁷⁵ O. Ojo, *Regional Cooperation and Integration*, Op. cit p.157

⁷⁷ Korwa Adar and Mutahi Ngunyi, *The Politics of Integration in East Africa*, Op. cit p.401

⁷⁸ Arthur Hazzlewood, *The End of the East African community: What are the Lessons for Regional Integration schemes?* in R. I. Onwuka and Amadu Sesay (eds), *The Future of Regionalism in Africa* (London: Macmillan Publishers, 1985, P. 176.

The treaty also made provision for the East African Development Bank. This was designed to enhance the distribution of EAC investments. It was to act as a catalyst for complementary industrial development rather than to undertake a major part of industrial investment itself.⁷⁹

The treaty also made provision for the relocation of the Headquarters of some of the common services from Nairobi. Kenya became the headquarters of East African Railways and East African Airways. Tanzania was allocated the Harbours Corporation and the headquarters of the East African Community at Arusha. The East African Development Bank and the East African Post and Telecommunications were located in Kampala, Uganda. However, these relocations did not affect Kenya's economic performance as most of the common services continued to be in Kenya.⁸⁰

The treaty also made provision for an Authority comprising of the three Heads of state. The authority controlled the community, its operations, propagated and protected national interests. Harmonious relationship of the three presidents was the key to the success of the system envisaged by the Treaty.⁸¹ The environment of the three presidents limited the capacity of the lower levels of the administration in the functions of the community and centralization of power within the authority turned out to be a limiting factor in the operations of the community.⁸²

⁷⁹ Arthur Hazzlewood, "The End of the East African community: What are the Lessons for Regional Integration schemes?" Op. cit

⁸⁰ Ibid., 402

⁸¹ Arthur Hazzlewood, "The End of the East African community: What are the Lessons for Regional Integration schemes?" Op. cit

⁸² Ibid

2.4 Regional Integration in (1967- 1977)

By the time the treaty establishing the EAC was signed in 1967, the EASCO had started drifting apart. After the failure of the federation talks tensions started to arise between the East African countries. Kenya had failed to ratify the Kampala Agreement of 1964 that was concerned with distribution of industries in East Africa. Kenya held the view that her two neighbours were keen on downsizing her rather than ensuring equitable distribution of industries.

The treaty placed the common market and the common services within one framework. It also came up with a mechanism to address the distribution of costs and benefits organs to co-ordinate activities and provide executive direction.⁸³

The treaty provided for a transfer tax system which was designed to protect certain industries in Tanzania. For upto 15 years the transfer tax system provided that taxes could be have levied against Kenyan products to encourage industrial development in the deficit states. This limited the concept of the East African free trade.

The East African Development Bank (EADB) was also provided for in the Treaty. This was designed to enhance distribution in EAC initiated investments within East Africa. Its major role was to provide loans and guarantees for complimentary industrial development rather than undertake a major part of industrial development itself.⁸⁴

⁸³ O. Ojo, "*Regional Cooperation and Integration* Op. cit p.158

⁸⁴ A. Hazelwood, "The End of the EAC: What are the Lessons for Regional Integration Schemes", in R.I Onwuka and A. Sesay (eds.), *The Future of Regionalism in Africa* (London: Macmillan, 1985), p.176.

Another mechanism was the relocation of headquarters of various corporations from Kenya. Within the framework of the treaty Kenya became the headquarters of East African Railways and East African Airways. Tanzania took the East Africa Harbours and EAC secretariat. Uganda housed the EADB and East Africa Telecommunications. These practical efforts did not erode Kenya's advantage. Most economic activities relating to the common services continued to be in Kenya.⁸⁵ For example Kenya took 57% of investments made in East Africa, 80% of the activities of the Airways Corporation were estimated in 1977 to originate and terminate in Kenya.⁸⁶

The control of the community as well as ensuring its efficient and effective operations was bestowed on the Authority comprising of the Heads of State. The success of the East African community was therefore dependent on an harmonious relationship of the three presidents. The Authority as the supreme decision- making body provided the necessary direction for EAC institution. The resting of ultimate power in the Authority (consisting of Heads of State) was a limiting factor. Infact, it amounts to a deadlock in the Authority, and worse still, the ramifications were evident in the entire scheme.

Thus any malfunctioning of the Authority automatically affected the running of the EAC. For example, personalizing of power in the Authority increased the danger of instability and of transforming personal rivalries into national and intra- regional conflicts, personalization of power in the Authority and the decision –making process enabled each

⁸⁵ A. G. Liebenow, "*The Quest for East African Unity: One Step Forward: Two Steps Backwards*", in M. W. Delancey (ed), *Aspects of International Relations in Africa* (Blaomington: Indiana University Press, 1979), p.151

⁸⁶ O. Ojo, "*Regional Cooperation and Integration*", in O. Ojo et al, *African International Relations*, Op. cit p.163

Head of state by an act of his own individual whim and caprice to determine the fate of the community. For instance President Julius Nyerere's refusal to convene a meeting of the Authority because of his dislike for President Idi Amin Dada can only be explained in these terms and would be almost impossible in conditions of institutionalized power.⁸⁷

2.5 The Collapse of the EAC in 1977

By 1977 the common services had collapsed. Kenya –Tanzania border was closed halting all inter- country trade. Tanzania was engaged in a full scale war with Uganda in 1978 – 1979. EAC was therefore dissolved due to inter-related institutional, political and economic factors.

Notable among these was the unequal levels of development. Due to deliberate colonial policy Kenya had become industrial power among the EAC states. The development among the EAC was unevenly distributed not only in the industrial sector but also in the services sector and trade. This asymmetry in levels of development was a contentious issue in the Ormsby – Gore Commission of 1925, and the Hilton Young Commission of 1929. As the East African countries established the EAC in 1967 the issue was still unresolved. For instance, from 1969- 1978 Kenya continued to witness a steady rise in her exports to the EAC and controlled close to half of total intra- EAC trade.⁸⁸

⁸⁷ O. Ojo, "Regional Cooperation and Integration, in O. Ojo et al, *African International Relations*, Op. cit p.167

⁸⁸ Korwa Gombe Adar and Mutahi Ngunyi, "The Politics of Integration in East Africa since Independence", in W. O Oyugi (ed.), *Politics and Administration in East Africa*, Op. cit; pp.412 -414.

Political stability which is key to the success of regional integration was history in Uganda. Idi Amin Dada expulsion of Asian community in 1972 who played a key role in the country's industry, even heightened political instability in the country.

While corrective measures could be put in place to address skewed benefit distribution, the political will to enforce this was lacking because of suspicions among the political leaders in the three countries.

Lack of political commitment saw the progress of the EAC bogged down. Kenya's dominance was an issue that was addressed in the Philip commission that established the EAC. When the corrective measures instituted in the EAC failed to redistribute these benefits as envisaged in the Treaty, it became evident to Tanzania and Uganda that the community was an extension of the pre- independence cooperation.⁸⁹ The colonial economic set-up had Kenya as the regional linchpin while Tanzania and Uganda continued to be economic vassals of Kenya. All the key industries were in Kenya mostly in Nairobi. Tanzania and Uganda were ready markets for companies based in Kenya and owned by foreigners. This was unacceptable particularly to socialist Tanzania.

Institutional weaknesses also beset the EAC regional institutions which could not play a dynamic and mediatory role in harmonizing partner states national interests,⁹⁰ because they lacked autonomous decision –making power. This is critical to the success of any

⁸⁹ Korwa G. A. and Mutahi Ngunyi, "The politics of Integration in East Africa since Independence", in W. O Oyugi (ed.), *Politics and Administration in East Africa*, Op. cit; p.415

⁹⁰ Domenico. Mazzeo, "*The Experience of EAC: Implications for Theory and Practice of Regional cooperation in Africa*", in D. Mazzeo (ed.), *African Regional Organization* (London: Cambridge Press, 1984), p.154

regional integration scheme as the integration units expectations must be clear from the start.

The politico- ideological conflicts partly account for the failure of the EAC. In East Africa, Tanzania pushed socialism while Uganda was moving towards socialism through the issue of Common Man's Charter in 1969. This was however interrupted by the military coup of 1971 and the subsequent economic decay reflected no distinct ideology. Kenya was on the path of capitalism. While Kenya had stressed the role of foreign investment in her development process as evidenced in Sessional Paper No. 10 of 1965 on African socialism and its application to planning in Kenya, Tanzania's Arusha Declaration of 1967 de-emphasized the role of foreign investments in her economic development. With most investors opting for Kenya it was able to exploit the opportunities the EAC offered unlike Tanzania which investors were reluctant to invest in.

The East African countries external dependence had them pulling in different directions for investments. This brought about disparate conditions in terms of tax incentives, patent laws, labour conditions, foreign exchange privileges and duplication of inefficient industries in the community. This undermines the realization of economies of scale, which is one of the key justifications for the creation of the customs union.

The entire regional integration process was primarily anchored on how economic benefits of the EAC could be shared. The justified perception was that structurally Kenya had the

best economic advantage of integration and that the mechanisms of compensation or sharing of responsibilities between the three countries were inadequate to compensate for the disequilibrium.⁹¹

2.6 East African Cooperation in the 1980s

After 1977, the idea of integration was abandoned. The United Nations (through its Economic Commission for Africa) and OAU led new initiatives of regional economic cooperation rather than political integration. This led to the Lagos Plan of Action of 1981 which envisaged the creation of several regional economic schemes with a hope that they would eventually merge into one African Economic Community. This led to the formation of the Preferential Trade Area (PTA) and SADCC, which perpetuated the rivalry between Kenya and Tanzania. Hence, the initial and immediate post independence initiatives for an East African Federation ended up with economic cooperation and integration, but short of political federation.

The purpose of an East African federation is best described by the following quotation by Yoweri Museveni, President of the Republic of Uganda. “This balkanization of Africa into 53, mostly sub – optimal states, has meant that Africa cannot have a large internal market under one political authority; have no power to negotiate with the rest of the world. This balkanization must stop”.⁹²

⁹¹ The East African Community; “Towards an Integration by Default?” in MAMBO (The Newsletter of IFRA) Vol. 1 No. 1, July – September 2000.

⁹² East African Community, report of the Committee on Fast Tracking east African Federation, Op. cit; p.8

Former President of Tanzania, Benjamin Mkapa said: “We have everything to gain in East African federation in terms of political stability, greater feeling in safety in numbers and as an economic entity better able to sight poverty.”⁹³

Kenya’s President Mwai Kibaki on his part said: “I firmly believe that regional integration is not a choice but a necessary strategy for sustainable development on a cultural level, regional integration solidifies the unity of countries with personal ties and common history, language and culture.”⁹⁴ The relations between the three countries were at their lowest ebb especially Kenya – Tanzania relations and Kenya – Uganda relations. The collapse of the EAC disrupted the flow of Kenya’s trade with the Southern Africa states necessitated by the closure of the Kenya – Tanzania border. Kenya had the difficulty of accessing Zambia and Malawi, Kenya and Tanzania became engaged in unnecessary competition in regional supremacy diverting vital resources to this end.

In 1979 Tanzania invaded Uganda leading to the overthrow of Idi Amin’s regime. Kenya was opposed to this invasion but was equally affected by the advent of political instability in Uganda that disrupted Kenya’s trade with Rwanda, Burundi, Democratic Republic of Congo (then Zaire) and southern Sudan.⁹⁵

When National Resistance Movement (NRM) government came to power in 1986, it pursued economic policies which protected her infant industries to the detriment of

⁹³ East African Community, Report of the Committee on Fast Tracking east African Federation, Op. cit; p.8

⁹⁴ Ibid. p.9

⁹⁵ M, Katumanga, “Politics of Regime Consolidation and Entrenchment: Moi’s Foreign Policy 1978-1994”, Working Paper (IFRA), 1995, p.16

Kenyan goods. Thereafter Kenya – Uganda relations deteriorated and there was a three-day border security forces skirmishes in December 1987. This prompted Kenya to close the common border leading to fuel rationing in Uganda and food shortages on both sides of the border. President Moi (Kenya) and Museveni (Uganda) met and resolved the two-week conflict.

Uganda decided to shift its reliance on the Mombasa port to the ports of Dares- Salaam and Tanga. By 1988 over 20% of Ugandan goods were using the Dares- Salaam and Tanga ports. However relations stabilized in early 1990's and Kenya managed to reclaim her traditional market for consumer goods in Uganda, and pushed hard the revival of the EA cooperation to check on southern African goods.

Kenya being a major beneficiary from a successful East African integration need to convince the weak partners to go along. Borrowing from the experience of South Africa Customs Union, South Africa has the regional power house agreed to play a bigger role vis-à-vis small states like Swaziland and Lesotho which are comfortable with South Africa leading the way.

After the dissolution of EAC, Tanzania saw her future to be safe by supporting ideologically like minded states/ groups in southern Africa. The cooperation and support offered to the liberation movements was aimed to expand to economic areas after they came into power. Tanzania offered training grounds for various guerrilla movements for example African National Congress (ANC), Zimbabwe African National Union (ZANU),

South West Africa Peoples Organization (SWAPO). It also offered her troops in defense of Mozambique.

The Kenya – Tanzania rivalry continued unabated, for instance when Tanzania offered her troops in defence of Mozambique. Kenya too offered and stepped up its support for the rebel movement fighting the FRELIMO government.⁹⁶

However the creation of the PTA reviewed the politics of integration in the East Africa countries. Despite the disagreements and uncertainties which surrounded the PTA among the Eastern and Southern African countries, the PTA treaty came into force in September 1983 and fully operational on July 1 1984.

Tanzania's reluctance about PTA and her campaign against it could be seen from her active role in SADC. For her the Kenya fronted PTA was a rival to SADC. Though Tanzania eventually signed the Treaty in March 1985 and joined PTA she withdrew from it in 2000 citing little benefits from the body. In terms of economic cooperation, it can be argued that the 1980s were a lost decade for the three East African countries.⁹⁷ There was the closier of Tanzania – Kenya border, Tanzania's 1979 invasion of Uganda, Kenya and Tanzania rivalry over supremacy in Uganda.

Kenya and Tanzania pursued diametrically opposed policies in the region. For instance, they took different sides in Mozambique civil war. While Kenya fronted PTA as the

⁹⁶ Weekly Review 8th FEBRUARY, 1991, p.25

⁹⁷ M. Katumanga, "*Politics of Regime Consolidation and Entrenchment: Moi's Foreign Policy 1978-1994*," Op. cit; p.21

vehicle for cooperation in Eastern and Southern Africa in the 1980s, Tanzania fronted SADCC. By then Uganda could not play any meaningful role in regional initiatives since it was mired in political chaos.

2.7 Regional Integration in 1993-2003

Much was focused on the evolution and the development of an East African cooperation development strategy (1997- 2000) and the development of a draft treaty for the establishment of the East African Community which came into force on July 2000. The institutions the treaty came up with are the

- (i) The summit comprising of the Heads of state of the partner states,
- (ii) The Council of the Community consisting of the ministers responsible for regional co-operation of each partner state,
- (iii) The Coordination Committee which consists of Permanent Secretaries for regional cooperation of each partner state,
- (iv) The sectoral committee,
- (v) The East African Community Court as the judicial body to ensure adherence to law in the interpretation and application of the Treaty,
- (vi) The East African Legislative Assembly (EALA) and
- (vii) The secretariat

i) **The Summit**

The Summit consisting of Heads of state or government exercises ultimate authority. Its functions include; giving general directions and impetus as to the development and achievement of the objectives of the community.⁹⁸

Reviewing the annual progress reports and such other reports submitted to it by the council as provided for by the Treaty. Reviewing the state of peace, security and good governance within the community and the progress achieved towards the establishment of a political federation of the partner states, for instance, the Summit appointed the Fast Track Committee on federation in 2004 to back into mechanisms on how EAC states will realize a political federation faster.

The Summit may delegate the exercise of any of its functions, subject to any conditions, which it may think fit to impose, to a member of Summit, to the counselor, to the secretary General.⁹⁹ An act of the community may provide for the delegation of any powers including legislative powers, conferred on the summit by the Treaty or by Act of the Community, to the Secretary General. Subject to the provisions of any Act of the Community, the acts and decision of the summit may be signified under the hand of the Secretary-General or of any officer in the service of the community authorized in that behalf by the Summit. The Summit shall cause all rules and orders made by it under the treaty to be published in the Gazette, and any such rules or orders shall come into force on the date of publication unless otherwise

⁹⁸ *The Treaty for the Establishment of East African Community* (Arusha: EAC publication 1999) Article 10

⁹⁹ Ibid

provided in the rule or order. Others include appointing Judges to the East African Court of Justice, the admission of new members and granting of observing status to foreign countries and assent bills.¹⁰⁰

ii) **The Council**

The Council consists of the minister's responsible for regional cooperation of each partner state and such other ministers of the partner state as each partner state may determine.¹⁰¹ Its functions include; being as the policy organ of the community. The Council promotes, monitors and keeps under constant review the implementation of the programmes of the Community and ensures proper functioning of the treaty. As the policy organ of the Community, the Council shall; make policy decisions for the efficient and harmonious functioning and development of the Community, initiate and submit bills to the Assembly, give directions to the partner states and to all other organs and institutions of the community other than the Summit, Court and Assembly. Make regulations, issue directives, take decisions, make recommendations and give opinions in accordance with the provisions of the treaty. Consider the subject of the community, measures to be taken by partner states in order to promote the attainment of objectives of the Community, make staff rules and regulations, financial rules and regulations of the Community, submit annual progress reports to the Summit, establish the sectoral committees provided in the treaty, implement the decisions and directives of the summit as may be addressed to it. Endeavour to resolve matters that may be referred to it, exercise such other powers and perform such other functions as are vested in or

¹⁰⁰ *The Treaty for the Establishment of East African Community, Op. cit*

¹⁰¹ *Ibid*

centred in it by the treaty. The council may request advisory opinions from the court in accordance with the treaty. The council shall cause all regulations and directives made or given by it under the treaty to be published in the Gazette, and such regulations or directives shall come into force on the date of publication unless otherwise provided therein.

iii) The Coordination Committee

The Coordination Committee consists of the Permanent Secretaries responsible for regional cooperation in each partner state and such other Permanent Secretaries as the state may determine.¹⁰² Its functions include; implementing the decisions of the council as the council may direct. Submit from time to time, reports and recommendations to the Council either on its own initiative or upon the request of the council either on its own initiative or upon the request of the council on the implementation of the treaty. Receive and consider reports of the Sectoral Committee and coordinate their activities. Requesting Sectoral Committee to investigate any particular matter. Perform other functions as are conferred upon it by the Treaty.

iv) The Sectoral Committee

The Sectoral Committee composition is determined by the recommendations of the coordination committee to the Council on the establishment, composition and functions of the Sectoral Committee as may be necessary for the achievement of objectives of the

¹⁰² *The Treaty for the Establishment of East African Community* (Arusha: EAC publication 1999) Article 14 Op. cit

Treaty.¹⁰³ Subject to any directions the Council may give, the Sectoral Committee shall be responsible for the preparation of a comprehensive implementation programme and the setting out of profiles with respect to its sector. Monitor and keep under constant review the implementation of the programmes of the Community with respect to its sector. Submit from time to time, reports and recommendations to the coordination committee either on its own initiative or upon the request of the Coordination Committee concerning the implementation of the provision of the treaty that affect its sector. Other functions as may be conferred on it by under the Treaty.

v) **The East Africa Court of Justice**

The East Africa Court of Justice consists of six Judges. It is the juridical body, which ensures adherence to law in the interpretation and application of and compliance with the treaty.¹⁰⁴ The Court has other original, appellate, human rights and other jurisdiction as will be determined by the Council at a suitable subsequent date. The constitutions of the three East African countries proclaim their supremacy in their countries declaring as null and void any other law that is inconsistent with those national constitutions. To facilitate the EAC Treaty (and thereby its institutions such as East African Court of Justice) to function and operate in the manner that it envisages may require an amendment to the national constitutions to make them subordinate to the Treaty.

¹⁰³ *The Treaty for the Establishment of East African Community* (Arusha: EAC publication 1999), Article 15-16 Op. cit

¹⁰⁴ *Ibid*, Article 17

vi) The East African Legislative Assembly

The East African Legislative Assembly (EALA) consists of 27 elected members, 5 ex-officio members comprising of the ministers responsible for regional cooperation from each partner state, the Secretary General and the Council to the community.¹⁰⁵ Its functions include; being the legislative organ of the community. The Assembly shall; liaise with the National Assemblies of the partner states on matters relating to the Community, shall debate and approve the budget of the community, consider annual reports on the activities of the Community, and annual reports of the Audit commission and any other reports to it by the council, shall discuss all matters pertaining to the community and make recommendations to the Council as it may be necessary for the implementation of the treaty, establish any committee(s) for such purposes it deems necessary, recommend to the council the appointment of the clerk and other officers of the Assembly, make its rules of procedure and those of its committees, perform any other functions as are conferred upon it by the Treaty. The mode of election to the National Assembly is that each partner state elects not from its members nine representatives who represent the diversity of the National Assembly in accordance with such procedure as the National Assembly or each partner state may determine in consistent with those national constitutions.

vii) The Secretariat

This is the executive organ of the community. It consists of the Secretary General, two deputy Secretary General Counsel to the Community and any other officer as may be

¹⁰⁵ *The Treaty for the Establishment of East African Community* (Arusha: EAC publication 1999), Op. cit Article 46

deemed by the Council.¹⁰⁶ The secretariat is responsible for: initiating, receiving and submitting recommendations to the council and forwarding of bills to the Assembly through the coordination committees. The initiation of studies and research related to and implementation of programmes for the most appropriate, expeditious and efficient ways of achieving the objectives of the community¹⁰⁷ for instance the study on Athi-River – Namanga – Arusha road was done under the auspices of the Secretariat.

Strategic planning, management and monitoring of programmes for the development of the Community. The understanding either on its own initiative or otherwise, of such investigations, collection of information or verification of matters relating to any matter affecting the community that appears to it to merit examination. The coordination and harmonization of the policies and strategies relating to the development of the community through the coordination committee for instance, the establishment of the East Africa Lake Victoria Basin Commission (based in Kisumu) to manage Lake Victoria for the benefit of the three countries. The general promotion and dissemination of information on the Community to the stakeholders, the general public and the international community. The submission of reports on the activities of the community to the Council through the Coordination Committee.¹⁰⁸

The mobilization of funds from development partners and other sources for the implementation of the projects of the community, such as the grant from the German

¹⁰⁶ *The Treaty for the Establishment of East African Community* (Arusha: EAC publication 1999) Op. cit Article 63-65

¹⁰⁷ *Ibid*,

¹⁰⁸ *Ibid*

government for the construction of the new EAC headquarters in Arusha. Subject to the provision of the treaty, the submission of the budget of the community to the council for its consideration. Proposing draft agenda for the meetings of the organs of the community other than the Court and the Assembly. The organization and the keeping of records of meetings of the institutions of the community other than those of the Court and the Assembly. The custody of the property of the Community, the establishment of practical working relations with the Court and the Assembly and such other matters that may be provided for under the Treaty.

The Secretary General acts on behalf of the Secretariat with the assistance of the deputy Secretaries General while the Counsel to the Community is the provincial legal adviser to the Community in matters pertaining to the treaty and the Community.

Institutions such as the Summit and the Council have more power in the EAC structure while EALA which represent the people play minimal roles. The treaty still stresses the principle of unanimity in decision- making in the Summit. This gives the Summit the leeway to perpetually paralyze the operations of the community. The removal of the judges is the exclusive decision of the Summit. This need not necessarily be so. Currently the power relations between the Summit, Council and Assembly are unclear. While in ideal situation the Council could be answerable to the legislative Assembly, the opposite holds. Under Article 51 of the Treaty it is the council that has the power to determine when and where the Assembly should hold its meetings.

2.8 The Past Haunts the Present Integration process

This was clearly evident during the negotiations leading to the signing of the Treaty. In July 30 1999 the Treaty was postponed as Tanzania disagreed over trade provisions especially concerning the proposed zero tariffs trade regime and free movement of factors of production. Tanzania was opposed to the zero tariff regime arguing it will be unfair to treat the three countries equally as if they were at the same level of economic development. It was equally opposed to free movement of factors of production especially labour and right of establishment arguing if these were free Kenyans could flock into Tanzania in search of land and job opportunities that Tanzania themselves need. Tanzania wanted the principle of economic asymmetry acknowledged in the EAC treaty. The recognition that the three countries were at various levels of economic development and should not be treated uniformly especially when it came to application of tariffs.

Tanzania was in favour of a 'step by step' approach to integration. Keen to avoid the pitfalls of the past, a Tanzanian official observed the first step must be to agree on a framework of the Treaty that identifies areas of cooperation, thereafter negotiate one area after another and sign individual protocols accordingly.¹⁰⁹ Uganda stood with Tanzania on this position while Kenya preferred a delay until more of contentious details had been agreed upon. While Kenya was in favour of wholesale freeing of factors of production and a zero tariff regime, Tanzania felt Kenya with better infrastructural advantages, high-income level would benefit most, reducing them (Tanzania and Uganda) into mere

¹⁰⁹ O. H. Morara, "Regional Co-operation and Integration in East Africa: The case of East African Co-operation, 1993- 1000, unpublished M.A Thesis, IDIS, UON, 2001, p.52.

markets for her manufacturers. Instead Tanzania wanted incremental approach based on common economic interests.

Tanzania wanted the issue of trade imbalances recognized in the Treaty and mechanisms to correct it. Kenya's perceived dominance in the EAC trade has been a sticking issue for a longtime. The major concern was coming up with an acceptable formula of sharing the gains; in tourism for instance Kenya's status as a regional hub for the advantage of the two states in that tourists use more of Kenyan facilities including airlines and other services clearly putting Uganda and Tanzania at a disadvantage.

The old EAC collapsed because of the perception that Kenya was the net gainer at the expense of others, among other factors. Taking cognizance of this fact Tanzania demanded for a mechanism for redistribution of benefits of trade in the Common Market while ensuring losses in terms of customs levies for their government were cushioned and infant industries protected. For Tanzania, it saw the Treaty emphasizing trade at the expense of basic developmental issues like infrastructure.¹¹⁰ It instead wanted a principle of asymmetry that accommodates variations.

Though it was gradual, the decentralization of the common services marked its beginning and it ended after the member states failed to approve the 1977 – 78 budget for the community.¹¹¹ Ideologically, the three countries were very different. However, Kenya

¹¹⁰ O. H. Morara, "Regional co-operation and Integration in East Africa: The case of East African co-operation 1993- 1000, Op. cit. p.53

¹¹¹ Arthur Hazlewood, "The End of the east African Community; What are the Lessons for the regional Schemes?", Op. cit; p. 410

adopted capitalism; Tanzania adopted socialism, while Uganda was also going leftist. Kenya which feared socialist regimes developing in the region co-operated with Uganda to check the growing Tanzania – Uganda socialist ideological axis, and ensure her hegemony in the region.

Amin's coup of 1971 broke the Tanzania- Uganda axis as Tanzania refused to recognize Amin and gave political asylum to Obote. Kenya's reaction to Uganda's coup was indifferent.¹¹² This made Tanzania to be suspicious of Kenya's intentions and thus, her interests in the EAC waned. With the formation of the frontline states¹¹³ and the construction of the Tanzania – Zambia railway, Tanzania interests shifted from the Community to be southern Africa sub- region. This is how Tanzania came to join SADCC. Ideological conflict between Kenya and Tanzania could be seen in their principles of Asian socialism. While Kenya emphasized the role of foreign investments in her development process, Tanzania de- emphasized it.¹¹⁴

Kenya's manufacturing investments were superior, foreign controlled and controlled substantial part of intra- EAC trade. Tanzania saw intra- regional trade as benefiting the foreign investors in Kenya who had captured Ugandan and Tanzanian markets. This led to the closure of Kenya – Tanzania border and a lot of political acrimony in the relations of the two.

¹¹² Adar and Ngunyi, *The politics of Integration in East Africa since Independence*, Op. cit, p. 410

¹¹³ Frontline States: States such as Tanzania, Malawi, Zambia, Zimbabwe, Lesotho, Swaziland and Botswana, aimed at stopping Aggression from South Africa and reducing Dependence on South African Economy.

¹¹⁴ For the Principles of African Socialism, see: Kenya Sessional Paper No. 10 of 1965 on African socialism and its Application to Planning in Kenya and Arusha Declaration of 1967

Uneven levels of development among the three states were equally blamed for the collapse of the EAC. The colonial policy had made Kenya industrial power in the region in the industrial sector, trade and service sector. Controversy over gains from co-operation ruined any efforts to correct the imbalance. The measures to redress the problems of mal – distribution of gains were inadequate and the EAC collapse was inevitable.

Political trends in Uganda especially after the Idi Amin coup of 1971 shattered the hopes of integration in the region. While Kenya did not do without Uganda's market, Tanzania did not recognize Amin's government. Inter- state relations between the three states worsened by 1977 and the demise of the EAC was the result.

Another problem that led to the collapse of EAC was the lack of political will. Before independence, the three states only cooperated due to the machinations of the colonial government. After independence, the new East African leaders got busy with consolidating power. It has also been argued that the leaders found it difficult to 'breast-feed' a baby they did not bear. There was a sincere political will on commitment to carry on with integration.

Again, Uganda and Tanzania viewed EAC as a 'zero- sum' game or even a 'negative – sum game given the dominant position held by Kenya. So, they may have wished the EAC to collapse than proceed on smoothly. Finally, the EAC Authority became significant after the coup in Uganda due to personal differences between Amin and Nyerere. Decision – making therefore, became hard as the authority could not meet.

2.9 Summary and Conclusion

History helps us to understand the present situations and enables us to predict the future. The history of East African integration has been problematic from the colonial period, the post independence period and the present efforts of re- establishing EAC. The politics of integration have rotated around benefits distribution. Unless an equitable format of addressing economic imbalance emanating from unequal distribution of regional benefits is found, EAC will remain a dream.

However, the EAC was dissolved in 1977 after being in operation for only ten years, though it was revived in the early 1990s during increasing economic marginalization in the international system. We can observe that even during the colonial period regional integration was problematic. Kenya as a result of deliberate colonial policy that favoured her white settlers came to be the most developed in the region. It has continued to dominate regional trade ever since. Tanzania to Uganda had fewer and less efficient industries and ended up to serve as ready markets for Kenyan goods. The same tendencies are reflected in the current EAC where Kenya dominates regional trade as opposed to Tanzania, Rwanda and Burundi.

The key test to the successful implementation of the Treaty will be adequate provisions for successful implementation of the economic aspects of the community since the common market is the 'heart beat' of all economic integration. A regional economic integration scheme has costs. The biggest price is sovereignty. Others include trade,

balance of payments, and revenue impacts.¹¹⁵ The East African countries continue to a great extent to depend on revenue from external trade, persistent refusal to renounce sovereignty and the regional rivalry between the three states weakens the EAC project.

The EAC countries are implementing an integration following a worldwide trend to avoid marginalization. Already these countries were marginalized in the global economy by an international specialization, which did not favour them. This marginalization is evident in the export of primary products of little value, absent of significant industrial network, conditional access to international financing, persistence of bilateral neo-colonial relationships and weak monetarization of exchange.¹¹⁶

Regional integration in East Africa has been dogged by the problem of benefit distribution given the structure of the economies that are basically similar and non-complementary. It is also an acknowledged fact that regional integration is a political process much as its benefits are economic.

¹¹⁵ S. Tulya- Muhika, "Revival of the East African co-operation and its institutional frame-work", in *Perspectives on Regional Integration and Co-operation in East Africa*, EAC ministerial seminar, Arusha March 25-26, 1999, pp. 28-29.

¹¹⁶ A Leon, "The Overlapping of Regional Integration Zones in East Africa" in *MAMBO (The Newsletter IFRA)*, Vol. 3. No.2, 2002, p.3

CHAPTER THREE: NEW EAST AFRICAN COMMUNITY FOUR-STAGE REGIONAL INTEGRATION PROCESS (2004- 2009)

3.1 Introduction

Working towards creating an integrated economy is a challenge that few countries would dare to undertake. However, the people of East Africa boast of having a history, which faced this challenge even before the European Economic Community (EEC) which we believe that it borrowed a leaf from the EAC model.¹¹⁷

The central premise of the 1997-2000 development strategy was to transform the region into a single market and investment area. While the first development strategy focused on the economic enlargement of the region, the second East African development strategy dealt with specific policy issues incorporated in the Treaty.

The third EAC development strategy 2006- 2010 has witnessed the admission of Burundi and Rwanda in 2006 as full members of the community. Its special focus is the review and amendment of the Treaty, particularly the provisions that deal with the definition of the community. For example, it is designed to address issues such as: (i) the definition of the EAC as a feature of international law, (ii) a time-table for achievement of objectives, (iii) partner states' commitment to the Treaty, (iv) decision- making process within the EAC, (v) separation of powers of the organs of the EAC, (vi) composition of the EALA,

¹¹⁷ Joseph Tomusange, *The East African Community: Reconstruction, Challenges and Future Prospects of the Regional / Organization*, in Korwa, G. Adar, Faten Aggag and Biong Deng (eds.), *Foreign Policy and International Relations: Reflection of Diplomats*, AISA MONOGRAPH, Vol.1, No. 1 February 2008, Pretoria, South Africa, p.43.

(vii) election of the members of the EALA and the related functions, and (viii) jurisdiction of the East African Court of Justice (EACJ), among others.¹¹⁸

The EAC regional integration process is being implemented in line with the spirit of the Lagos Plan of Action (LPA), the Abuja Treaty (AT) and New Partnership for Africa's Development (NEPAD) to enhance faster development within the member states. In order to promote cooperation and unity within the region, the partner states agreed to establish a Customs Union, a Common Market, a Monetary Union and Political Federation. Article 7(a) provides that the operational principles of the community shall be driven by "people-centred and market-driven cooperation".¹¹⁹

The four- stage process of economic and political integration began in 1999. According to the schedule, the first stage, the establishment of a Customs Union, has been in place since its ratification in 2004. However, this stage has been clouded by simmering disputes over non-tariff barriers, immigration and other administrative process; as well as other anti- trade practices that still dog trade talks between Uganda, Kenya and Tanzania.¹²⁰

The second stage, the Common Market Protocol was signed in Arusha, Tanzania in November 2009. The coming into force of both the East African Customs Union and the Common Market leads to short-term loss of revenue as countries remove internal taxes

¹¹⁸ Joseph Tomusange, *The East African Community: Reconstruction, Challenges and Future Prospects of the Regional / Organization*, in Korwa, G. Adar, Faten Aggag and Biong Deng (eds.), *Foreign Policy and International Relations: Reflection of Diplomats*, AISA MONOGRAPH, Op. cit p.80

¹¹⁹ Ibid, pp.46-47.

¹²⁰ Business Journal Africa: Empowering Entrepreneurs, Issue No. 113, May 2009, p.12

and harmonize external duties as per the Common External Tariff guidelines. Rwanda's loss of revenue is US \$12 million, but its EAC Permanent Secretary, Robert Ssali, said it is a small price to pay for expected benefits.¹²¹

At the outset, goods will circulate more freely in the customs Union than ever before while the common market protocol facilitates free movement of persons and capital.

3.2 The EAC Customs Union- The First -Stage of the Regional Integration Process

The Customs Union Directorate of Customs was established after being signed in December 2004 and implemented on 1st January 2005. The fully-fledged Customs Union was achieved in January 2010. With the establishment of CET, the EAC Partner States recognized Asymmetry as a core principle underpinning the EAC Customs Union.

The Customs Union protocol is premised on EAC trade liberalization and harmonization. The Customs Union Protocol, Article 2 (5) elaborates on the envisaged EAC trade regime contained in Article 75(1) of the treaty. The articles provide the following: the application of the principle of asymmetry, the elimination of internal tariffs and other charges of equivalent effect, the elimination of non-tariff barriers, establishment of a common external tariff, anti-dumping measures, subsidies and countervailing duties, security and other restrictions to trade, competition, duty drawback, refund and remission of duties and taxes, customs cooperation, re-exportation of goods, the simplification and harmonization of trade documentation and procedures, exemption regimes, harmonized commodity description and coding system, and freeports.

¹²¹ Business Journal Africa: Empowering Entrepreneurs, Issue No. 118, December 2009, pp.10-11

To hasten the Customs Union process, the Partner States adopted important instruments. These include the EAC Customs Management Regulations, transitional measures and gradual elimination of internal tariffs, establishment of CET, introduction of Rules Of Origin (ROO), and other trade related aspects, legal and institutional arrangements, a customs valuation system and harmonized customs valuation system and harmonized customs laws, procedures and documentation¹²².

With the elimination of Customs tariffs on all traded goods and services between the community's member states, there will be greater volume of trade among the five member states. And the deepened integration presents immense opportunities for the business community, in terms of larger markets, economies of scale and large pools of human, financial, and physical capital.¹²³

Chairman of East African Business Council, Mr. Faustin Mbundu, said the private sector supports the integration process through increased trade and investment, enhanced competitiveness, and increased employment, thereby accelerating the region's economic growth.¹²⁴

The EAC Customs Union has generated a liberalized cross-border trade, through the adoption of common policies to minimize customs clearance formalities and enhance predictability of economic policies. EACBC has also promoted the elimination of Non-

¹²² JUMUIYA NEWS, A Newsletter of the ministry of East African Community, ISSUE 16, October – December 2009, p.11

¹²³ Faustin Mbundu, Business Community at the Heart of east Africa Community Integration, in Diplomat EAST AFRICA: Door to Region, Window on World; May – June 2010, Volume 003, p.58

¹²⁴ Ibid.

Tariff Barriers to trade, channeled general policy issues to EAC Summit and is addressing issues on rules regarding rules of origin and double taxation.

Traditional deep-seated issues negated the implementation of the Customs Union. The inherent disparities in economic structures among the EAC member states, diverted the negotiations to issues of gains and losses from the trade liberalization, then CET on essential food crops such as grains and imports from the preferred trading partners of each of the member states.¹²⁵

However, Kenya's Assistant Minister for East African Community Mr. Peter Munya, praises the progress that has been realized so far in the implementation of the East African Community. Duties on goods in the region were eliminated when EAC achieved a full-fledged Customs Union on 1st January 2010. This has led to tremendous growth in goods trade within the region. During the Customs Union Protocol implementation period, the total exports from Kenya to the other EAC Partner States have grown from Kshs 64.14 billion in 2004 to Kshs 83.94 billion in 2008, which is a 23.6% increase on the pre-Customs Union year.¹²⁶

Exports from Uganda to the other EAC Partner States grew from over 132 million USD in 2004 and 2008 respectively, which is about 65% growth. Tanzania export to the rest of EAC Partner States increased from 123.8 million USD to 259.9 million USD in 2004 and 2008 respectively, which is a 53% increase. Exports from Burundi to the rest of the EAC

¹²⁵ Business Journal Africa: Empowering Entrepreneurs, Op. cit p.12

¹²⁶ THE ACCOUNTANT: *Journal of the Institute of Certified Public Accountants of Kenya*, April –May, 2010, p.25

Partner States grew from 5.4 million USD to 6.6 million USD in 2004 and 2008 respectively, which is an 18% increase. Exports from Rwanda to the rest of the EAC Partner States grew from 25 million USD to 46.2 million USD in 2004 and 2008 respectively which is a growth of 46%.¹²⁷

As is evident from the above analysis, all the EAC Partner States benefited from the integration measures of the goods market as a result of the implementation of the Customs Union Protocol.

From 2005 to 2010, Mr. Munya said, Partner States revenues have grown immensely. Total revenues in Kenya grew from 2,775.2million USD to 6,538.3 million USD in 2002/03 and 2007/8 respectively, which is a 51% increase. In all the other EAC Partner States revenue increased instead of decreasing proving that the Customs Union leads to increase in revenue.¹²⁸

The importance of the EAC is manifest by the expansion of businesses in the region. Kenyan companies recorded 86 per cent growth since the launch of the EAC Customs Union in 2005, while those in Tanzania and Uganda registered 78 per cent and 60 per cent respectively. The Customs Union has increased the turnover of industries in Uganda by 48 per cent. Thus, Uganda is the key market of Kenyan goods in the East African region. In 2007, for instance, Uganda imported goods worth of 39.4 billion shillings (\$ 500 million) from Kenya, up from 31.4 billion shillings (\$ 400 million) in 2006, while its

¹²⁷ THE ACCOUNTANT: *Journal of the Institute of Certified Public Accountants of Kenya, Op cit*

¹²⁸ *Ibid.*

export to Kenya increased from 6.9 billion Kenya shillings (\$ 88 million) to 9.2 billion shillings (\$118 million). In 2007, Kenya's exports to Uganda rose to 33.5 billion Kenya shillings.¹²⁹

Vimal Shah, Bidco Thika based Company Chief Executive officer, said eliminating intra-EAC barriers will enhance competitiveness in the region. For example reducing barriers to intra- EAC as envisaged in the EAC Customs Union Protocol and COMESA Customs Union will create larger regional markets that can realize economies of scale and sustain production systems and markets.

In an interview, Mr.Shah said eventually, larger regional markets and more efficient production systems will enhance East Africa's competitiveness, enabling it to attract a large share of the global market. The same principle applies when EAC integrates with COMESA and SADC.¹³⁰

In respect of movement of goods, the EAC customs and Trade Directorate Director – general Mr. Peter Kiguta says the Partner states should endeavour to adopt best practice such as risk- based post-clearance audit and pre-audit release of goods so as to minimize durations at border and ports transaction.

To support intra-regional trade, partner states should liberalise public procurement procedures, purchase goods manufactured within the customs union, promote peace,

¹²⁹ Pontian Godfrey, Okoth, Kenya and the contemporary world order, Kakamega, MMUST Press, 2010, p. 197

¹³⁰ Vimal Shah, Bidco CEO, Interview on 18th August 2010, Thika, Kenya

good governance and secure government. He also points out that the EAC secretariat is assisting partner states in developing an East African manual on operationalization of Export Processing Zones (EPZs). It is also working on a regional workplan to enable partner states to take advantage of export markets under the US African Growth and Opportunity Act (AGOA), now that the EAC has signed a Trade and Investment Framework Agreement with America. To support small –scale traders, the secretariat is implementing a simplified trade regime at border entry points.

Although intra- regional trade has grown, Mr. Kiguta notes there is room for further growth. For instance, intra-regional trade to total volume of trade in the EAC is merely 13 per cent compared to Europe’s 60 per cent and Asia’s 40 per cent. The key to unlocking potential lies with the private sector.¹³¹

The private sector will derive many benefits such as reduced cost of doing business due to economies of scale arising from larger markets and open borders. Others include expanded opportunities for networks, reduced costs and increasing efficiency emanating from free movement of labour, capital and goods, secure investment and security climate due to economic stability from integration process, and increased employment opportunities due to attraction in investment.

3.2.1 The Common Market – The Second -Stage of the Regional Integration Process

As the second stage in the integration roadmap of the EAC, it is where measures that lead to the integration of the factors of production is formulated. It is a more advanced stage

¹³¹ An Interactive Interview with Mr. Peter Kiguta, 16th August 2010, Arusha, Tanzania

where factors of production are allowed to move freely commonly referred to as the four freedoms. This implies that natural persons, labour, services and capital are allowed to move freely in the region.

Key hallmarks of a Common Market include synchronized macroeconomic policy environment, easing of border controls for member nations, harmonized employment, labour legislation, the rights of establishment and residence, and social security benefits.¹³² It will also remove restrictions on movement of services and service suppliers, harmonize standards of services traded, facilitate free movement of capital, convertibility of currencies, promote investments in capital markets (stock exchange) that eventually lead to an integrated financial system.¹³³

The new arrangement will have a positive impact on allocation of resources in the region, exploitation of economies of scale, profit margins, distribution of income, market size, efficiency of production and balance of trade in intra-regional trade.

The Common Market would therefore deepen integration in the region. The Universities in the region are in the process of harmonizing university education so that qualifications can be standardized across the borders. Moi University Eldoret is already teaching courses on East African Community regional integration.

¹³² Business Journal Africa: Empowering African Entrepreneurs, Op. cit p.12

¹³³ Ibid

Tanzania, contrary to the other four EAC member states, has declined to adopt individual land ownership system, the use of national identity cards for travelling in the region, and the right of establishment. These issues are a result of the failure by successive Kenyan leadership to fight corruption, land grabbing, resolve ethnic rivalries and stamp out violent crimes, which Tanzanians fear could spill over into their territory.¹³⁴ Tanzania is not amused that Kenya in the recent past has been pushing aggressively for the decentralization of EAC organs from Arusha contrary to the existing Treaty.

All the five EAC member states have however ratified the CMP. Kenya is the second member state after Tanzania to ratify the Protocol. The Tanzania parliament approved the Protocol in late April 2010 after parliamentarians (MPs) softened their hardline stand on the protocol on fears that the EAC would be a market for Kenyan goods. The MPs urged their government to take the necessary steps that would benefit Tanzania in the CMP.

Kenya's Ministry of EAC Permanent Secretary Mr. David Nalo said the implementation of the Common Market Protocol (CMP) means there is now a legal document endorsing the free movement of people within the EAC which has been there since the last century. Mr. Nalo said under the CMP the Partner member states are committed to allowing entry of citizens of partner states without visa and to leave the territories without restrictions as well as being allowed to stay in the territory of partner states.¹³⁵

¹³⁴ Business Journal Africa: Empowering African Entrepreneurs, Op. cit, p.11

¹³⁵ The standard on Saturday, June 26, 2010, p.4

The CMP implementation process which is to be completed in 2012, identifies four types of East African citizens who can enter, stay, work and reside in another East African state. From July 1, 2010, individuals who wish to travel for any purpose other than earning money (such as visitors, students, medical tourists, people in transit), the self-employed, intra-corporate transfers of managerial and supervisory personnel and workers will do so freely.¹³⁶

The head of Public communications Department in Kenya's ministry of state for Public Service, Mr. Kennedy Bushere, is proud of the prospects of the EAC. Mr. Bushere says that EAC common market Protocol has created a wider market for investors and for labour; for those with the capital and business acumen to invest as well as those with the skills to sell to the widened market. The protocol will benefit the ones who have the guts to venture beyond their familiar environment. For example those with qualifications, entrepreneurship, business acumen and capital and above all, the courage to dream of big investments or alternative career and life choices different from what his/her country can afford.¹³⁷

Mr. Nalo further noted that professionals will cross borders, increasing their employment opportunities, while businesses will have a wider field to choose from when recruiting or expanding. For workers, free movement will be in progressive stages depending on profession and the country in which one would wish to work in. Workers will enter partner states by presenting their passports at the port of entry, declaring their usual

¹³⁶ The standard on Saturday, Op. cit

¹³⁷ An Interview with Kennedy Buhere, *Head of the Public communications Department, Ministry of state for Public Service*, 28th July, 2010

information and providing contract of employment. For jobs that will last less than 90 days, workers will need a special pass, and for jobs lasting longer than 90 days, a work permit. Special passes and work permits require different supporting documentation such as identity cards or passports and professional certificates, among others. Spouses and children will be allowed to travel with the professional if they apply.¹³⁸

The EAC common market Protocol allows members to subject citizens of Partner states to national laws in matters of immigration, access to land, and right of establishment and residence. Kenya's former EAC minister Mr. Kingi said that Rwanda has removed work permit requirements for east Africans seeking to work in that country, Kenya has a bilateral agreement with Rwanda whereby Rwandese are not required to apply for work permits at the regional level to enhance the free movement of workers regionally.¹³⁹

3.2.2 Hurdles on East Africa Community Customs Union and Common Market

EAC member states are hesitant to cede sovereignty while member states are not obliged to implement the community's decisions quickly as they are agreed on.

This, in effect, means that it is left to individual states and its affiliate arms to implement EAC decisions. In case of default, there is nothing anyone can do. Kenya's former East African Community Minister Mr. Kingi however feels that the future is bright following the successes already realized in the implementation of the EAC Customs Union and the Common Market Protocol.

¹³⁸ An Interview with Kennedy Buhere, *Head of the Public communications Department, Ministry of state for Public Service*, Op. cit

¹³⁹ An interview with Minister Amason Jeffah Kingi, 13th July, 2010, Nairobi, Kenya

The East African Business Council is unhappy with the pace of implementation of some of the ideas such as Non- Tariff Barriers (NTBs) manifest in customs and administrative procedures, police roadblocks, weighbridges, business registration and licensing and immigration procedures. Work permits are still required, except in the case of Rwanda, which has done away with the requirement.¹⁴⁰

The European union is the leading source of imports for Kenya, followed by the Middle East, the Far East and rest of Africa (primarily from South Africa). The EAC is a relatively insignificant source of imports for Kenya, the imports from Tanzania and Uganda since 1990 do not exceed 1 per cent of Kenya's total imports.¹⁴¹ This presents a major challenge to the integration process in east Africa which is anchored primarily in trade. The customs Union theory posits a regional integration scheme is likely to succeed when the pre-union trade and economic relationships among potential members is high. This is not the case when it comes to Tanzania and Uganda's trade with Kenya.

Tanzania's strongest trade links are with European Union, Japan, India, Kenya and the SADC region. This portends challenges for the integration project between her and the other partners. East Africa constitute an insignificant market, for Tanzania's exports only 6 per cent of her exports end up in Kenya and Uganda. No wonder commitment to the EAC has been weakened on the side of Tanzania. Uganda as a source of Tanzania imports is insignificant yet trade is to form the basis for increased EAC integration on.

¹⁴⁰ Diplomat EAST AFRICA: Door to Region, window on World; May- June 2010, Volume 003, p.15

¹⁴¹ Nehemiah K. Ngeno et al, Regional Integration study of East Africa; The case of Kenya, Nairobi, November 2001, p.30

This highlights the contention that trade alone cannot serve as the engine for EAC integration.

Kenya's predominance on regional trade has been resented by East African countries, especially Tanzania and Uganda. This has been a long running issue on regional integration in East Africa. Then how the current EAC resolves it to the satisfaction of the five partner states remains a key challenge.

Another challenge facing the EAC integration is multiple memberships of the EAC countries in competing trade blocs. Multiple memberships hinders EAC integration because of duplication of effort, human and financial costs, lack of harmony in policies such as rules of origin and customs procedure, information gaps and changing political positions. For example Tanzania is more perceived to be committed to SADC than the EAC.

Kenya's ministry of EAC senior Public Communications Officer Mr. Peter Owaka, notes that Kenya enjoys a positive trade balance in intra- EAC trade and it is the largest beneficiary but adds that Kenya's dominance is not permanent since as EAC progresses the gaps will narrow.¹⁴² However the argument which stands is that those countries with a headstart in regional integration will inevitably reinforce their leading position in *laissez faire* integration.

¹⁴² An Interaction interview with Mr. Peter Owaka, Senior Public Communications Officer, Ministry of EAC, Kenya, 20th July 2010, Nairobi

Challenges also remain which include lack of structured engagement with policy makers at a regional level, frequent policy reversals, infrastructure bottlenecks and non-tariff barriers that increase the cost of doing business. Energy, both in terms of cost, availability, and quality of supply is a key contributor to the region's uncompetitiveness.

The fast pace of integration is more a matter for EAC bureaucrats and technocrats than that of 126 million – plus region's populace. In spite of the fact that the ministries of East African Community Affairs have been publicising the supra-national project, still many people are not aware of the finer details of the community while some are opposed outright to some of the measures being put in place.

Other challenges include lack of awareness by citizens from the five partner states, immigration, revenue collection, taxation, port operations and inadequate understanding of the treaty by government officials from member countries. The vice-chairman of East African Business Council, Mr. Keli Kiilu said: "Not all custom officials or the police are aware of the implications of the EAC treaty. However, Kenya's EAC Assistant Minister, Mr. Peter Munya says educating citizens on the implications is ongoing."¹⁴³

The other challenge is the harmonization of processes within the region. Disparities still exist in labour skills, employment and immigration laws though there are plans to harmonize them. For example, for a Kenyan to work in Tanzania, Uganda, Rwanda or Burundi, one has to be issued with a pass at the border to stay for six months and then apply for work permit.

¹⁴³ The Standard on Saturday, June 26, 2010, p.5

Harmonizing education systems and standards among EAC states is perhaps one of the biggest challenges the cooperation efforts face. Kenya has the 8-4-4 system while Uganda and Tanzania has 7-4-2-3. Rwanda and Burundi have a French system. On language, in Tanzania public schools, the teaching language is in Swahili, but private schools in Tanzania teach in English. Even though Rwanda passed the law that saw English become the medium of instruction in schools, language differences would still limit the scope of the two new countries interaction with the English- speaking Kenya, Tanzania and Uganda.¹⁴⁴

Regarding the business community challenges, there is high cost of doing business that has made the region uncompetitive both regionally and globally. There are also poor linkages due to poor physical infrastructure contributing to high cost of moving products to the region.

The roll out of the Customs Union has not facilitated the movement of goods across borders in the way the business community had envisaged. It is critical that the frustrations of businesses, such as immigration officers at border points who won't acquiesce to the new customs regime, be addressed once and for all. Therefore the implementation of the CMP calls for commitment and hardwork by the secretariat, business community and governments of the partner states.

¹⁴⁴The Standard on Saturday, Op. cit

3.3 The EAC Monetary Union – The third -Stage of the Regional Integration Process

The Community is also laying groundwork for the third stage of the EAC integration roadmap which is the EAC Monetary Union. Monetary integration is not a new phenomenon to East Africa and can be traced back to the time of East African Currency Board which was established in 1919 and operated through the years until it was dissolved in 1966.¹⁴⁵

Mr. Barrack Ndegwa, Integration Secretary in Ministry of East African Community, Kenya, said that some options for driving the East African Monetary Union (EAMU) forward include expeditious establishment of East African Monetary Institute (EAMI) through a bill that would be presented by the council of ministers to the East African Legislative Assembly. The EAMI would then spearhead the Monetary Union process.

Mr. Ndegwa further said that all instruments for the establishment of the EAMU (inclusive of EAMI) are negotiated at once in the course of negotiating the EAMU protocol. This is based on the premise that it is important to negotiate all aspects of the monetary union as opposed to the establishment of the EAMU through a separate protocol.¹⁴⁶

¹⁴⁵ Arthur, Hazlewood. "Economic Integration in East Africa", Op. cit, pp.101-103

¹⁴⁶ Barrack Ndegwa, ministry of East African Community, Kenya, Interview on 23rd August 2010, Nairobi, Kenya.

However, Mr. Richard Kalya of the EAC Secretariat Department of Finance and Administration points out that the regional currency to be established under the monetary union will try to stabilize erratic exchange rate fluctuations. To this end, the EAC Monetary Union hopes that a single currency would make the EAC a single market for business, and promote economic growth, cross-border investment, corporate innovation and efficiency, and political integration.¹⁴⁷

The European Central Bank (ECB) and the EAC Secretariat are studying the Monetary Union issues to indicate what ingredients are necessary to realize this stage which the summit has given a time line of 2012. The Community is also laying foundation for the political federation set to be realized in 2015. The committee of Experts has been formed to look into the issue of fast tracking the East African Political Federation.¹⁴⁸

The EAC monetary union will pave way to the creation of a harmonized Central Bank as well as single currency, East African Monetary Union institutions such as the Central Bank and Monetary institute. The study by the ECB drew information and data from regional Central Bank and their ministries of finance, planning, EAC Affairs and trade, capital markets, bureau of statistics and the banking fraternity.

Despite its earlier projection that the community will have a monetary union in place by 2012, the ECB experts say the process may take a little time longer due to the changeover

¹⁴⁷ Interview with Mr. Richard Kalya, EAC Department of Finance and Administration, August 22, 2010, Arusha, Tanzania.

¹⁴⁸ THE ACCOUNTANT: INVEST IN EAST AFRICA NOW, Journal of the Institute of Certified Public Accountants of Kenya, Volume 003, April –May, 2010, p.15

from national currencies to a single currency which must be anchored in society and particularly the financial sector.¹⁴⁹

Mr. John Ndiema, an expert in monetary matters, says that adoption of a single currency should not be rushed before the region was ready for such an experiment. He adds that it is this rush that led to Spain's pile-up of debts, soaring unemployment and budget deficit. Between 2000 and 2008, the country's prices of goods rose by 35 per cent compared with a 10 per cent rise in Germany – in view of the European Union Euro currency.¹⁵⁰

For currency convergence, EAC partner states are supposed to adopt, ratify and implement legal instruments like the monetary union treaty, inclusive of statutes of new institutions such as the East African Central Bank (EACB). This Bank will principally provide centralized decision-making on monetary and exchange rate policies. Its regional status will ensure that its decisions are guided by the objectives of the single currency area holistically.

The EACB may be originated as a single regional central bank to replace all the existing national Central banks or as leader and core of a system of central banks. In the second option, the national central banks would act under its guidance as points of access to the central bank facilities of the single currency area.

¹⁴⁹ John Ndiema., Will EAC Currency Fly?, In Diplomat East Africa: Door to region, Window on World Volume 002, March – April 2010, p.54

¹⁵⁰ John Ndiema, Monetary matters: Beware common currency!, in Diplomat EAST AFRICA: Door to region, Window on World, July 2010, p.30

The creation of a universal currency is projected to have a substantial impact in the re-organization of East African financial markets whose credibility over the past two years has attracted debate with leading foreign investors shying off. In the European Union, for example, the impact of European Monetary Union on financial deepening was evident when the outstanding stock of securities issued by corporates in the euro area grew from 32.2 per cent of Gross Domestic Product (GDP) at the end of 1998 to 74.5 per cent of GDP by June 2005.¹⁵¹

An international relations expert Ralf Fücks who observes that economic integration promotes prosperity, peace, democracy, and the rule of law in the longer term, said that the European Union as a model is based on the actual establishment of a Common Market together with a common currency and a European central Bank. The creation of a European Common Market was always a political project; it was never a purely economic project. Consequently, from its very conception, the European single market was embedded in political arrangements.¹⁵²

There is strongly believed that EAC monetary union will contribute to greater cross-border trade in finance goods, delivering efficiently gains from market integration.¹⁵³ With a unified currency, international integration with the rest of the world will increase rapidly such that it will be essential not to view the EAC single currency area as a closed unit.

¹⁵¹ John Ndiema., Will EAC Currency Fly?, In *Diplomat East Africa: Door to region, Window on World* Volume 002, Op. cit p.55

¹⁵² Ralf Fücks, Sustainable globalization, in *Rethinking Global Security: An African Perspective?*, Prof. Makumi Mwangi and Prof. Okello Oculi, (eds.), Heinrich Bell Foundation, Nairobi, Kenya, 2006, p. 247

¹⁵³ John Ndiema., Will EAC Currency Fly?, In *Diplomat East Africa: Door to region, Op. cit*

An expert in monetary matters Tom Nevin notes that the EAC monetary union by 2012 would foster economic integration in the regional trade bloc despite the fact that central Bank Governors from the Partner states are doubtful of the set date and think of pushing the date ahead.¹⁵⁴

Jacob Opolot of Research Department Bank of Uganda, also observes that if EAC takes time to fine-tune its monetary union proposal details, the five countries will benefit from lower transactions costs emanating from trading goods and assets in the same currency.¹⁵⁵

In pursuance of the EAC treaty are provisions on the monetary union. The partner states have agreed on macroeconomic convergence criteria aimed at fully integrating the five economies and thus pave the way for a sustainable monetary union. At least, currency convertibility in the five states has been a success story. More still need to be done with regard to exchange rate, interest rate, monetary and fiscal policies. There is no doubt that sharing of relevant budget information under the pre-and post-budget consultations of the ministries of finance, will enable convergence of macroeconomic variables as a prelude to monetary union and a single currency.

Critics, however, say there are costs which will have to be borne by some partner states. Chief among them being the potential for increase in economic volatility since different countries react differently to some shocks. Worse is the fact that some member states are

¹⁵⁴ Tom Nevin, A common currency for the United States of Africa?, in African Business, July 2010, No. 366, p.61

¹⁵⁵ Diplomat EAST AFRICA: Door to Region, Window on World, July, 2010, p.30

not comfortable with the European Union model which they say is silently being 'forced' to fit East Africa.

Professor Tumusiime Mutebile, Governor of the Bank of Uganda, notes that establishing a monetary union in East Africa will be difficult and risky since it will go beyond a single currency. It will require an enormous amount of work to reform institutions, change legislation, and revise macroeconomic policies. Under the arrangement, EAC state are also supposed to maintain similar economic cycles- with similar economic cycles- with similar income levels, interest rates, inflation rates, and commonly agreed standards for sound fiscal policies.¹⁵⁶

The European Central Bank study which was commissioned by the EAC Secretariat and released last year shows that a monetary union implementation in the region will have serious implications. For example, any financial problems in any of the member countries will jeopardize the entire region. On the other hand, IMF findings show that Kenyan financial institutions are the strongest and most advanced while Rwandan and Ugandan banks are the weakest.¹⁵⁷

Mr. Ndegwa also notes that the road to a Monetary Union is a challenging one, but in it bound significant rewards for the EAC region which include securing convergent macroeconomic policies critical for regional integration (fiscal and monetary) aligning tariffs, inflation rates, exchange rates, debt to GDP ratio, reduced costs of doing business,

¹⁵⁶ The Standard on Saturday, Op. cit p.5

¹⁵⁷ Ibid

reduced exchange rate spreads and exchange rate commissions, and improved policy credibility and predictability such as through supra-national central banks. He however adds that though there are many issues to be ironed out in the monetary union, preparations for the EAMU are well underway, and will build on the many advances already realized under the customs union and common market.¹⁵⁸

3.4 East African Political Federation – The fourth- Stage of the Regional Integration Process

The revival of the EAC in 1999 ushered in new hope for the transformation of the region by a functioning entity with powers to allocate resources necessary for development. However, the fast tracking of East African Political Federation has failed to provide a clear link between itself- as a statutory organ of the EAC- and the people of East Africa in the integration process. Instead, it has been recommended that “commissions and task forces” should be established to drive political integration project.

During their Summit meeting on 28 August 2004 in Nairobi, Kenya, the East African heads of state “resolved to expedite and compress the process of integration so that the ultimate goal of a political federation is achieved through a fast tracking mechanism.”¹⁵⁹ The functionalist and neo- functionalist mix, which is at the centre stage of the treaty, seems to suggest erroneously, that the gradualist process to integration is the best option

¹⁵⁸ Barrack Ndegwa, *Diplomat East Africa*, Vol. 003, Op. cit.

¹⁵⁹ Korwa G, Adar, *Fast Tracking east African Political Federation: The Role and Limitations of the East African Legislative Assembly in AFRICA INSIGHT: DEVELOPMENT THROUGH*, Africa Institute of South Africa, Vol. 37(4) March 2008, p.76

for the EAC as economic cooperation is being used as the basis for political cooperation in the region.

Even though the treaty establishing the EAC explicitly provides for specific stages of integration process, the Summit was of the view that the pace was too slow. Article 5, paragraph 2, for example, states that “the partner states undertake to establish among themselves and in accordance with the provisions of this treaty, a Customs Union and ultimately a political federation”.¹⁶⁰

Whereas paragraph 6 of Article 123 empowers the Summit to “initiate the process towards the establishment of a political federation of the partner states by directing the council to undertake the process”, paragraph 7 provides that the “Summit may order a study to be first undertaken by the council” (EAC Secretariat 2002, Article 123 (6)).¹⁶¹ And fast tracking political federation in which popular sovereignty of East Africans is recognized and institutionalized is the most viable option for the community. However, specifically, the treaty does not provide for direct elections to EALA (EAC representatives); a process that would recognize their sovereignty and the principle of universal suffrage. By exercising their sovereign rights through electoral process, East Africans empower elected leaders and by extension the sovereign nation-states, but also, at least in theory, to the EALA.

¹⁶⁰ Korwa G, Adar, *Fast Tracking East African Political Federation: The Role and Limitations of the East African Legislative Assembly in AFRICA INSIGHT: DEVELOPMENT THROUGH KNOWLEDGE, Africa Institute of South Africa*, Op. cit, p. 83-84

¹⁶¹ Ibid.

The fast-tracking committee in the Wako Report consulted a wide spectrum of East Africans, including the heads of state, government officials, experts, stakeholders and ordinary citizens. The committee however comes out with some perceptions, with some of them being potential advantages. The East Africans agreed that the political federation has the potential of accelerating economic development. They also identified the fact that the unwillingness to implement EAC decisions is as a result of reluctance to cede sovereignty by partner states. Thirdly, it was evident that divided interests, particularly between the EAC and partner states, will be minimized or eliminated. And finally, they learnt that unified armed forces within the federal framework would enhance the stability of the region.¹⁶²

The committee also considered three alternative options. First, was the compression of the current stages of integration as outlined in Article 5(2) of the treaty, namely; (i) customs union, (ii) common market, (iii) monetary union, and (iv) political federation. Second was the overlapped and parallel stages of integration while third was the immediate establishment of the East African federation.¹⁶³

The committee, on the first option (compression of the current stages of integration) it observed, among other things, that if implemented, it would determine the step-by-step building blocks integration process envisaged in the EAC treaty. The Customs Union,

¹⁶² Korwa G, Adar, *Fast Tracking east African Political Federation: The Role and Limitations of the East African Legislative Assembly in AFRICA INSIGHT: DEVELOPMENT THROUGH*, Africa Institute of South Africa, Op. cit

¹⁶³ Ibid.

according to the committee, is the core foundation for the integration process and should be left untouched.

However, the fast tracking committee viewed the “over-lapped and parallel process” as the most appropriate option for the EAC for two main reasons. First, the Wako committee agreed that the four stages of integration inscribed in Article 5(2) of the Treaty should intertwine and overlap. Secondly, it approved on sequencing of integration process i.e. allowing parallel activities at each stage of integration process.¹⁶⁴

The establishment of the political federation were to be implemented in three phases, namely a preparatory phase, a transitional phase and a consolidation phase. The preparatory phase will be implemented during 2004 -2005, while the transition phase to a federation, focusing on the recommended strategic areas, should be completed in 2006 - 2009. The final or consolidation phase for the political federation, which is being targeted to be achieved in 2015, is expected to have a fully fledged federation with its institutions, including an elected executive organ and legislature and a duly constituted judiciary.

The preparatory phase focusing on the econo-political foundation of the EAC such as putting in place the institutional framework and the three stages of economic integration under the prism of functional integration process would form a foundation for a strong political federation.

The committees were in agreement that East African federation would accelerate economic development, minimize or eliminate divided interests, and that the partner

¹⁶⁴ Korwa G. Adar, *Fast Tracking East African Political Federation*, Op. cit., p. 83

states would be unwilling to cede sovereignty. They also agreed that unified armed forces within the federal framework would enhance the stability of the region.

However, the Wako committee discarded the immediate establishment of the federation as a viable option because a functional integration progress guarantees tangible benefits and builds people's confidence, and durable political federation is contingent upon strong citizens and economic integration. In addition, the EAC lacks socio- economic, financial and organizational capacity while history has shown that immediate establishment of a political federation is only possible in revolutionary circumstances. Constitutional developments in East Africa have taken divergent paths since independence and the partner states are engaged in their own distinct political discourses, as well as the EAC.¹⁶⁵

The Migingo conflict between Kenya and Uganda threatens to derail the regional integration process. The controversy over the ownership of the island came to the fore in March and April 2009. Professor Pontian Godfrey Okoth, writes that cartographically, the island appears to be in Kenya and the dispute may have to do with the fact that Kenya, with only six percent of Lake Victoria, benefits more from fishing than Uganda which has 46 per cent. Tanzania has 48 percent of the Lake.¹⁶⁶

Wealth in form of fish abounds around the island. However, Uganda's actions of hoisting its flag, collecting rent, deploying military police and taxing the inhabitants amounts to

¹⁶⁵ Korwa G, Adar, *Fast Tracking east African Political Federation: The Role and Limitations of the East African Legislative Assembly in AFRICA INSIGHT: DEVELOPMENT THROUGH KNOWLEDGE*, Africa Institute of South Africa, Op. cit

¹⁶⁶ Pontian Godfrey Okoth, *Kenya and the Contemporary World Order*, Kakamega, MMUST Press, 2010 p. 196

acts of aggression. Thus, the Migingo dispute is too costly for both Kenya and Uganda which are major trading partners in cereals and prepared foodstuffs, domestic appliances, sugar, beer, textiles, petroleum products, plastics, detergents and steel.

The EAC is unable to intervene in the dispute because as a regional organization it lacks the legal and institutional framework to mediate in such conflicts. EAC Deputy Secretary – General in charge of political federation Ms Beatrice Kiraso, therefore roots for the establishment of a regional mechanism for conflict prevention, management and resolution (CPMR) within the EAC. This will give the EAC the tools for engaging in preventive diplomacy, conflict management and resolution as well as post-conflict reconstruction.¹⁶⁷

Kenya's neighbours are concerned about the unstable nature of Kenya's coalition government following 2008 post-election violence while run-away corruption in Tanzania's public administration disillusion regional and international investors in equal measure. There are also fears about Uganda's 2011 general elections and post-Kagame Rwanda as inequality still continue in the region despite the shared benefits which advocates of regional integration may have overestimated.

3.4.1 The Role of East African Legislative Assembly (EALA) in fast tracking East African Federation

The legislative powers conferred on the EALA by Article 49 of the treaty include, among other responsibilities, debating and approving budgets, and recommending to the council

¹⁶⁷ JUMUIYA NEWS, A Newsletter of the ministry of East African Community, Issue No. 17, January – March 2010

of ministers and other EAC related matter. The EALA is therefore a bridge between East Africans and regional integration process. However, the mode of conducting elections of the members of EALA puts into question the link between the people of East Africa and the assembly itself.

Article 50 (1) of the EAC treaty empowers the national assembly of the partner states to elect wine representatives in accordance with the procedures of each partner state national assembly which are not the same. First the practice of nominating candidates by political parties and thereafter elected by the national assemblies is flawed. This process confers powers on the political parties to decide on behalf of the East Africans on the EALA representatives. It is the people of East Africa who are sovereign and have the right to decide on their representatives through democratic process.

Second, the treaty should provide clearly harmonized electoral system for members of EALA. This is because undemocratic and unharmonized electoral process negate the principal of universal adult suffrage and individual sovereignty, let alone the legitimacy of the EALA. The provision which allows political parties to be at the centre of electing EALA representatives, is at the core of the exclusion of East Africans. This clause empowers the national assemblies of the community and not the people of East Africa-to determine the interests of the EAC. The clause can be interpreted to mean that the national assemblies are supreme over the EALA. The success of the East African political federation at a minimum requires the participation and ownership by East Africans.

Third, the population size issue represented in the EALA as prescribed in the treaty puts into question the principle of effective representation and accountability. The nine members of the EALA from each partner state inscribed in Article 50(1) of the East African treaty cannot represent the complex and diverse population in the EAC region. Therefore direct elections and size of population should be the guiding principle used in determining representation in EALA in order to promote and preserve sovereign rights of East Africans, legitimize EALA's *raison d'être*, and ensure long-term survival of the EAC.

Fourth, indirect elections through political caucuses has the potential of encouraging political patronage and clientalism. Fifth, the functions of EALA may be delayed if there is disagreement in the national assembly of a partner state over the election of candidates submitted by a political party. A classical example occurred in 2006 when Kenya's eleven members of Parliament submitted a petition in the EACJ challenging the process used in Kenya's national assembly to elect the country's nine representatives to the EALA in November 2006. In delivering its ruling in March 2007, the EACJ stated that: "No election of EALA representatives took place within the meaning of Article 30 of the treaty; and Kenya's election of the EALA members' rules do not comply with Article 50 of the treaty".¹⁶⁸

Article 30 of the treaty states, in part that any resident of a particular state may take a matter to the EACJ for determination if an "act, regulation, directive, decision or action

¹⁶⁸ Adar, G. K (ed,) *Africa insight: development through knowledge*, Africa Institute of South Africa, Vol. 37 (4) March 2008, p.91

of a partner state or an institution of the community... is unlawful or is an infringement of the provisions of this treaty".¹⁶⁹ Due to the ruling of the EACJ, Kenya's national assembly conducted fresh elections and the newly elected representatives were sworn in together with the other representatives from the partner states in June 2007. The ruling of the EACJ was a litmus test on its institution and independence vis-à-vis of a contracting party to the EAC treaty.

Experts argue that there could be a big threat if the partner states do not empower the EACJ, saying that without a proper structure and financing of the body, East Africa's dream to have its economies unified could be "legally weak", an issue that could lead to its collapse.¹⁷⁰

Going forward, it would appear faultlines will not be few if the CMP does not establish a unifying dispute resolution body. The mechanism currently in place does not give to the EACJ powers that would have naturally gone to it as the legal buck stopper of the community. Jurisdiction to handle Common Market related disputes has mainly been given to the courts of individual countries. The existence of parallel dispute resolution mechanism within the EAC is a potential liability to the integration process. The process of harmonization taking too long and ultimately delaying the whole integration process.

¹⁶⁹ Adar, G. K (ed,) Africa insight: development through knowledge, Africa Institute of South Africa, Op. cit

¹⁷⁰ John Ndiema, Removing Legal challenges to Integration in Diplomat East Africa: Door to region, Window on World, Volume 002, March –April 2010, p.52

EACJ can potentially play its role of ensuring adherence to the rule of law but it has been systematically reduced to a toothless dog that cannot bite. The court of Justice of the European Union which, since its inception, has been playing a crucial role in the European integration process has, from January 2000 to November 2009, determined more than four hundred cases related to customs union and Common Market. This is what a fully fledged community court is capable of achieving and the EACJ has the potential of doing the same. All it needs is support from the EAC policy organs.¹⁷¹

In order to fast track the East African politician federation instead of relying on directives from the summit as provided for in the Treaty, particularly Article 123, the EALA be directed responsible for driving the integration process. In this respect, the EALA should meet as frequently as is the case of national assemblies of the partner states and not once a year as provided for in article 55(2) of the Treaty. The EALA members and the council of ministers should then be residents in Arusha, Tanzania, EAC headquarters to fast track the integration process.¹⁷²

3.5 Summary and Conclusions

Kenya dominates intra-EAC regional trade to such a level that it does not augur well for the EAC. The rest four members have been reduced to mere markets due to low levels of industrialization. This implies even if tariffs are completely removed trade will be of little impact on inter country trade because the key factor behind low inter-state trade is lack of

¹⁷¹ John Ndiema, Removing Legal Challenges to Integration, in *Diplomat East Africa: Door to Region, Window on World*, Op. cit, p.52

¹⁷² Adar, G. K. (ed) *Africa Insight: Development through knowledge*, Africa Institute of South Africa, Vol. 37(4) March 2008, p.5

infrastructure and poor production capacity. This also implies that to advance the cause of regional integration in East Africa, the EAC must invest massively in regional infrastructure.

A different approach on EAC integration is necessary because the market driven integration is necessary because the market driven integration that is proclaimed in the treaty will lead to unequal distribution of benefits and polarized regional development. Those with a headstart in economic development will inevitably reinforce their position in a market driven integration.

The Customs Union theory places high premium on the quality of infrastructure especially transport between integrating countries. It contends where transport linkages are poorly developed will be an obstacle to trade creation among the members. Poor infrastructure in east Africa is a key factor behind the low trade and the significant inflated import bill. The SADC region illustrates the centrality of infrastructure to the sustainability of regional integration. With the political will and resources of South Africa SADC have been developing transport corridors (Maputo corridor, Kalahari corridor) opening up previously closed regions to more trade.

In the SACU region South Africa as the region's linchpin bears much of the integration costs. Infact Hyundai and Volvo opened up assembly plants in Botswana because it has free access to the South Africa market and other SACU members.

The preceding analysis indicates that the EAC integration process-particularly the envisaged political federation- is largely politic elite-driven. The people of East Africa are not directly linked to the integration process and to fast tracking political integration in particular. The EAC treaty reinforced this view in that it fails to provide for a clear link between the people of East Africa and political federation.

The EALA, being the main representative of the people of East Africa, should be de-linked from the secretariat to enable the assembly to operate as autonomous organ, with provisions to enable its transformation to move effectively. For EALA to gain more legitimacy, then proportional representation based on the partner states' population should be used to elect representatives.¹⁷³ Today, Tanzania has 41.3 million people, Kenya 38.6 million people, Uganda 33.4 million people, Rwanda 9.72 million people and Burundi 8.07 million people.

The principle of universal adult suffrage should be the core value and practice not only for the EALA, but also for the federal president at all stages of transition. Wako committee recommendation that at the initial stage, the heads of state of the federation should rotate on a yearly basis between the sitting EAC presidents is misplaced and ill-conceived. It is therefore advisable to fast track a fully- fledged political federation instead of the benchmarked 2015. This is because a federal state if properly institutes and accepted by the people, would rid the region of many vices such as corruption, ethnocentrism (Burundi, Kenya and Rwanda), and limitless terms of office of the

¹⁷³ Adar, G. K. (ed) *Africa insight: development through knowledge*, Op, cit., p.94

President (Uganda).¹⁷⁴ The longer the political federation takes before it is implemented, the more reluctant the East Africans, particularly the leaders in accommodating the project because of entrenchment nationalism and fear of sovereignty. The EALA should then enact laws that give clear guidance and directive on the question of multiple memberships to similar international governmental organizations (IGOs) in the region such as SADC and COMESA.

Even the Wako report fails to appreciate this anomaly. Instead, the report visualizes the success of fast tracking political federation within the context of unpalatable elite-driven prisms. Specifically, while appreciating the EAC treaty as the benchmark for political federation, the Wako committee recommends, inter alia, the establishment of commissions and task forces to drive the process, with the people of East Africa given an opportunity to exercise their sovereign rights on fast tracking political federation only at the final stage, that is at the level of a referendum.

There is no organ in the EAC that is specifically responsible for integration process, let alone accountable to East African peoples on the question of political federation. Apart from the role the commissions and task forces are envisaged to play, the Wako report places the responsibilities of fast tracking the East African political federation on four organs of the EAC, namely, the Summit, the Council, the EALA and the Secretariat. This simply means that there is no single organ directly accountable to the East Africans on fast tracking the political federation of the EAC.

¹⁷⁴ Adar, G. K. (ed) *Africa insight: development through knowledge*, Op, cit , p.93

The EALA seems to make the issue of political federation even more ambiguous and blurred by suggesting that its role together with the actors such as the council of ministers, national governments of the partner states, national assemblies, non-governmental organization (NGOs), and the international community to fast track the East African political federation. The EALA, like any other properly constituted and effective legislature, should play its rightful role by enlarging the democratic space in the region through legislative acts.

The role of any legislature, EALA included, on the issue of good governance and its corollaries, accountability and democratization are critical for any society. In the case of the EAC, loyalty to the political parties and presidents by the EALA representatives and the EAC ministers (as ex-officio members of the EALA) respectively, tends to outweigh their concerns for the transformation of the EALA to accommodate the direct interests of the East Africans on the question of fast tracking political federation. The EALA has, in this regard, been concerned with closer links with the national assemblies of the partner states to drive the integration process.

The role of EALA and the national assemblies of the partner states vis-à-vis the people of the region is to mobilize public opinion on the issue of integration. Mobilisation and sensitization of East Africans as conceptualized by the EALA cannot substitute the sovereign rights of the people. Decision-making on integration process as currently provided for in the treaty, as well as the Wako committee's recommendations on how to

fast tracking the East African political federation remain eclectic and will continue to pose challenge.

Even though the EAC has made progressive and positive strides towards integration, the challenges that persist are complex and require constant re-examination. For example, most Tanzanians though they support the free movement of people, goods and services, customs union and the monetary union, about 50% do not support full political federation. Tanzanians mistrust Uganda's perceived militarism, while Kenyans are only seen as aggressive in business matters.¹⁷⁵

For the success of the regional integration process, issues on socio-economic factors, political will, sovereignty and national identity which are major obstacles need to be addressed fully. The people must also be sufficiently sensitized and involved in the process of integration. Well empowered popular participation will enable the people to develop a sense of ownership and responsibility, pride, and commitment in the deepening of political integration within the EAC with the ultimate objective of converting it into an East African federation.¹⁷⁶

¹⁷⁵ Business Journal Africa: Empowering Entrepreneurs, Issue No. 113, May 2009, p.12

¹⁷⁶ Ahmed Mohiddin (eds.). Deepening Regional Integration of the East African Community, Development Policy Management Forum, Addis Ababa, Ethiopia, 2005, p.20

CHAPTER FOUR: SOCIO-ECONOMIC AND POLITICAL DIMENSIONS EMERGING FROM THE NEW EAST AFRICAN COMMUNITY REGIONAL INTEGRATION PROCESSES

4.1 INTRODUCTION

This chapter will focus on the socio-economic and political dimensions emerging from the regional integration process and how they act as important milestones towards the creation of a community called the East African Political Federation. This will be done by examining the inner socio-economic and political logistics and the dynamic propensities with reference to the regional integration processes so as to derive the socio-economic and political dimensions. This chapter will also look at socio-economic and political dimensions that were developed to help in the regional integration process.

4.2 The EAC Customs Union, Common Market and Monetary Union

In order to facilitate smooth operations of the customs union, it would be necessary to harmonize macroeconomic policies, liberalize interest rates and exchange rates regimes; harmonize investment incentives, fiscal policies and taxation. Tax harmonization in the EAC needs to be fast-tracked to alleviate discriminatory and preferential tax policies.

A major concern to the integration was the relatively advanced state of the Kenyan economy and the dominance of its products in the region. A common market is based on the custom union. In order to operationalize the common market which is crucial in the regional integration process, a common competition policy would be formed in addition to harmonized export promotion policies, cooperation in developing the capacity to

compete internationally and collectively the capacity to negotiate internationally.¹⁷⁷

Competition policy is important to prevent abuse arising from a market based economy.

The common market also fosters cooperation in export promotion and trade with other countries as a single block. This would enable partner states to build collectively the capacity to identify and articulate their interests through EAC as a bloc since it is more cost effective and enhances solidarity through collective bargaining.

The EAC common market would enable the partner states to enhance international competitiveness through identification of areas of comparative advantage and focus on building capabilities in those areas. The partner states will also take action on factors which hinder competitiveness and establish programmes to facilitate export activity, promotion of production technologies, investment in infrastructure and monitoring improvements in the level of competitiveness such as quality, reliability and cost.¹⁷⁸

It is significant to accelerate harmonization of fiscal and monetary policy, sharing of Customs information and the lobbying of other states to recognize it as a travel document. In line with travel facilitation, it is important the five partner states issue common visas.

On the East African financial landscape, provision of banking facilities should be supported and encouraged across all the partner states. EAC should introduce a central

¹⁷⁷ The Second EAC Development Strategy, 2001- 2005; EAC Secretariat, Arusha, 2001.

¹⁷⁸ Article 89 to Article 101 Treaty for the Establishment of East African Community, EAC Secretariat, Arusha, 1999.

clearing house for East Africa that fast-tracks regional transfer, with discussions on ways of attaining sovereign rating to facilitate reduction in costs of raising funds from outside the region. This would be made easier with the enactment of Anti-Money Laundering laws that would facilitate work towards a single East African Stock Exchange with uniform forex regulations across East Africa.¹⁷⁹

4.3 Economic and Administrative challenges in the Regional Integration Process

a) Trade imbalance in Customs Union and Common Market Protocols

The Tanzanians are seen as the main problem and challenge facing the EAC. The Tanzanian industrialists share the view that the imposition of zero internal tariffs would generate trade creations and trade diversion effects in Kenya's favour which would widen the trade imbalance in Kenya's favour.

b) Hurdles and obstacles

The momentum of the EAC integration process towards a single market and investment area has been slow due to a number of hurdles and obstacles.

i) Governance and institutional constraints

A major hurdle to a faster East African integration is the absence of a politically accountable authority at regional level. Lack of executive authority within the Secretariat and organs of the community have greatly undermined the abilities of the Secretariat to discharge her mandate.

¹⁷⁹ THE ACCOUNTANT, Journal of the Institute of certified Public Accountants of Kenya, August-September, 2010, p.47

ii) Budgetary constraints, and lengthy decision-making process

On many occasions, the partner states have not remitted in time even what they have approved as their contributions, thus delaying the implementation of community projects and programmes. Currently, some partner states are in arrears for contributions. For example, Uganda which is highly dependent on donors for its budgetary support has outstanding dues to the EAC Secretariat which complicates its ability to fulfil its obligation to the EAC.¹⁸⁰

In the cases where donor funding is involved, procurement processes and procedures are unduly, complex and time consuming. Donor priorities also do change, leading to occasional withdrawals of such support midstream. Examples are the Telecommunication Digital Project and the concessioning of the East African Railways Network.

It has been argued that the Secretariat has become a forum where technocrats from partner states negotiate to harmonize their national policies/ interests instead of adapting national positions to regional standards or requirements. This process has been time consuming reaching to extensive use of resources with minimal returns. Again, frequent changes of personnel at the technocrat levels erode benefits of institutional memory for continuity.

iii) Lack of enforcement machinery and sanction mechanism

¹⁸⁰ Dr. Sallie Simba Kayunga, Deepening Integration of the East African Community countries: the Uganda case, Op. cit., p.222

The problem here is that collective decisions are left to bureaucrats in the partner states to implement. However, national interests at times prevail, and the bureaucrats leave community programmes unimplemented.

Other factors that have hindered implementation include delays in the ratification of protocols, divided loyalty between state and regional pressures and finally lack of implementation strategies and plans with implicit time frames for implementation of decisions.

iv) Legal and administrative handicaps, and capacity constraints

EAC community decisions requiring amendments to the national laws remain outstanding for long periods of time. In the meantime, there have been attempts through administrative compromises to implement decisions outside the legal framework. This is inappropriate and compromises decisions made in the EAC community.

The mandate of the Secretariat has expanded over time without the corresponding expansion of the professional cadre of staff, thus overstressing the abilities of such staff to the point of inefficient service delivery.

v) Establishment of a transitional fund to fast-track regional integration process

In the economic integration, a transitional fund should be established to compensate the losers of the integration. In case this does not work scarce funds for economic development would be wasted. Finally, the fund may lead to rent-seeking activities and to

an increase in corruption and thus harm economic activities in the East African Partner States. The EAC Partner States should also consider establishing the EAC development fund to enhance the project implementation. Through the proposed fund, all the partner states should jointly mobilize funds for regional infrastructural development. Upon the establishment, the EAC institutions must be strengthened by giving them strong mandates like monitoring, evaluation and oversight such as the EACJ as reliable arbitration challenges of dealing with cross border disputes.¹⁸¹

4.4 The Political constraints in the East African Political federation

In East Africa the executive dominates the other branches of government and is relatively poorly checked. This portends challenges to the regional integration scheme over the issues of sovereignty since the five member states have found it difficult to cede any power to regional institutions. This has made EAC Secretariat in Arusha to wait for signals from the ruling elite in Kampala, Nairobi, Dares- Salaam, Kigali and Bujumbura before it can make a decision that serves the interests of the entire region.

The implication has been that new regional institutions such as the EALA, EACJ and EAC Secretariat lack any supranational authority and run largely on the mercy of national executive powers (elites drawn from the national governments). This implies the process toward integration is slowed down as the ruling elites pander to domestic interests even when they are anti-integration. While the state political elite and the business community

¹⁸¹ THE ACCOUNTANT, Journal of the Institute of certified Public Accountants of Kenya, Op. cit, p.46

remain committed to the trade pushed neo-functional approaches, the EALA and East Africa citizens seek immediate federation.¹⁸²

However such positions curtail the development of a regional identity. It is difficult for states that exercise their distinct jurisdiction to be seriously committed to the implementation of some of the policies, depending on the interest and regime in power.¹⁸³

Political will is required most in Tanzania to foster the regional integration process. While the removal of tariff barriers is a step in the right direction, Tanzania requires eradicating man-made barriers to intra-regional trade such as quantitative restrictions on import customs, administrative regulation, and transporting hold-ups.

The EAC treaty gives a political federation as its ultimate goal. However the fundamental principles for political cooperation as outlined in the EAC treaty (friendship, solidarity and good neighbourliness, mutual respect for national sovereignty and integrity, non-interference in domestic issues, peaceful co-existence and resolution of disputes and conflicts, maintenance of peace, stability and security) evidently some work against a political federation. However, mutual respect for national sovereignty and integrity, non-interference in domestic issues all work towards consolidating the nation-state and the existing status quo.¹⁸⁴

¹⁸² Dr. Musambanyi Katumanga, *Towards Shirikisho La Afrika Mashariki: Some Alternative Thoughts*, Op. cit, p.281

¹⁸³ S. L. C Chachage, "Unite First, the Rest will follow", in *The East African*, December 6-4, 2004, p.14

¹⁸⁴ R. Mukandala "Political Cooperation" in *Perspectives on Regional integration and cooperation in East Africa* (Arusha: EAC Secretariat, March 1999), p.102

A critical analysis of political federations indicates that federations throughout the world require a certain degree of surrender of political jurisdiction to the federal authority. For example the federal government is usually in charge of foreign and defence policy, immigration issues and international trade while the rest of the functions falls within the regional states constituting the federation. It is therefore difficult to tell at the moment whether the East African countries will cede jurisdiction over these areas to the federal government in Arusha, Tanzania, when the time of federation comes.

The roadmap towards a political federation should be backed by progress in democratization of member states. In the process of building the community attention must be paid to how institutions are created. For example it was against democratic considerations for national parliaments to elect the nine EALA members in each partner state instead of allowing the people to do so such as in 1957 when East Africans elected directly their representatives to the legislative councils.

In Uganda's context, nationalism, particularly in the form of Buganda's search for autonomy, has previously undermined any efforts towards regional integration. However, Uganda did better than Kenya and Tanzania in ensuring regional and gender representation in the election of its members to the EALA.

4.4 This chapter presents the evidence for the three study hypotheses and what the EAC need to do to speed up the regional integration process as explained below.

4.4.1 EAC Treaty Enhances Regional Integration Process

The treaty provides constitutional foundations for the promotion of political integration, but fails short of empowering the appropriate institutions with the necessary human and material resources to deepen political integration within the EAC. The treaty has also created an enabling environment, with the opportunities and possibilities for civil society organizations, the private sector, and other stakeholders in the partner states to promote integration across the EAC.¹⁸⁵

However, the private sector complains that the cost of doing business in East Africa is among the highest in the world while little has been done to ease intra-regional trade and to facilitate the movement of people and services within the region.¹⁸⁶ It is therefore worth noting that the success and prosperity of the EAC will to a very large extent depend on the support of the people. The people must be informed well to participate fully, effectively and meaningfully in the affairs of the EAC at all levels.

In addition, cooperation among EAC Partner States continues to be constrained by lack of communication infrastructure, mutual fears and absence of transparency with respect to an exchange of information. Kenya's East African Community Permanent Secretary Mr. Nalo also concurs. He said the first EAC collapsed because of 'miscommunication' and

¹⁸⁵ Ahmed Mohiddin, *Deepening Political Integration in the East African Community*, Op. cit., p.18

¹⁸⁶ Dr. Sallie Simba Kayunga, *Deepening Integration of the East African Community countries: the Uganda case*, Op. cit., p.223

expressed optimism that his ministry's newly launched communication strategy handbook will enable the government to communicate effectively with Kenyans and the wider EAC. He however added that thorny integration issues such as sovereignty, Kenya's dominance in the region and the fate of economically weaker EAC members have to be resolved.¹⁸⁷

The former Kenya's EAC Minister Mr. Kingi, also expressed similar sentiments on the role of information in the integration process. He said credible information about the integration agenda would broaden and deepen citizens' understanding of EAC affairs, promote mutual trust, build confidence, forge a common identity and solidarity among East Africa citizens, and benefit the integration process.¹⁸⁸

A senior Assistant Director of Public communications in Kenya's Ministry of EAC Mr. Paul Ogaro, said the partner states have started sensitization programmes at the community and Partner states levels to promote regional integration and to benefit business community who cross- borders for trade, revenue clerks and border authorities who lack information on Customs Union and Common Market protocols.¹⁸⁹

The fact that sustainability of regional integration in East Africa will entail addressing economic structures that hinder the process cannot be ignored. Agriculture is the major economic activity in the East African economies while the manufacturing sector is still

¹⁸⁷ JUMUIYA NEWS, A Newsletter of the Ministry of East African Community, Kenya, Op. cit, p.5

¹⁸⁸ Ibid

¹⁸⁹ An interactive interview with Paul Ogaro, Senior Assistant Director of Public Communications, Kenya's Ministry of EAC, 9th September, 2010, Nairobi.

weak. It has been difficult for the partner states to reach an agreement on a CET due to the different levels of development in the region in the industrial sector, economic structures and the varying revenue implications.

Compared with her neighbours, Kenya boasts of a broad and diversified manufacturing sector, a more developed agricultural sector, agro-processing sector and advanced capitalistic and entrepreneurial skills. This explains Tanzania's reluctance to speed up the integration process and instead opted for a gradualist approach. Tanzania is more committed to the SADC region than the EAC project and exports slightly more to the SADC region than to the EAC.

The dominance of Kenya has been a long running theme in East Africa integration starting from the colonial period, the immediate post independence era and now the current EAC project. How the five countries go about appropriating the benefits remains a key challenge for the EAC.

It is also important to note that in order to take regional integration forward, the partner states must reform their political institutions. All the partner states have similar political systems with fairly relative open political space with the executive dominating other branches of government. The integration process has not been sufficiently inclusive and the EAC treaty remains a political document controlled by the executive instead of being people-centred and market-driven.¹⁹⁰

¹⁹⁰ "Debating Regional Integration" in the Point, Issue No. 29 June 1999 (Bulletin of the Institute of Economic Affairs).

The same tendencies are reflected in the regional institutions. The Secretariat cannot make a resolution that is binding on all states, the EALA plays only a consultative role, while the summit and council enjoy real power. Though the EAC treaty gives a political federation as its ultimate goal the fundamental principles of cooperation consolidate the status quo. The supremacy of the state is being proclaimed instead of gradual power devolution from the state at the national level to the regional levels. Therefore federation must be anchored in economic cooperation.

4.4.2 The unequal levels of development hinder regional integration in East Africa

The five partner states are at various levels of development. Since the colonial period, Kenya has been dominant in intra-regional trade and industrialization. Tanzania, Uganda, Rwanda and Burundi whose economies are largely agricultural based have limited manufacturing capacity. This problem of asymmetry in levels of development dates back to 1920s. The old EAC even collapsed partly due to Kenya's economic dominance to such an extent that Tanzania and Uganda became her captive markets.

Economic integration is about the welfare of the partner states, hence the need to address the large trade and investment imbalances through equitable distribution of the ensuing benefits. Tanzania has been explicitly clear on this by saying that a repeat of the old EAC is abominable. Infact equity and balanced development are fundamental principles of the EAC for sustained regional cooperation and integration.

Since regional integration is a progressive process, EAC partner states need to accommodate other related alternative approaches emphasizing common infrastructure, foreign and investment policies, and common regional public goods. Regional integration as a process is dynamic. Therefore if the partner states want to benefit from regional integration, a radical re-orientation is necessary. On common regional public goods, for example, institutions can engage in joint research and share their findings. Joint projects in energy production and supply would play a critical role in enhancing region- centric economic growth triangles around which common public regional goods can be shared. This will engender spill-over effects allowing cooperation in technical fields, trade and investment realms.¹⁹¹

There is also need for convergence of shared interests in security and foreign policy among the social forces, the state, and the region.¹⁹² The argument here is that enhanced cooperation is a function of shared common fears, enemies and problems. On defined security cooperation, the partner states can sign a non-aggression and mutual defence pact, and security-driven integration build-up process rooted in a developmental regional state.¹⁹³

The EAC must be able to solve conflicts in Northern Uganda and improve Uganda's relations with Sudan so that the resources used in the wars will be redirected to

¹⁹¹ Dr. Musambanyi Katumanga, *Towards Shirikisho La Afrika Mashariki: Some Alternative Thoughts, in Deepening Regional Integration in East Africa Community*, Op. cit., p.283

¹⁹² *ibid*, p.284

¹⁹³ *ibid*

productive sectors. The regional public goods will limit rivalry in consumption and exclusion. This will form the foundation for interdependency.

On common regional approaches, the partner states could engage in joint agricultural projects and enterprise development among others to create interdependence that will improve relations and diminish prospects for conflict among them. However, Tanzania focus on SADC region undermines the EAC project. Though outlined in the treaty, common foreign policies, have never been seen in practice. By having joint foreign policy fronts, they can enhance their bargaining power in international relations. The EAC should focus on streamlining the transport infrastructure in the region. Joint investments in infrastructure for example communications, power and water have tangible benefits because in these activities economies of scale, external economies and interdependence are likely to be large. Coordination of key projects can be undertaken profitably for the regional market if carried simultaneously whereas in isolation none would be feasible.¹⁹⁴

The EAC partner states can benefit more if they harmonize their investment policies. Kenya as a core state in the East Africa region need to forgo some benefits to the less developed members so as to correct conditions that disadvantage them. Likewise, contributions to the regional institutions should be based on each member economic strength because equitable contribution to the EAC Secretariat Kitty is unrealistic.

¹⁹⁴ P. Robinson, *Economic Integration* (Evanston; North Western University Press, 1968), p.56

In virtually all relatively successful regional integration schemes, there must be prime movers. As Abangwu puts it, "there must be dynamic centre of gravity within the prospective integrative area, a country or group of countries willing to bell the cat and act as leaders in the process of integration."¹⁹⁵ South Africa plays a key role in SACU region. France and Germany have been the major drivers in European integration. Kenya as a leader in commerce and industry, and a major beneficiary of EAC integration need to play bigger role without necessarily coercing other partner states.¹⁹⁶

4.4.3 Lack of political will has effect on regional integration in East Africa

The EAC cannot operate in isolation. COMESA, EAC, and SADC, have joined forces through the 'Tripartite Process' to exploit the opportunities that are available in Africa for its further development and advancement. However, there are contentious issues in the project. The dual membership of some partner states for example Kenya in EAC and COMESA, Tanzania in EAC and SADC and rules of origin among others, requires shrewd leadership and political will in order to settle them quickly.

Tanzania's case might affect EAC integration since it is more pro-SADC than EAC and COMESA. At the political level in Uganda, the President has made statements, which are very supportive of the East African federation and other regional blocs. Borrowing a leaf from other integration schemes, president Museveni has called for the fast-tracking of EAC into a political federation terming the federation as the "insurance policy" for the

¹⁹⁵ G. C. Abangwu, "Systems Approach to Regional Integration in West Africa", in *Journal of Common Market studies*, Vol. 13, 1975, p.131

¹⁹⁶ *Ibid*

people of East Africa.¹⁹⁷ Similar sentiments have also been expressed by Rwandan President Kagame. Kenya and Burundi are major players but their political statements are not strongly worded like that of Uganda and Rwanda.

SADC Executive Secretary Tomas Salomao, challenges EAC political leadership to spearhead the regional integration process with the seriousness it deserves so that the bloc could unite with COMESA and SADC within the framework of continental integration. This will enable the 26- nation economic bloc to tap the enlarged market which accords the consumer greater choice of products, lower prices from increased competition, increased quality of goods and services. Failure to integrate, he added, means failure of the region to enjoy large internal trade, increased investment opportunities, collective bargaining power in international arena, greater and improved transport networks, and most importantly free movement of goods and services.¹⁹⁸

4.5 A critical Analysis on the socio-economic and political Dimensions

The creation of EAC has been described as successful at best after looking at the progress made so far in the regional integration process.

However, there are several factors that have frustrated the process. The theory of functionalism states that when cooperation of one area is done successfully, the benefits and lessons learned in that area will spillover to other areas hence giving the cooperation diverse area of operation. If this continues for some time then, the impetus laid down by the first achievement will conglomerate and later culminate to a very successful

¹⁹⁷ Dr. Sallie Simba Kayunga, Deepening Integration of the East African Community countries: the Uganda case, Op. cit., p.220

¹⁹⁸ John Baxter, SADC spearheading economic unity, in African Business, May 2010, p.41

integration step by step. Looking at the stages of the integration process, measures of success are there but the partner states should also expect frustrations.

The guiding principle of functionalism is that success from one area will lead to success in other areas. This supports the four-stage regional integration process. However, there are weaknesses in focusing on economic, social and political areas at the same time in almost every stage. This idea can be mediocre in the sense that it contravenes the basic principles of functionalism.

The theory of neo-functionalism recognizes the role of politics cannot be separated from the functionalist proposition. Politics is central in the integration process – a point that was overlooked by earlier functionalists. Neo-functionalism identifies the existence of pluralism among other factors (economic symmetry, elite value complementary's and the capacity of members to adopt and respond) to be key to the success of the integration process.

It argues the existence of pluralism within the various integrating units enhances the likelihood of integration that is greater the level of pluralism in member states the better the conditions for the integrating process. Its absence makes the perception of integration narrow among the elites.¹⁹⁹

¹⁹⁹ Joseph S. Nye, "Comparing Common Markets: A perished Neo-functional model," in L. Lindberg and S. Scheingold (eds.), regional Integration: Theory and Research, Op. cit, pp.28-70

the element of conflict bogs down the regional integration process as it weakens members commitment to the regional project. The long running conflicts in Northern Uganda, Rwanda and Burundi have meant the diversion of vast resources and political attention to the wars at the cost of regional integration. In Uganda's case, the conflict is consuming a lot of resources which could be used in fostering development in the region. It is also a source of mistrust, with neighbouring countries accused of supporting the insurgency.²⁰⁰

defined as a process leading to a condition of political community, integration process is perceived by integration theorists as consensual, based principally on the development of shared norms, values, interests or goals.²⁰¹ Ernest B. Haas defines integration as a process where political actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities towards a new centre whose institutions possess or demand jurisdiction over the pre-existing national interests.²⁰²

theoretically, every stage of the integration process is too complicated. Thus there is need to come up with specific areas of cooperation, implement them and after a success in those areas, then this would break new grounds of cooperation and finally the overall objective will be attained.

²⁰⁰ Dr. Sallie Simba Kayunga, Deepening Integration of the East African Community countries: the Uganda case, Op. cit., p.221

²⁰¹ J. E. Dougherty and R. L. Pfaltzgraf (Jr), contending Theories of International Relations, Adison Wesley, Longman, 1977, p.420

²⁰² Ernest B. Haas, The Uniting of Europe, C. A. Standford University press, 1958, p.16

The success of the customs union and common market protocol, will spillover to the monetary union and establishment of East African political federation. Issues such as political cooperation will be strengthened and this would also lead to establishment of joint measures to establish peace and security, and also promote broad participation of stakeholders like the women and the private sector. The four-stage regional integration process strategy is good, but the predicament is that the implementation of every stage is very difficult because the areas covered in every stage cannot be implemented at the same time.

Regional integration in East Africa has indeed registered minimal success due to the nature of economic structures and political systems with their leaders notwithstanding. The five partner states economies are small in size, at different levels of development, heavy reliance on export of primary commodities, lack proper infrastructure, highly dependent on developed market economies, have low levels of industrialization and low level of intra-trade which are setbacks for the integration efforts.

Even lowering tariffs and freeing up trade alone cannot spur integration so long as issues on economic structures in the region are not addressed adequately. The nature of political structure determines whether regional integration can be sustained. Regional integration does not flourish in where authoritarianism is practiced. In the region, Tanzania's Chama Cha Mapinduzi (CCM) has virtual control over political space rendering opposition significant. In Uganda, Rwanda and Burundi, the political process is clouded in uncertainty and polarized with regard to transfer of power. With a new constitutional

dispensation to its credit, Kenya's democratization process in the region is ahead of the rest.

4.6 Summary and Conclusions

Political power plays a critical role in regional integrations schemes. The nature of the political system, the political will of elites in power and political stability play key roles on regional integration initiatives. Authoritarian/ autocratic political systems are hostile to regional institutions while political instability usually tempts governments to cater for immediate interests of politically threatening groups, and weak institutions fail to improve these incentives alignments with the longer-term welfare of broader constituencies.²⁰³

Leaders will only cede part of their sovereignty if they are secure in their own countries and few leaders feel politically secure in Africa.²⁰⁴ The process of integration in the region will remain an uphill task until the issue of constitutionalism is resolved.²⁰⁵

In Kenya, a new constitution is in place, in Rwanda and Burundi, constitutional issues are largely unresolved. Tanzania has been implementing piecemeal constitutional changes, while in Uganda the process was completed in 1995 though the unlimited presidential

²⁰³ R. Alence, "Political Institutions and Developmental Governance in Sub-Saharan Africa", in the *Journal of Modern Africa Studies*, Op. cit., p.176

²⁰⁴ J. P. Renniger, "The future of Economic cooperation Scheme in Africa", in T. M, Shaw, *Alternative Futures in Africa* (Boulder West view Press, 1982), p.173

²⁰⁵ H. Ochwada, "Rethinking East African Integration: from Economic to political and from state to civil society", in *Africa Development*, Vol. 29, No. 2004, p.73

term in office is unresolved. The transfer of power in Kenya and Tanzania has certainty but it is still uncertain in Uganda, Rwanda and Burundi.

This makes the process of integration in East Africa problematic. Incumbent leaders and political parties must therefore accept that power is to be shared according to agreed mechanisms amongst governmental institutions instead of the past highly centralized political power.²⁰⁶

The promotion of regional integration and democratic institutions such as parliaments and independent judiciaries to check and balance the powers of the executive, well organized political parties to aggregate and articulate interests, and civil society organizations will provide pluralistic political environment to support institutional restraints on government's discretionary authority.

If these democratic attributes exist at the national level they will automatically find their way to the regional level making meaningful integration possible. For regional integration to succeed in East Africa pluralism must be protected and institutionalized since the history of regional integration in East Africa supports the above assumption. Otherwise the whole idea behind regional integration is to promote economic growth and prosperity in the entire region.

M. Ottaway, "From Political Opening to Democratization", in M. Ottaway (ed.), *democracy in Africa: The Hard Road Ahead*, (Boulder: Lynne Rienner Publishers, 1997), p.89

CHAPTER FIVE: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary

This chapter gives a synopsis of the previous chapters with an elaborate and comprehensive conclusions based on the research findings on the challenges and prospects of EAC regional integration process.

In summary, chapter one of the research gave an introduction of what was intended to be carried out by research, that there exist challenges and prospects in New East African community regional integration process (2001-2009), and the dimensions were to form the crux of the study.

Chapter two discusses the historical context of East African regional Integration process since colonial times. It also gives a historical perspective of the collapse of the EAC and current efforts to re-establish the new community.

Chapter three discussed on the four-stage regional integration processes of the New East EAC. The challenges and the prospects of the customs union, the common market, the monetary union and the political federation were examined critically.

Chapter four examined the socio-economic and political dimensions (perspectives) emerging from the regional integration process and how they act as important milestones towards the creation of East Africa political federation. This chapter acknowledges that there exist some important aspects in the regional integration process that have either

boosted the morale. The research findings showed that some aspects in the New EAC either boosted or lowered the morale of the five partner states in the integration process. The chapter has also recognized that the regional integration process adheres to the theoretical assumptions of functionalism and so the regional integration process has not lost its contemporary vitality because its implementation is possible. The chapter addresses and analyzes the dimensions in detail.

Chapter five draws on the summary, conclusions and recommendations regarding the socio-economic and political challenges and the prospects emerging from the regional integration process in a critical way. It also discusses the impact of the regional integration process to the overall goal of the EAC.

The research identified a number of important dimensions/perspectives emerging from the implementation of the four-stage regional integration processes of the New EAC (2001-2009). It also noted that such socio-economic and political dimensions have had serious effects on the implementation of EAC treaty, the customs union, the common market, the monetary union and the political federation.

The study equips the EAC with a strong theoretical framework for understanding how the regional integration process has helped in the implementation of the treaty and how it affected the same, and other pillars of the regional integration process.

5.1.1 Lessons learnt based on the first general objective i.e. to examine the effect of the EAC Treaty on the implementation of the EAC Customs Union and Common Market protocols.

Based on the research findings, it was found out that the regional integration process had broken new grounds by bringing forth new aspects that were geared towards developing the EAC. It also revealed that the first stage or pillar of integration, the customs union set a foundation for the establishment of a common market, monetary union and political federation and improved the performance of the cooperation.

5.1.2 Lessons learnt based on the second objective i.e. to examine socio- economic and political challenges and prospects arising from the EAC regional integration process.

It was revealed that the establishment of a customs union, common market, immigration and labour policies were important milestones that were developed by the treaty to drive the regional integration process. It was also observed that although the pillars were developed to push the integration into another phase of development, it was difficult to implement them because the states could deal with the repercussions in the best manner. The research establishes that the integration process strategies were the best instruments the partner states had adapted and that if implemented to the best of the states knowledge success was inevitable.

5.1.3 Lessons learnt based on the third objective i.e. to suggest policy options for regional integration in East Africa

It was acknowledged that the regional integration process realizes that in all ventures a political federation is necessary but implementation should be the final phase. It also noted that preaching of peace and security among the partner states is very important, and within the treaty considers broad participation on policy adoption by women and the private sector and civil society must be approached as early as possible to foster the cooperation. Partner states recognize women's role in socio-economic transformation and sustainable growth. They therefore support fully empowerment, effective integration and participation of women at all levels of socio-economic and political development, especially in policy formulation and implementation.

The research revealed that the regional integration process failed by not taking in consideration of some important aspects like the partner states being members of different cooperative groups and also lack of political will by some states in the venture. Be as it is, the four pillars of the New EAC integration process have helped the EAC to advance in implementing the treaty. The four-stage regional integration process once implemented will meet the core objective of the EAC.

The overall objective of this study was to investigate the impact of challenges and prospects of EAC regional integration process. This study has been able to demonstrate the inability of the East African Partner states to integrate meaningfully despite repeated efforts.

The five partner states are at various levels of development, rely heavily on export of primary commodities, infrastructure is poor, industrialization is backward and highly dependent on foreign trade. Inadequate infrastructural links in the region have frustrated trade.

The study found out that for the EAC project to be sustained the five partner states must be willing to cede power to the regional institutions. Issues of constitutionalism must be promoted at national and regional levels.

How the current EAC overcomes the challenges of unequal levels of development and unequal distribution of benefits in the region is a key test bearing in mind that partner states differ in resource endowments, size and capabilities. This calls for design and deliberate policies to distribute the benefits equitably and acceptably. Though the EAC adopted the principle of asymmetry, its success is debatable.

There is also urgent need to domesticate EAC issues at country level so that national institutions such as ministries and government departments get empowered to articulate well any matter with regard to the community. In so doing, EAC will have succeeded in moving towards a decentralized system where operation of the community are decentralized from Arusha and made visible at ports of entry and at borders and cities, thereby forming regional integration centres in all member countries.²⁰⁷

²⁰⁷ THE ACCOUNTANT, Journal of the Institute of certified Public Accountants of Kenya, Op. cit, p.46

EAC integration has in essence created a more attractive tourism attraction. East Africa citizens are called upon to think of the honesty of the people of Tanzania, the never-die spirit of Kenyans and the humility for Ugandans, Rwandese and Burundians coupled with the unique tourist sites within the region.²⁰⁸

The partner states can therefore adopt the following alternative options to speed up the regional integration process. Acknowledging the role of Kenya as a core state in the EAC regional integration, constructing common regional public goods, pursuing common foreign policies infrastructural and investment policies, taking common regional approaches in sectors like education and health.

5.2 Conclusions

Regional integration in East Africa has been characterized by ups and downs. The old EAC collapsed in 1977 while the new EAC regional integration process is still faced with the same political economy that has refused to engender a mutually beneficial cooperation. The economic structures of the partner states are anti-integration. The centralized political power has not ceded power to the supranational institutions. The economies have remained Western oriented; the structures of production have not changed significantly since independence.

The challenges notwithstanding the partner states recognize it is their objective interest to integrate, however the challenge has remained how to go about it. There is need for

²⁰⁸ THE ACCOUNTANT, Journal of the Institute of certified Public Accountants of Kenya, Op. cit,

radical re-orientation in its approach instead of the current led integration that creates divergences.

Lowering or abolishing tariffs alone cannot create a sustained impetus toward regional integration. The challenges range from lack of integrated infrastructure to economic structure. Also visa rules and regulations are major impediments to integration process.

The five partner states have however recorded tremendous success in fulfillment of some of the objectives of EAC. They have eased border crossing adopted licensing of commercial Banks and pre-budget consultations of ministries of Finance every May, and post-budget consultations every August. It has facilitated inter-state transport and communications, removed police roadblocks and road corridors linking partner states. They are also active in Lake Victoria Development Programme as a shared resource, and have put in place sectoral policies to facilitate trade.²⁰⁹

Lake Victoria is a transboundary resource and most important shared resource of the five EAC partner states. The basin covers about 194,000 square kilometers and boasts of a market potential of over 40 million people with an estimated GDP of \$40 million and a wealth of economic resource potential.²¹⁰

²⁰⁹ Dr. Sallie Simba Kayunga, Deepening Integration of the East African Community countries: the Uganda case, Op. cit., p.221

²¹⁰ The standard Thursday, September 9, 2010, p.32

The political systems need to be restructured to make them stable and predictable. The future should not be hostage to the whims and benevolence of the political leaders. Indeed regional integration is a political process itself and regional political leaders must be secure at home before they can create regional institutions with authority that may complicate their hold on power.

Beyond actions on policies and the creation of institutions, the partner states should galvanize public opinion to support the promotion of regional integration, which, in the final analysis, should be created for the benefit of the people.

The idea of political federation in the post-independence east Africa region is not new. In many respects, the region, from time to time, exhibited eclectic pressures for integration and disintegration. There is throughout East Africa a great urge for unity and an appreciation of the significance of federation. The process of regional integration is gradual and its attainment will depend on the collective efforts of the member states, the private sector and the individual people of East Africa.

5.3 Recommendations

Following the conclusions reached the study wishes to make the following recommendations and suggestions. First, the study acknowledges that the regional integration process is too optimistic and has tried to enhance the development of the EAC treaty, the customs union, the common market and the political federation.

Secondly, the regional integration process drafters should come up with modalities to solve the predicament of the issue of membership by the partner states in multiple regional organizations. Today East African partner states belong to different organizations. Kenya, Rwanda, Burundi and Uganda are members of EAC and COMESA while Tanzania is a member of EAC and SADC. COMESA and SADC are also preparing for customs union respectively in the near future and also the partner states should come up with a way to deal with the problem. The three countries must agree on how to relate with these organizations.

Thirdly, issues to be implemented in the process (every stage) are too many and could not be implemented fully within that time span. So it is time the regional integration process drafters must learn to deal with few issues at a time.

Fourthly, the regional integration process should come up with proper modalities to deal with financial problems arising from loss of customs revenue by the states of EAC as a result of liberalization being implemented through the process and also the process should address properly and try to guide the development partners in how to come up with a budget support to deal with loss of revenue.

Fifth, regional integration has potential to ensure the survival of the five East African partner states. But thorough understanding of the region's economy is necessary before a model of integration is adopted.

Sixth, the EAC will be advancing if it adopted common policies on public goods that would foster interdependence and conflict prevention and management among the partner states. Research by an individual country is expensive but possible when the different capacities and capabilities are aggregated. Areas of cooperation such as ventures in hydroelectric power generation would spur cooperation in other areas hence helping spur the cause of regional integration.

Seventh, by acting in concert in areas of common interest the EAC countries can be able to extract favourable concessions in international fora than they could as single entities. They will be taken serious for instance imposing sanctions as a bloc as opposed to a single country.

Poor infrastructure particularly the road network and railway lines are in poor state. There is need to upgrade the transport infrastructure to facilitate the movement of goods and services in the region at a reasonable cost. As it stands now transport infrastructure is not competitive compared to other regions of the developing world.

The EAC countries should have a common platform to attract investment. The desperate attempts of individual countries of engaging in cut throat competition to attract foreign investment benefit the foreign investors more than the country itself because of much concession.

From the study Kenya is in the lead when it comes to intra-regional trade. It should dawn on Kenya that as a core state in the region that position comes with responsibility. This in

itself calls for greater shouldering of the integration costs because should the process halt or fail it stands to lose the greatest.

5.4 Suggestions for Further Research

The study covered the regional integration process (2001 -2009) and the various socio-economic and political dimensions that arise from the same. Apparently from the discussions of the findings, it has been realized that the progress made so far in the implementation of the regional integration process have helped the EAC meet some of its objectives as developed in the treaty. The four-stage regional integration process has really influenced the performance of the EAC in one way or another.

The information obtained can be very useful to those dealing with the implementation of the four pillars (stages) of the EAC regional integration process.

Inorder to obtain more information on how the regional integration process has affected the development of the EAC, research should be conducted on these areas:

- (i) Identify the approaches of enhancing further the four-stage regional integration process and translating what is in the process into projects that can be implemented.
- (ii) Examine political framework that can spur and sustain a mutually beneficial regional integration, and utilize available information in a prudent manner to foster integration efforts.
- (iii) Assess the obstacles that made the regional integration process not fully implemented and how such issues affect the EAC as a regional organization.

- (iv) Assess how the emerging socio-economic and political challenges in EAC regional integration process can be transformed into success stories.

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APPENDIX

The following questions were addressed to the following officials (persons) in an interactive interview.

OFFICIALS (PERSONS)

1. Paul Ogaro – Senior Assistant Director of Public communications – ministry of East African community Kenya- 9th September, 2010
2. Vimal Shah, Chief Executive Officer, Bidco Kenya Ltd- 18th August 2010
3. Peter Kiguta, Deputy Director, EAC Secretariat Customs Department, Arusha, Tanzania- 16th August 2010.
4. Kennedy Buhere, Head of Public Communications Department, Ministry of State for Public Service Kenya, 28th July, 2010
5. Peter Owaka, Senior Public Communications Officer, Ministry of EAC, Kenya- 20th July 2010.
6. Riachrd Kalya, EAC Department of Finance and Administration, Arusha- 22nd August 2010.
7. Barrack Ndegwa – Integration Secretary Ministry of EAC, Kenya- 27th June, 2010
8. Peter Katana Angore, Ministry of Foreign Affairs Kenya – 16th June, 2010
9. Amason Jeffah Kingi, former Minister, Ministry of EAC Kenya –13th July, 2010
10. Caleb Kaggwa, BA graduate (secretarial studies), Makerere University, Kampala, in Nairobi, 14th June, 2010.
11. Ezekiel Mutua, Director of Information and Public Communications, Kenya – 5th June, 2010.

Questions

1. Do you think the EAC Treaty captures well the integration needs of the region?
2. Are EAC Custom Union and Common Market Protocols success stories in the regional integration process?

3. Is EAC Monetary Union achievable?
4. Is EAC Political Federation possible?
5. Is EAC Secretariat based in Arusha, Tanzania, capable of moving forward the EAC regional integration agenda?
6. What do you think are the major socio-economic and political challenges facing the EAC regional integration process?
7. To what extent do the socio- economic structures of the EAC states hinder regional integration?
8. Are the uneven levels of development in the region an obstacle to regional integration?
9. To what extent do multiple memberships of the EAC states in COMESA, SADC and IGAD hinder East African regional integration?
10. What do you think are the major political challenges facing the EAC regional integration process?
11. To what extent do the political structures of the EAC states hinder regional integration?
12. Suggest the alternative policy options for regional integration in East Africa?