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INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**REGIONAL INTEGRATION IN EAST AFRICA, ITS CHALLENGES AND
LESSONS FROM THE EUROPEAN UNION INTEGRATION.**

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DECLARATION

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DEDICATION

I dedicate this work to my loving mother Teresa Kerubo Maangi who has toiled to ensure I make it this far. Thank you mum. And to the memory of my late father Evans Maangi, Dad your dreams about me are still valid.

ACKNOWLEDGEMENT

I hereby acknowledge The Almighty God in Heaven for enabling me to successfully pursue this course.

Secondly to my beloved immediate and extended family and relatives for your support during my studies.

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ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
CET	Common External Tariff
CFSP	Common Foreign and Security Pillar
COMESA	Common Market East and Southern
EAC	East Africa Community
EACJ	East Africa Court of Justice
EALA	East Africa Legislative Assembly
EASCO	East African Common Services
EC	European Community
ECB	European Central Bank
ECSC	European Coal and Steel Community
EEC	European Economic Community
ECJ	European Court of Justice
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EEC	European Economic Community
EMI	European Monetary Institute
EMU	European Monetary Union
EPA	Economic Partnership Agreement
EPC	European Political Community
ESCB	European System of Central Banks
EU	European Union

EURATOM	European Atomic
IUCEA	Inter-University Council of East Africa
JHA	Justice and Home Affairs
LVBC	Lake Victoria Basin Commission
LVFO	Lake Victoria Fisheries Organization
NATO	North Atlantic Treaty Organization
NF	Neo- Functionalism
OAU	Organization of Africa Unity
OEEC	Organization of European Economic Cooperation
PTA	Preferential Trade Agreements
REC	Regional Economic Community
RIA	Regional Integration Agreements
RTA	Regional Trade Agreements
SADC	Southern African Development Cooperation
SEA	Single European Act
TEU	Treaty on the European Union

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ABSTRACT

Regional integration is common place in the contemporary world in which a group of States deliberately come together to pursue a common purpose. Interest in regionalism is both a response to and as a consequence of emerging trends in the global political and economic order¹. Hans Van Ginkel defines regional integration as the process by which States within a particular region increase the level of interaction with regard to economic, security, political, social and cultural issues.² It is a shift of certain national activities towards a new centre. It is the process by which political actors in distinct national settings are persuaded to shift their loyalties, expectations towards a new centre whose institutions possess or demand jurisdiction over pre-existing nation-states³. It entails the coming together of two or more states, normally through reciprocal preferential agreements. Regional integration usually happens in five stages which shall be discussed in this study. Basically it begins with the removal of trade restrictions, through establishment of a Common Market and ends in the formation of a Political Union. This study will analyze the course regional integration in East Africa has taken, its achievements so far and the challenges that hinder the full realization of its objectives which include the formation of a political union. The study will delve into the European Union given that it is the most successful example of regional integration and is credited with inspiring integration in other regions of the World and seeks to determine lessons that the EAC can draw from the EU so as to make good its quest to integrate successfully.

Commented [G1]:

¹ Nyong'o Anyang' *Regional Integration in Africa: Unfinished Agenda*.

² Van Ginkel, H. and Van Lanenhove, L: "Introduction and Context" in Hans van Ginkel, Julius Court and Luk van Langehove (Eds), *Integration Africa: Perspectives on Regional Integration and Development*, 1-9.2003.

³ Haas E.B, *The Uniting of Europe*, (C.A Stanford University Press, 1957) p.5

CHAPTER ONE

INTRODUCTION

1.0 Background of the Study

Integration is the most common activity amongst States in the World today. From the EU, ASEAN, ECOWAS, COMESA and many others, regions come together to achieve a particular goal. Naceur, in his study on regional integration in West Africa, points out that regional integration is the voluntary pooling of resources for a common purpose by two or more sets of partners belonging to different States. It aims at reinforcing structural interdependencies of a technical and economic sort, with positive effects on economic welfare⁴. According to Balassa, the integration process involves five levels. The lowest level of these is the Free Trade Area in which tariffs and quotas are removed between participating countries, but each retains its own tariffs with non-members. The second level is the establishment of a Customs Union which involves equalization of tariffs in trade with non-member States. The third level is the attainment of the Common Market where trade restriction and restriction on the movement of factors of production are eliminated. The fourth level combines the suppression of restriction on commodity and movement of factors of production with some degree of harmonization of national economic policies, in order to remove discrimination that is as a result of disparities of these policies. The final stage is the formation of a Political Union⁵.

⁴ Bourenane N., *"Theoretical and Strategic Approaches" in Lavergne, Real, Regional Integration and Cooperation in West Africa: A Multidimensional Perspective.* (Ottawa: International Development Research Centre, 1997) P.50-51

⁵ Balassa B. *'The Theory of Economic Integration'*, (London: George Allen & Unwin Ltd, 1961) p.2

The East African integration dates back to the colonial times but the East African Community came into existence in 1967 and through it the three member countries aimed to strengthen their ties through a Common Market, a common Customs tariff and a range of public services so as to achieve balanced economic growth within the region. However, the EAC collapsed in 1977 some ten years after coming into existence due to persistent problems arising from competing, narrow 'national' interest, divergent ideologies, parochial sovereignty and the disparate economic systems of Socialism in Tanzania and Capitalism in Kenya⁶.

Efforts to re-establish cooperation culminated in the establishment of the Permanent Tripartite Commission for East African Co-operation on November 30, 1993 by the Heads of State of Kenya, Tanzania and Uganda. Full East African Co-operation operations began on March 14, 1996 when the Secretariat of the Permanent Tripartite Commission was launched at the headquarters of the EAC in Arusha, Tanzania. The Commission upgraded the Agreement establishing it into a Treaty for the establishment of the East African Community which was signed on 30 November, 1999. The Treaty entered into force on July 7, 2000 after the ratification was concluded and deposit of the instruments of ratification with the Secretary General was done by all the three partner States⁷. This established the EAC. Two new members, Rwanda and Burundi, joined the EAC in 2007.

⁶ Kas International Reports 9/10/2011 P.91

⁷ Ajulu, R (2005) 'The making of a region. The revival of the East Africa Community', Issue 47 of IGD Occasional Paper, 25

The EAC Treaty which entered into force on 30th July 2000, ushered a new era for cooperation in economic, social and political affairs by East Africans. The most prominent state of the new cooperation was the Customs Union established by Article 5(2) which states that:

*“ the Partner States under take to establish among themselves and in accordance with the provisions of this Treaty, a Customs Union, a Common Market , subsequently a Monetary Union and ultimately a Political Federation in order to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of the Partner States to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities, the benefit of which shall be equitably shared.”*⁸

The present day EAC has improved on a lot of aspects from its collapsed predecessor. Firstly, permanent institutions have been established and these are properly managing the cooperation. There is established the Council, the Coordinating Committee, Sectoral Committees, the East African Court of Justice, the East African Legislative Assembly, and the Secretariat which have seen the management of cooperation improved. Secondly, greater attention has been paid to fair distribution of the benefits of cooperation. For example, transitional customs regulations are designed to protect the Tanzanian and Ugandan economies from the dominance of Kenyan exports. Thirdly, the EAC now allows civil society and market forces to play a more prominent part. We can say that a lot has been achieved in the new dispensation although the integration is still bedeviled

⁸ Art. 5(2) – *Treaty for the Establishment of the EAC* as Amended on 14th December, 2006 and 20th August, 2006.

by several challenges such as lack of political will, economic and social differences, dominating national interests and membership to other regional blocs.

The EU, which is an accomplished regional body comprising of European States, has been used as a model for integration given its achievements so far. Since the 1950s, the EU has been a pioneer in regional integration. This has been attributed to a number of principles that were put into practice eventually catapulting the EU into a success project. The visionary leadership, political will, a consensus approach combined with solidarity and tolerance are the main tenets that have guided the EU over the years and enabled its institutions to survive many crises⁹. According to Fraser Cameron, in his article: *The European Union as a model for Regional integration*, the EU has an excellent record of recovering from crises and moving ahead even stronger than before due to firm political will. He points out that the resound lesson of the EU model is the necessity of genuine investment by member States in the goal of regional integration; that national governments should put the long term goal of co-operation above more immediate domestic priorities. This implies that upcoming regional blocs, and in this case, the EAC, partners need to recommit and put the integration process as a national interest so as to achieve its long term goals. The EAC Treaty intends to ultimately achieve a Political Federation and this has been the main objective since 2004 but then a report by the Fast Tracking Committee indicates that the initial timeline for this in 2010 wasn't achieved

⁹ *Crisis in the Eurozone Essay* by Fraser Cameron, Senior Adviser, European Policy Centre, Adjunct Professor, Hertie School of Governance, Berlin

because political elites in some EAC member countries fear that their countries could lose their sovereignty hence relegate them into mere provinces¹⁰.

1.2 Statement of the Research Problem

As noted earlier, integration in Africa can be traced way back to the colonial times but despite this long period of existence, efforts to integrate have been plagued by failures which are due to a variety of reasons. Some of the factors cited include the lack of political will in the member countries that is necessary to see integration succeed expressed in the chronic non-observance of commitments undertaken within the respective agreements and in the insufficient use of the instruments set up by these agreements. Member countries of regional blocs may fail to comply with laid down statutes in order to safeguard national interests in which a Partner State may fail to comply with resolutions on the pretext of safeguarding its sovereignty. This is detrimental to any regional integration scheme. The EAC is unique form other RECs in Africa in that its founding treaty has enshrined a Political Union as the ultimate objective. It also has an ambitious timetable which is inspired by the EU, NAFTA and ASEAN integration schemes. So far, most of the set goals have not been achieved within the stipulated timelines as drawn out in the Report of Committee on Fast Tracking East African Federation, 2004.¹¹.

Moreover, the centralized political nature of the political system of each member country is proving a big challenge in the quest to integrate. However, in reality integration

¹⁰ *EAC Report of the Committee on Fast Tracking East African Federation*, (EAC Secretariat: Arusha, 2004, P.8)

¹¹ *Report of the Committee on Fast-Tracking East African Integration, Executive Summary*.

includes considerable handing over of the decision-making powers and limitation of sovereignty to a supranational institution. The EAC's timetable envisages a successful Community with a Common Currency and ultimately a Political Union. However, this still faces challenges as timelines that have been set before like a Common Currency by 2012 and Political Union by 2013 were not met. The EU is relatively an advanced regional integration scheme and leading in regional integration experience. What lessons can be drawn by EAC from the European experience? And what are the necessary conditions for successful integration in the East African region? This study seeks investigate the various challenges faced in EAC integration process and analyze the European integration process and the strategies that have been used in the EU so as to provide relevant approaches that can be applied in EAC to make it successful just like the EU which is relatively more successful integration scheme than other integration schemes. Moreover such challenges such as centralized political power in the EAC partners and the diverse economic development have proven to be a hindrance to integration in the region whereas Europe has been able to turn these around to be EU integration catalysts. This study seeks to provide new knowledge that can be applied to address the persistent challenges facing EAC by drawing from the strategies and approaches that the EU has employed over time to be where it is today.

1.3 Objectives of the Study

The primary objective of this study is to

- i) Examine the challenges facing EAC integration and lessons it can draw from EU integration process to overcome them.

Secondary objectives

- ii) Examine and analyze EAC regional integration;
- iii) Analyze the European Union integration, the strategies used and its achievements; and
- iv) Compare and contrast the challenges faced by the EAC and the EU in their quest for integration and solutions administered.

1.4 Justification of the Study

This study seeks to evaluate the overall challenges that EAC is facing in its mission to become a complete regional bloc. The study will be instrumental given that it will compare the EAC and the EU integration and point out the strategies that the EU has used over time to achieve its success levels till today and what the EAC can learn from it in order to form a formidable bloc that shall be effective to the extent of being a model for other subsequent regional blocs. It is envisioned that new knowledge, best practices and the recommendations arising from this study could be helpful to policy makers and implementers. The new knowledge can also be used for future studies by students and researchers investigating the integration phenomenon.

1.5 Literature Review

1.5.1 Introduction

Considerable literature has been accumulated on the subject of regional integration. This section seeks to review literatures on regional integration with special focus on the EAC and the EU. It will analyze the course taken and the methods used for integration in both

the EAC and EU and finally the institutional framework that has been put in place so far to facilitate the integration process in both establishments.

1.5.2 The Concept of Integration

Integration implies bringing together parts of a whole. It involves coordination of activities in a State or region so as to enhance the development of the particular State or region. Integration could be economic or political. Economic Integration refers to the coordination of economic activities within a state or region for the purpose of development. Balassa defines economic integration as a process which involves measures designed to abolish discrimination between economic units belonging to different nation states. This can be interpreted to mean that it involves the harmonization of national economies of a particular region so as to pursue common interests economically aimed at development of the whole region.¹² On the other hand, Molle indicates that economic integration is the gradual elimination of economic frontiers between countries. He notes that this happens in stages. The first stage involves liberalization of trade among partners. This is followed by the liberalization of movement of factors of production and finally the coordination of national policies with regard to economic sectors including exchange rates.¹³

1.5.3 Regional Integration in Africa and Its Theoretical Explanation

Regional integration has also been defined as a process leading to a condition of a political community, usually perceived as consensual and based on developing shared

¹² Balassa, B. (1973), *The Theory of Economic Integration*, London: George Allwin & Unwin

¹³ Molle, W. *The Economics of European Integration, Theory, Practice, Policy*, Dartmouth Publishing Company Limited, Aldershot, England, 1990

norms, values, interests or goals.¹⁴ Various theories have been fronted to explain the phenomenon of integration in Africa. After the gain of independence in Africa in 1960's there arose a great debate on the strategy that could see the continent united. A number of African Statesmen including Kwame Nkrumah of Ghana, Sekou Toure of Guinea and Modibo Keita of Mali advocated for immediate political unification that would involve the surrender of State sovereignty to form a new central authority. On the other hand, another group advocated for a gradualist approach to political unity which would eventually lead to a transfer of sovereignty to a central authority.¹⁵ The gradualist strategy did prevail because it was favoured by the prevalent circumstances at the time. Attempts at a Political Union (such as the Ghana-Guinea-Mali union and the Mali Federation) however, failed due to the pressure for consolidating national political independence and the novelty of the taste of power. This functional cooperation had its roots in the colonial era in that the colonialists set up sub-regional empires in various economic and non-economic sectors. Moreover, the incrementalist approach offered a reconciliation to concerns such as the need to protect national sovereignty and at the same time engage in international cooperation to promote economic development. This approach saw the establishment of different sub-regional economic groupings e.g. ECOWAS, PTA, ECCAS, etc.

Senghor observes that given these historical routes, any discussion of the theoretical foundations of regional integration in Africa must inevitably focus on *functionalism* and

¹⁴ Dougherty, J.E. and R.L Pfaltzgraff, "Contending Theories of International Relations", (Addison Wesley: Longman,1997) P.420

¹⁵ Senghor J.C. 'Theoretical Foundations for Regional Integration: An Overview

its offspring *neo-functionalism*.¹⁶ Senghor notes that politics has engulfed the whole integration process. There lacks a common value system among States and commitment to integrate. There is consistent dedication and promotion of national interests within the organization¹⁷. Neo-functionalism elaborates and expands on the functionalist thinking. It is characterized by the importance attached to the role of loyalty in the process of integration.

1.5.4 Methods towards Integration

Integration may take form of economic integration, political integration or both. These are formalized through agreements among partner States and may result in the establishment of institutions and structures to facilitate the processes and implement the agreements.

1.5.4.1 Economic Integration

The involves a group of countries in the same region, coming together in an economic union by raising a common tariff wall against the products of non-member countries while freeing internal trade among member set the basis for a customs union. Trade creation occurs when external barriers and internal free trade lead to a shift in production from high to low cost member states. The process of economic integration is regarded as the path that is followed between decreasing levels of economic discrimination among the partner countries. There are several forms of economic integration which involve

¹⁶ J.Senghor C. '*Theoretical Foundations for Regional Integration in Africa: An Overview*' in Nyong'o Anyang' (ed), *Regional Integration in Africa: Unfinished Agenda*, (Nairobi, Africa Academy of Sciences, 1990) P.18

¹⁷ Ibid P.26

different levels of discrimination between partner countries and between them and third parties.

Preferential Trade Agreements (PTA) is the first stage. These are arrangements through which member countries receive reductions in tariffs or preferential treatment within quantitative restrictions on their trade with other member countries while maintaining their normal level of trade restrictions against third parties. This type of arrangement frequently applies only to a group of products and is unilaterally granted. The Common Market for Eastern and Southern Africa is an example of a PTA.

The second stage is the Free Trade Areas (FTAs) in which member countries eliminate trade barriers among themselves while sticking to their individual national barriers against those countries outside the arrangement. The differences created by the discrimination against third parties makes the control of trade flows coming through the different partners into the FTA a significant phenomenon. There is also the application of strict rules of origin and expensive customs inspection which seeks to prevent trade deflection. In addition, FTA can be established over some special sectors of economy between its members as well which allow the States to pursue the protection policy of other sectors in competition. Examples include the North American Free Trade Area (NAFTA) between the USA, Canada and Mexico and now EAC, COMESA and SADC.

The third stage is the Customs Union which in addition to jointly determining the tariff level among the members (as in an FTA); the member countries agree to the unification of custom or trade policies towards non-members. They determine a Common External Tariff (CET) which is applied to trade with countries outside the Customs Union. Since there is a loss of sovereignty in terms of the setting up of a tariff level for Customs Union member countries, a mechanism may be put in place to compensate for the revenue loss that result from the removal of custom duties among member countries. Member countries are represented as a single unit in trade negotiations at the international trade rounds or conferences. The EAC is currently negotiating for the Economic Partnership Agreements (EPA) with the EU as a single bloc.

The fourth stage is the Common Markets which comprise all the characteristics that define a Customs Union, but also allow for full movement of factors of production. Similarly, member countries within a common market define common policies to regulate factor flows with third countries. The need for domestic policy harmonization is more compelling in this case than in the Customs Union's case. Countries agree to remove the internal barriers and jointly establish migration policies such as a common passport.

The last step in the process of an Economic Union is a regional economic agreement in terms of which the level of integration is deeper than that of an FTA, Customs Union or Common Market. The member states adopt common economic policies, for example, the

Common Agricultural Policy (CAP) of the European Union which regulates production in agriculture.

1.5.4.2 Political Integration

Political integration leads to two entities: federations and confederations. These are often used interchangeably. In the federal form the central and regional governments each possess autonomous authority assigned by a formal constitution, so that neither order of government is legally or politically subordinate to the other and each order of government is elected by and directly acts upon the electorate. Examples of federal governments include Nigeria, Mexico and Ethiopia.

A confederal political system is one in which the central government derives its original authority from the constituent regional governments and is therefore, legally and politically subordinate to them, and in which the institutions are composed predominantly of delegates appointed by the constituent regional governments. An example of a confederation is Canada.

1.5.5 The East African Community and Its Institutions

The EAC Treaty sets out the Customs Union, Common Market, Monetary Union and a Political Federation as the main pillars on which the region's bloc building is to be based. EAC Customs Union Protocol was signed on March 2, 2004 and ratified in December 2004. It came into force on January 1, 2005. Given the difference in economic advancement, the Protocol has a transitional provision, the Asymmetry Clause which

takes care of Kenya's more advanced economy than the other partners in the bloc. The clause provides that goods from Kenya to other members had to face tariffs from 2005 to 2010, while the other members were to export to Kenya duty free. This was aimed at leveling the Member State's economies. The Common Market Protocol provides for the free movement of the factors of production within the region. This includes free movement of people across the region.

Establishment of a Monetary Union seeks to facilitate cooperation in monetary and fiscal matters. This process is ongoing and there are plans to establish a Central Bank and Federal Treasury to facilitate this. A Political Federation is expected to end the integration process. The partner States are already cooperating on such issues as conflict prevention, management and resolution, refugee management and combating terrorism and the proliferation of illicit small arms. For Electoral Commissions, Human Rights Commissions, Anti-Corruption Agencies and that of Chief Justices are advancing this initiative.

Decision making entities and institutions are important for implementing and monitoring agreements and plans to ensure achievement of the integration goals. In the case of the EAC, these institutions are named in Article 9 of the EAC Treaty¹⁸. The EAC has established the Summit; the Council; the Co-ordination Committee; Sectoral Committees; the East African Court of Justice; the East African Legislative Assembly and the Secretariat.

¹⁸ EAC Treaty, Article 9.

The Summit comprises of the Heads of Government of the partner States and it does the supervisory role of all the affairs of the Community¹⁹. The Council of the EAC comprises of the Ministers who are in charge of regional cooperation in each of the partner states²⁰. The Council is the main policy organ of the EAC with statutory responsibility to oversee and promote the implementation of the EAC's vision and mission; give directions to the EAC organs, except the Summit, the EALA and the EACJ; scrutinize the budget and submit reports to the Summit; establish Sectoral Councils and Sectoral Committees for purposes of proper operations of the EAC; and initiate bills to the EALA. As in the case of the Summit, the legislative responsibility conferred on the Council has the potential of usurping the role of the EALA in the case where the two organs disagree on policy issues²¹.

The Co-ordination Committee consists of the Permanent/Principal Secretaries responsible for regional co-operation in each Partner State and such other Permanent/Principal Secretaries of the Partner States as each Partner State may determine. ²² It submits from time to time, reports and recommendations to the Council either on its own initiative or upon the request of the Council; implements the decisions of the Council as the Council may direct; receives and consider reports of the Sectoral Committees and co-ordinate their activities²³. The Co-ordination Committee also recommends to the Council the

¹⁹ EAC Treaty Article 10

²⁰ EAC Treaty Art. 13 (a)

²¹ EAC Treaty Art.14

²² EAC Treaty Art. 17

²³ EAC Treaty Art. 18

establishment, composition and functions of such Sectoral Committees, as may be necessary for the achievement of the objectives of the Treaty²⁴.

Subject to any directions the Council may give, each Sectoral Committee is responsible for the preparation of a comprehensive implementation programme and the setting out of priorities with respect to its sector; monitors and keeps under constant review the implementation of the programmes of the EAC with respect to its sector; and submits from time to time, reports and recommendations to the Co-ordination Committee either on its own initiative or upon the request of the Co-ordination Committee concerning the implementation of the provisions of the Treaty that affect its sector²⁵.

The EACJ is the judicial organ of the EAC responsible for ensuring adherence to the law, that is, interpretation and application of the Treaty. The EACJ comprises of ten judges appointed for a maximum of seven years by the Summit. The President and Vice-President of the Court are appointed by the Summit on a one-term rotational basis. A judge is expected to serve the full term of office as prescribed in the Treaty unless he or she resigns; is seventy (70) years of age; dies; or removed by the Summit after the submission of a recommendation of an independent tribunal, a body comprising of legal experts who are also appointed by the Summit. ²⁶

²⁴ EAC Treaty Art. 18

²⁵ EAC Treaty Art. 21

²⁶ EAC Treaty Art. 24

The EACJ has the initial jurisdiction over the interpretation and application of the EAC Treaty²⁷. The Court also has the original, appellate and human rights jurisdictions on issues associated with the Treaty. For example, partner States; the Secretary General as well as legal and natural persons have the right to seek redress on the grounds of the infringement of the EAC Treaty by a member State. The EACJ also has jurisdiction to hear cases involving the EAC and its employees. The EACJ may be called upon by a partner States to arbitrate an agreement to which the EAC or a partner States is a party. Rulings of the Court are based on majority verdict

The Court has attempted, albeit with difficulties and challenges, to exert and consolidate its independence by delivering rulings brought before it for adjudication, some of which are considered controversial. However, the independence of the judiciary is open to doubt. For example, the judges unlike in the European Union are appointed directly and without consultation by the members of the Summit. This contrasts with the procedure at the European Court of Justice, whose judges are also appointed by the governments of the partner States, but only after a consultation with a panel of experts. In addition, a number of judges retain their position as national judges, which can lead to conflicts of interest; moreover, the Court of Justice is seldom invoked.

The EALA as in the case of national legislative assemblies, is the law-making organ of the EAC²⁸. As the legislative organ of the EAC, the EALA is responsible for, among other things, approving budgets of the EAC; debating audit reports; performing an

²⁷ EAC Treaty Art. 23(1)

²⁸ EAC Treaty Art. 48

oversight function; and initiating Bills in the Assembly. Bills are normally introduced by any member and/or members of the Assembly. The Assembly may request the Council, as it has done over the years; to submit to it proposals on EAC related matters that may require its attention and scrutiny. The EALA holds its proceedings once a year and such meetings are presided over by the Speaker. The Speaker is elected from among the representatives for a five year term on a rotational basis. The EALA representatives hold office for five years and are eligible for re-election once for a further term of five years. Decisions in the Assembly are guided by a majority vote of the representatives present and voting. Once a Bill has been enacted by the Assembly and assented to by the Heads of State or Government, it becomes an Act of the EAC.²⁹

The Secretariat is the executive organ of the EAC³⁰. These are the offices in the service of the EAC these include; the Secretary General appointed by the Summit upon nomination by the relevant Head of State under the principle of rotation. Upon the appointment of the Secretary General the Partner States from which he or she is appointed forfeits the post of Deputy Secretary General. The Secretary General is the principal Executive Officer of the EAC and is Head of the Secretariat; Accounting Officer of the EAC; the Secretary of the Summit; and carries out such other duties as are conferred upon him by the Treaty or by the Council from time to time³¹. The Deputy Secretaries General are appointed by the Summit on recommendations of the Council and on rotational basis and are deputies for the Secretary General. They perform such other duties as may be prescribed by the

²⁹ EAC Treaty Art. 49

³⁰ EAC Treaty Art. 66

³¹ EAC Treaty Art. 67

Council³². The Counsel to the EAC is the principal legal adviser to the EAC. The Secretary General and the EAC staff are immune from civil process and immigration restrictions while performing their official duties prescribed in the treaty. As international civil servants, they are charged with the responsibilities to exercise their duties without due influence from a partner state and to uphold the EAC's international legal personality within the spirit of the treaty. The Secretariat plans and supports all the EAC's programs and undertakes administrative tasks. The Secretariat also commissions studies and monitors implementation of the agreed regulations in the Partner States.

1.5.6 The European Union

The European Union was established by the Treaty on European Union (TEU) commonly referred to as the Maastricht Treaty. The Treaty of Lisbon amended the Treaty of Rome also called the Treaty Establishing the European Community (TEC) and TEU to establish and strengthen the constitutional and institutional framework for the working of the EU. Europe emerged from the Second World War with an economy in ruins. All infrastructure, house and labour were shaken. Even relations with the rest of the world had been shaken. With this bleak picture, it was evident that the political life of the European continent needed fundamental re-organization from the horrors of the war. In 1946, British Prime Minister Winston Churchill called for the formation of the "*United States of Europe*." Federalist movements established the European Union of Federalists. In two years' time, federalists were able to attract delegates from 16 countries to The Hague in 1948 to participate in what was called a Congress of Europe. The Congress

³² EAC Treaty Art. 68

resulted in the establishment of the Council of Europe the Organization for European Economic Cooperation (OEEC) and the North Atlantic Treaty Organization (NATO). OEEC was originally established to administrate the use of Marshall Aid, but the US had apparently envisaged that it could also play some more important role in European integration³³. NATO on the other hand, was established in the gloomy framework of the Cold War to protect European security.

NATO has been able to provide security for Europe during the last 50 years and establish a security community among its members. These two organizations together contributed to the rehabilitation of Germany and bringing it back into the community of Western European States, which could be regarded as their main contribution to the integration process in Europe. In the end, it was the European States and especially France and Germany, which took the initiative in the European integration process. On May 9, 1950 French Foreign Minister, Robert Schuman, presented a proposal for the placing the production of German and French coal and steel under a common authority. The proposal answered many problems that Western Europe was facing at the time. The underlying objective was to ensure permanent peace between France and Germany and thus stabilize Western European political life. At the same time, it sought to find ways how to ensure the economic competitiveness of the continent in the world of growing interdependence.

³³ Dinan 1994, P.19

And furthermore, it also reflected the federalist hopes of continental unity by stating that the common administration of coal and steel production would be the first step on a way towards European federation. This proposal opened the way for negotiations on the European Coal and Steel Community (ECSC), which was eventually established in 1951 with six members (France, Germany, Italy and the BENELUX countries). The ECSC was able to achieve at least relative success and the Six were therefore willing to deepen their integration process. As a result the Six signed the Treaty of Rome in 1957, which gave birth to two new integration organizations in 1958 – the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM).

Together with ECSC, these three organizations formed the European Communities (EC), which had a supranational organization with a Commission to administrate and participate in the legislative processes and the Court of Justice with supranational jurisdiction. The EC involved also handing over part of national sovereignty to a supranational organization especially in the field of economic policies, since the core of the EC, i.e. EEC, aimed at the establishment of Common Markets.

The beginning of the integration process was successful and it seemed as if Western Europe had been able to transform the patterns of regional relations. They seemed to follow the logic of neo-functionalism by continuously deepening the integration process and leaving the national interests aside as neo-functionalism had predicted. This illusion was soon broken by the French president, Charles de Gaulle, who dominated European

integration during the 1960s causing several crises for the EC, but at the same time showing how national interests still were relevant also inside the EC.

Despite de Gaulle's effect on the integration process, the 1960s were still relatively successful for the EC. The ECJ (European Court of Justice) made several rulings, which de facto deepened the integration process considerably and EEC was able to establish a customs union at the end of the 1960s. After de Gaulle's era the EC was able to complete its first enlargement by bringing Great Britain, Ireland and Denmark into the Community, but otherwise during the 1970s the organization seemed to run if not into an impasse at least into severe difficulties³⁴. Yet some positive signs were once again visible at the end of the 1970s. The EC held the first direct elections of the European Parliament (EP) in 1979 and Greece joined the organization in 1979. The beginning of the 1980s was already a more positive period for the EC when the EP had received new energy from the direct elections and the EC welcomed two new members in 1986, when Spain and Portugal joined the organization.

The new beginning of the EC was experienced in the mid-1980s when the Commission proposed the establishment of overdue Common Markets in its so-called White Paper. This resulted in the signing of the Single European Act (SEA), which can be considered to mark the revival of the EC. This coincides with the emergence of the second wave of regional integration, but also the EC's ability to solve many practical problems (for example, the so-called Britain's budgetary question) and earlier positive achievements of integration (direct EP elections and adoption of the EMS – European Monetary System)

³⁴ Dinan 1994, 87-95

paved the way for SEA. The integration process gained added impetus at the end of the decade when the Cold War suddenly came to an end. Western Europe was suddenly faced with a unified Germany and the possibility to fulfill the old federalist dream of unified continent. The EC reacted by deepening the integration process in the Maastricht Treaty.

During the 1990s, the EU carried out what it had agreed in the Maastricht Treaty, which practically meant the establishment of the European Monetary Union and the introduction of a common currency, the Euro, at the beginning of 2002. It experienced also its fourth enlargement in 1995 when Finland, Sweden and Austria joined the EU. In May 2004, 10 members joined the Union, which also marked the final end of the division of the Europe. Later in June, the enlarged Union was able to agree upon the new Constitution for the EU. The EU has an established institutional framework to run its affairs. There exists the European Parliament, the European Council, the Council, the European Commission, the Court of Justice of the EU and the European Central Bank.³⁵

The European Parliament is tasked with a number of functions including jointly with the Council, exercising legislative and budgetary functions, exercise functions of political control and consultation as laid down in the Treaties and elect the President of the Commission³⁶. The European Council comprises of the Heads of State or Government of the Member States, together with its President and the President of the Commission³⁷. It provides the Union with the necessary impetus for its development and tasked with defining the general political directions and priorities thereof. The Council consists of a

³⁵ Treaty Establishing the European Union, Art.13

³⁶ Treaty Establishing the European Union, Art. 14

³⁷ Treaty Establishing the European Union, Art. 15

representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote. It jointly with the European Parliament, exercises legislative and budgetary functions and carries out policy-making and coordinating functions as laid down in the Treaties.³⁸ The European Commission promotes the general interest of the Union and takes appropriate initiatives to that end; ensures the application of the Treaties, and of measures adopted by the institutions pursuant to the Treaties; oversees the application of Union law under the control of the Court of Justice of the European Union; executes the budget and manages programmes and exercises and coordinates executive and management functions, as laid down in the Treaties³⁹. The Court of Justice of the EU is outlined in Article 19 of the Treaty Establishing the EU. It consists of the Court of Justice, the General Court and specialized courts. It is tasked with ensuring that the law is observed in the interpretation and application of the Treaties. It consists of one judge from each Member State.

1.5.7 Conclusion

Given the analysis, regional integration has become an inevitable development in the modern world. This has become necessary for States to consolidate their efforts towards faster economic development, gain a stronger platform on which they can articulate their interests in the international arena and also create a peaceful environment for their respective regions. Successful integration schemes like the EU can be used as a guide to the upcoming integration schemes so as to achieve their objectives well in time. Hence

³⁸ Treaty Establishing the European Union, Art. 16

³⁹ Treaty Establishing the European Union, Art. 17,18

the EAC could benefit by drawing lessons from its past failures and the EU and put in place appropriate mechanisms to prevent disintegration.

1.6 Theoretical Framework

This study will be pegged on the neo-functionalism theory which gives an account of what regional integration is about. The theory emerged in mid-1950s and was developed by Ernst Hass in his 1958 work: *'The Uniting of Europe: Political, Social and Economic Forces.'*⁴⁰ Neo-functionalism reformulates the functionalist principles in the context of regional institutions. Functionalists view integration as an unpreventable result of development which imposes more functions on the States and pushes them to the cooperation with international functional institutions. On the other hand, neo-functionalists view integration that the created institutions drive the integration further by inertia even if originally it was not intended⁴¹. Neo-functionalism asserts that eventually everything is shifted to the one new centre as a result of a 'new political community' which arises. The second generation EAC is fully in favour of NF, which emphasizes the process character of integration. The EAC treaty establishes several supranational regional decision making bodies e.g. the regional EACJ, EALA.

Neo-functionalists point out three mechanisms as the driving force of the integration process: positive spillover, transfer of domestic alliances and technocratic automacity. Various actors and regional institutions have extended their influence across the region and all the partner States are having the effect on economic integration.

⁴⁰ *'The Uniting of Europe: Political, Social and Economic Forces 1950-1957'* (Cini 2004, p. 81)

⁴¹ Stefan J. *'The Uniting of East Africa and the Uniting of Europe?'*

Neo-functionalism describes and explains the process of regional integration with reference to how three causal factors for integration interact. These include:

- i) Growing economic interdependence;
- ii) Organizational capacity to resolve disputes and build international regimes;
- iii) Supranational market rules that replace national regulatory regimes.

The positive spillover effect is the notion that integration between States in one economic sector will create strong incentives and platform in more sectors in order to achieve more benefits from the union. There is an increased number of transactions and intensified negotiations which lead to a creation of institutions that work independently without reference to 'local' institutions by the partner States.

Neo-functionalists argue that as the integration process gathers pace, interest groups and associations will transfer their allegiances away from their national institutions towards the supranational institutions. This has been proved in the EU where these groups in various countries have paid allegiance to the European Union. Technocratic automacity describes the way in which as the integration proceeds, supranational institutions set up to oversee that integration process will themselves take the lead in sponsoring further integration as they become more powerful and more autonomous of the members states. With these political integration will become inevitable. The partner states will form a political federation.

1.7 Hypotheses

1. Integration in East Africa has challenges that need to be solved for its success;
2. The EAC face unique challenges in its integration.
3. There are similarities in the challenges faced by both the EU and the EAC
4. The EU is the most appropriate regional integration scheme that EAC should draw lessons from.

1.8 Research Methodology

1.8.1 Introduction

The research examines regional integration with specificity to the EAC; with focus on the challenges the community is facing and an analysis of the building of the EU. The study shall involve use of both quantitative and qualitative research methods. Quantitative methods will involve primary data collection (questionnaires). This method shall be used on members of government departments involved in Regional Integration e.g. the Kenyan Ministry of EAC Affairs, Kenyan Ministry of Foreign Affairs and International Trade and EAC Partner States' Embassies. This will involve simple random sampling in which all elements are treated equally.

Qualitative method will involve analysis of documents (treaties, reports and protocols), published books, papers, Journals, the internet and unpublished works will be used as secondary sources of data. Unpublished works such MA Theses from IDIS will also be consulted. The JKML and other libraries shall be visited during the research.

1.8.2 Research Design

Case study research design shall be employed. It will involve studying the EU and EAC and eventual drawing of conclusions.

1.8.3 Data Collection

The study will utilize both primary and secondary data. Questionnaires will be administered on Kenyan EAC Ministry officials, EAC Partner States' Embassy officials. Secondary data shall be obtained from EAC documents, EU documents, Academic papers, Conference proceedings, speeches, theses and dissertations on the subject, journals and books.

1.8.4 Target Population

Target population falls under two broad categories; specified population or unspecified. The study's population should be given that the study theme is specific. The target group is officials of the Kenyan EAC ministry, EAC secretariat; EU officials; staff of EAC Partner States' Embassies and Kenya's Ministry of Foreign Affairs & International Trade officials.

1.8.5 Data Reliability and Validity

The validity of the data used in this research is upheld by obtaining it directly from relevant officials of the EAC, EU and Embassies of Partner States of EAC. Secondary data will be extracted from internationally accredited books, journals and articles and also official government documents, EAC and EU documents and reliable online sources.

1.9 Chapter Outline

Chapter One- Provides some background information on the area of study. This also includes justification of the study, literature review and research methodology.

Chapter Two- Focusses on the case study of EAC integration. This includes the history of East Africa integration; the two phases of EAC integration, the challenges that the initial EAC faced that led to its collapse, revival of the collapsed EAC and measures that were put in place to avoid collapse of the new EAC.

Chapter Three – Examines the integration of Europe and the making of the EU. This includes the strategies that have been employed in the making of the EU, its challenges and successes.

Chapter Four- Is a presentation of the findings from the questionnaire and analyses the challenges facing the EAC integration and lessons from EU. The inferences drawn from this chapter will provide the conclusions and recommendations from the study.

Chapter Five- Provides the summary, conclusions and recommendations from the study.

CHAPTER TWO

REGIONAL INTEGRATION IN EAST AFRICA

2.1 Introduction

This chapter will trace the history the EAC integration process and provide a chronology of major events, their successes and failures and how they have influenced and impacted on the East African integration process. It will also examine and analyze the structures of the EAC and provide an analysis on the progress and strategies used in the current integration process.

2.2 The History of the EAC Integration

The EAC covers an area of 1.82 million sq. km. Its population is about 153, 301, 178 and GDP of \$110.3 billion according to a 2014 survey. Its official language is English and develops Kiswahili as a *lingua franca*.

The people of East Africa have been interacted since time immemorial especially through intermarriage and trade. The colonialists drew boundaries in Africa with total disregard of the settlement patterns whereby communities with a common ancestry found themselves in different countries. This was also the case in East Africa and a number of ethnic groups found themselves in different boundaries. For example the Maasai were split- some are in Kenya and some in Tanzania. Despite all this, the interaction amongst the communities across the region is on top gear rendering the borders porous to date. The integration of the East African region dates back to the last decade of the 19th century when the British

began the construction of the Kenya-Uganda railway in 1895. At the time the British didn't aim at integrating the region but rather to construct the railway to transport raw materials from the interior to the east African coast off to Europe. They were oblivious of the fact that this initiated the bringing together of the region's States. The integration of the East African region can be divided into four phases. The first three phases fall in the years 1894- 1947, 1948- 1966 and 1967- 1977 while the fourth phase is the current one which began in 1984.

2.2.1 The Initial Two Phases of Integration in East Africa

The first phase began with the construction of the Kenya- Uganda Railway from the coastal town of Mombasa to Fort Florence (present day Kisumu) on the shores of Lake Victoria. In the early 1900s a single customs collection point for Uganda and Kenya was established at Mombasa. The first moves towards cooperation between States were made when the colonialists promoted efforts to advance a more unified administrative control over East Africa. They established the Court of Appeal in 1902, a Postal Union in 1911, in 1917 established a Customs Union for Kenya and Uganda which the then Tanganyika joined in 1927 and the East African Currency Board was established in 1920. These were initiated by the British colonial government to serve her economic interests⁴² and those of the British settlers in Kenya to create a free and integrated market, sheltered by selective high tariff walls to simultaneously encourage Kenyan settler businessmen and expand market for foreign exports into East Africa.⁴³ Gambari notes that this merging of the East

⁴² Onyango. J. O. (2011), *'Who owns the East African Community?'* Presentation at the DENVIA Public dialogue on the East African Community

⁴³ Ojo et al, 1985, *African International Relations*, London: Longman, P.157

African Protectorates saw the three countries engage in free trade of local produce. Tanganyika became a British mandate territory after the First World War.

The second phase of East Africa integration began in 1948 when a quasi-federation was established with a Common Market and a number of Common Services. The Common Services included the establishment of an East African Railway and Harbours Administration, the East African Posts and Telecommunications Administration and the Agricultural and Medical Research Services. Two institutions were established by the British Council to provide a legal basis for regional cooperation: the East African High Commission (EAHC), consisting of the Governors of Kenya, Tanzania and Uganda and the East African Central Legislature Assembly.

Laws issued by the EAHC were enforceable in the three territories. This made it much easier to establish inter-territorial departments responsible for Common Services in the region.⁴⁴ Mukandala- Rwekaza in his comment on the integration of the region notes that:

“This was a political cooperation whose scope was only limited to providing the critical support and context for economic cooperation. It was not expected to develop and evolve into something qualitatively different like a political federation union. There was never the possibility that the three governments could go to war against each other or could undermine each other... the three

⁴⁴ Njuguna, S. N (2003) ‘Regional Integration Experience in East Africa’, Paper, African Economic Research Consortium in Nairobi.

governments were unified in the philosophy, purpose and strategy. Thus their value was mutually compatible.”⁴⁵

The quasi-federation was overhauled in 1961 when Tanganyika gained independence. Uganda and Tanganyika had expressed resentment at the disproportionate benefits accruing to Kenya in terms of growth of GNP, Foreign Investment, International trade and the location of the Common Services headquarters in Nairobi. The East African Common Services (EACSO) which succeeded the colonial-era East African High Commission was established at the London conference in 1961. This was to be a platform for the establishment of a fully-fledged Political Federation in the region after all the three countries gained independence. However, for the majority of decision-makers in the 1960s, EACSO was too closely associated with pre-independence structures. The Political Federation was to be ushered in by the Nairobi Declaration of 1963 but this never happened. Establishing a Political Federation proved problematic. The main disagreement centered on fears that Kenya would gain more from the federation to the detriment other smaller neighbours and the political battles for domination that the new regimes were having back at home hence the challenges of nation-building and regime consolidation demanded for a national focus (not yet a regional one).

In 1963, the East African Federation Treaty was signed in Arusha by the three leaders of Kenya, Uganda and Tanzania but the agreement never materialized due to the aforementioned reasons. The Kampala-Mbale Agreement was signed in Kampala, Uganda and

⁴⁵ Rwekaza, M. 2000, 'Political Cooperation' in 'Perspectives on Regional Integration and Cooperation in East Africa: Proceedings of the 1st Ministerial Seminar on East African Cooperation', Arusha, Tanzania. 25-26 March 1999, P.5

it provided that certain industries such as tyres, bicycle parts and fertilizers be exclusively located in Uganda and Tanzania. Kenya failed to ratify this agreement hence it never took effect. The third landmark event was the collapse of the East African Currency Union leading the setting up of a Central Bank in each of the three states. The Central Banks started issuing national currencies. The last landmark event that led to the next phase of the East African integration was the 1966 Philip Commission which was made up of three Ministers, one from each country headed by a UN expert, Kjeld Philip. The Commission was tasked with negotiating a permanent solution to the problems that were afflicting the East Africa integration. This Commission recommended the establishment of the East African Community (EAC).

2.2.2 Establishment of the EAC in 1967

The third phase of integration of East Africa began on 1 December 1967 with the coming into force of the *Treaty of East African Cooperation*. Its main objectives were to “strengthen and regulate industrial, commercial and other relationships of the partner states in areas such as agriculture, education and manpower, energy and power, industry, tourism, balance of payments, transport and communications.” The *Treaty of EAC Cooperation* set out three objectives. First, to establish a Common External Tariff, while allowing deviations for particular items when agreed among the respective Finance Ministers. Second, to allow unrestricted freedom of transit goods between the three countries, with remission of duties levied on transit goods to the country of destination. Third, to control imports from third-party countries when such goods were also produced in East Africa. At the height of its performance, the EAC was recognized as one of the

world's leading models of regional integration. There was unprecedented interaction among the people of the region.

The EAC operated Common Services such as airline; postal and telecommunications; power, railways and harbours; several research organizations and a literary development centre. Four corporations were created to run the Common Services: the East African Railway Corporation, the East African Harbours Corporation, the East African Airways Corporation and the East African Posts and Telecommunications Corporation. The long term goal was to establish an East African Common Market. So as to promote, strengthen and regulate common industrial and commercial developments. EAC headquarters were set up in Arusha, Tanzania. EAC Policy issues were governed by the East African Authority which consisted of the three Presidents of the three member States. Policy decisions were to be unanimous and each State's Minister for East African Affairs served in an advisory capacity to the East African Authority. The EAC had five Councils: the Common Market Council, the Communications Council, the Economics and Consultative Council and Planning Council, the Finance Council and the Research and Social Council. The East Legislative Assembly, a Common Market Tribunal and a Court of Appeal.

Although this came to last for only ten years, the Treaty had a lot of significance in the integration of the region. The Treaty placed the Common Services within one framework giving it a solid legal foundation. The Treaty also made provisions for achieving equitable distribution of costs and benefits from the community. It also created a number of organs to coordinate activities and also gave executive direction. It provided for a

Community Minister appointed by each Member State to promote the EAC's interests and project its viewpoints in his/her own cabinet. The Treaty also sought to attain a viable East African Common Market by setting out regulations covering intra-community trade and trade with non-members. There were also coordinated investment programs and attempts to stabilize currency exchange rates.

The Philip Commission that recommended the formation of the EAC in 1967 was cognizant of the equity issue and hence great care was taken while allocating the community's Common Services' institutions so as to address the disparities that were existent. Under the new arrangement, Kenya hosted the headquarters of the East African Railways and the East African Airways; while Tanzania hosted the East African Harbours Corporation and the EAC Headquarters in Arusha. The East African Development Bank and the East African Post and Telecommunications Corporation were located in Uganda. Furthermore, the Treaty provided for a transfer tax system which was designed to protect industries in Tanzania and Uganda against their Kenyan Competitors.⁴⁶

Unfortunately, the EAC collapsed in 1977, ten years after coming into existence. The formal dissolution of EAC in 1977 was the culmination of various failures or inadequacies, these can be attributed to four main factors:

a) Unequal distribution of costs and benefits among the partner States and lack of compensatory arrangements for Tanzania and Uganda- its lack of steering functions and

⁴⁶ Kibua T. and Tostensen A. *'Fast-Tracking East Africa Integration: Assessing the Feasibility of a Political Federation by 2010,'* CMI Report 2005.

coordination mechanisms envisaged in the then Treaty failed to achieve regional balance between the member countries, the Treaty on the one hand led to high inflation and massive trade deficits in Tanzania and Uganda while on the other, Kenya gained industrial dominance;

b) Ideological differences amongst the States in which Kenya had capitalism, Tanzania embraced Socialism while Uganda hung between Capitalism and Socialism. Kenya was developing a free market economy and much of its resources went into capital investments. Moreover, Kenya's open and liberal economy welcomed foreign investment and this saw investors flow into Kenya given its relatively better infrastructure and industrial base that was inherited from the colonialists. On the other hand Tanzania's resources were dedicated into welfare programs. President Obote of Uganda's 'Common Man Charter' led to an ideological axis between Uganda and Tanzania but this was broken when Idi Amin overthrew Obote in a military coup in 1971 because President Nyerere of Tanzania refused to recognize the Amin government let alone meet and sit with Amin on the same table. This was a blow to the EAC whose Authority had to take decisions by consensus hence nothing ever happened leading to the collapse of the Community;

c) Personality clashes between the Heads of State especially after the Idi Amin coup in 1971 when President Nyerere provided asylum to the deposed Obote and because Tanzania refused to recognize the Amin regime. In 1976, President Amin claimed that part of Kenya belonged to Uganda before the British land transfer to the old British East

Africa Protectorate in 1902. The contested area was Kenya's production point for farming and economic development. In response to this, Kenya curtailed movement of Uganda goods across the border. Idi Amin became isolated by Kenya and Tanzania hence no meaningful discussions took place on EAC matters.

d) Kenya demanded for more seats than her partners in EAC decision-making organs and this brought a conflict amongst the three States as Uganda and Tanzania felt that Kenya was exercising undue dominance in the EAC yet they were to be equal partners.

2.2.3 Re- establishing EAC: 1984- 2000

The three States signed the EAC Mediation Agreement EAC in 1984. Through this agreement the countries divided among themselves the assets and liabilities of the defunct EAC which marked the end of the structured tripartite co-operation amongst them. The Mediation Agreement also provided for a future of co-operation between the three countries. In November 1991, the Heads of States met in Nairobi and committed to reviving East African Cooperation. In 1993 the Permanent Tripartite Commission was set up to lay the foundation for economic-political and socio-cultural development for the benefit of the people of the region. The Secretariat of the Commission was established and launched in Arusha, Tanzania on March 14, 1996. The Commission upgraded the Agreement establishing it into a Treaty for the establishment of the East African Community. The Treaty was signed on 30 November, 1999 and entered into force on July 7, 2000 after the ratification was concluded and deposit of the instruments of ratification with the Secretary General was done by all the three partner states. This

established the EAC which ushered a new era for cooperation in economic, social and political affairs by East Africans.

A Customs Union was signed in March 2004 and commenced on 1 January 2005. The East African Common Market Protocol was launched by President Mwai Kibaki of Kenya on July 1, 2010. The Protocol facilitates the movement of factors of production within EAC. The Protocol also aims at eliminating trade barriers and border taxes. At a special Summit held in Nairobi on 27 - 29 August, 2004, the Heads of State expressed concern at the slow pace of integration and resolved to examine ways of expediting the process so that the ultimate goal of a Political Federation is achieved through a Fast Track Mechanism. The Committee on Fast Tracking East African Federation was set up to expedite and compress the process of integration so that the ultimate goal of a Political Federation is achieved through a fast track mechanism.”

The Committee submitted a comprehensive report on 26 November 2004 with three fast-tracking options for consideration. These included: compression of the current stages of integration, overlapping and parallel processes of integration; and immediate establishment of an East African Federation⁴⁷. Two new members, Rwanda and Burundi, joined the EAC in 2007 after acceding to the EAC Treaty on 18 June 2007 becoming full members as from 1 July 2007. This increased membership of the EAC brought in a wider trading area for the region’s market and also the diversity. It broke the colonial pattern that existed amongst the EAC founding members. Kenya and Uganda were under the

⁴⁷ *Report of The Committee On Fast Tracking East African Federation, 2004.*

British colonial rule and Tanzania became the British mandate territory while Rwanda and Burundi were under Belgian and French influence.

2.3 Objectives and Fundamental Principles of the Community

The objectives of the Community are spelt out in Article 5 of the EAC Treaty. This includes developing policies and programmes aimed at widening and deepening co-operation among the Partner States in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs, for their mutual benefit.⁴⁸ The fundamental principles that govern the achievement of the objectives of the Community by the Partner States are stated in Article 6 of the Treaty⁴⁹ and include:

- (a) Mutual trust, political will and sovereign equality;
- (b) Peaceful co-existence and good neighbourliness;
- (c) Peaceful settlement of disputes;
- (d) Good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples rights in accordance with the provisions of the African Charter on Human and Peoples' Rights;
- (e) Equitable distribution of benefits; and
- (f) Co-operation for mutual benefit.

⁴⁸ *Treaty for the Establishment of the East African Community*, Article 5

⁴⁹ *Treaty for the Establishment of the East African Community*, Article 6.

2.4 The EAC Organs and Institutions

Every organization has decision making entities that govern, implement and monitor decisions made to ensure achievement of its goals. The EAC has established organs that run its affairs to facilitate the achievement of the laid-down objectives. The EAC structure is contained in Article 9 of the Treaty for the Establishment of the EAC. The organs established include: the Summit; the Council; the Co-ordination Committee; Sectoral Committees; the East African Court of Justice; the East African Legislative Assembly and the Secretariat. There are also specialised institutions of the EAC which contribute to its operations. These include: the Lake Victoria Basin Commission, the Lake Victoria Fisheries Organization, the East African Development Bank, the Inter-University Council of East Africa and the Civil Aviation Safety and Security Oversight Agency.⁵⁰

2.4.1 The Summit

It is made up the Heads of State of the member countries. The Summit gives general directions and impetus as to the development and achievement of the objectives of the Community, it considers the annual progress reports and such other reports submitted to it by the Council. The Summit also reviews 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. The Summit also reserves powers of: giving of general directions and impetus; appointment of Judges to the East African Court of Justice; admission of new Member s and granting of Observer Status to foreign

⁵⁰ *4th EAC Development Strategy (2011/12- 2015/16), 3rd Development Strategy: Achievements and Challenges.*

countries; and assenting to Bills. The Summit meets once a year, its decisions are by consensus and the tenure of the Chairperson of the Summit is one year with the seat rotating amongst the Partner States.⁵¹

2.4.2 The Council

It is contained in Articles 14 and 15 of the Treaty Establishing EAC. It comprises of the Minister responsible for East African Community affairs in each of the Partner State and the Attorney General of each Partner State. The Council is the main policy organ of the EAC which makes policy decisions for the efficient and harmonious functioning and development of the Community; and initiates and submits Bills to the Assembly. The Council has a task to promote, monitor and keep under constant review the implementation of the programmes of the Community. It is also charged with the implementation of the EAC's vision and mission; give directions to the EAC organs, except the Summit, the EALA and the EACJ; scrutinize the budget and submit reports to the Summit; establish Sectoral Councils and Sectoral Committees for purposes of proper operations of the EAC; and initiate bills to the EALA. The Council meets bi-annually with one of the meetings preceding the Summit. Extra-ordinary meetings can be convened at the request of a Partner State or by the Chairperson of the Council.⁵²

2.4.3 The Co-ordination Committee

This is contained in Articles 17, 18 and 19 of the Treaty for the Establishment of the EAC. Article 17 outlines the composition of the Co-ordination Committee as to consist of

⁵¹ *Treaty for the Establishment of the East African Community*, Articles 11, 12

⁵² *Treaty for the Establishment of the East African Community*, Articles 13, 14, 15 and 16.

the Permanent Secretaries responsible for East African Community affairs in each Partner State and such other Permanent Secretaries of the Partner States as each Partner State may determine.

Its functions spelt in Article 18 include: to submit from time to time, reports and recommendations to the Council either on its own initiative or upon the request of the Council, on the implementation of the EAC Treaty; to implement the decisions of the Council as the Council may direct and to receive and consider reports of the Sectoral Committees and co-ordinate their activities. It meets twice a year with the meetings preceding meetings of the Council.⁵³

2.4.4 The Sectoral Committees

The Co-ordination Committee recommends to the Council the establishment, composition and functions of such Sectoral Committees, as may be necessary for the achievement of the objectives of the Treaty⁵⁴. Subject to any directions that may be given by the Council, the Sectoral Committees meet as often as necessary for the proper discharge of their functions and they determine their own procedure. Subject to any directions the Council may give, each Sectoral Committee is responsible for the preparation of comprehensive implementation programmes and the setting out of priorities with respect to its sector; monitors and keeps under constant review the implementation of the programmes of the EAC with respect to its sector; and submits from time to time, reports and recommendations to the Co-ordination Committee either

⁵³ *Treaty for the Establishment of the East African Community*, Articles 17, 18 and 19.

⁵⁴ *Treaty for the Establishment of the East African Community*, Article 20.

on its own initiative or upon the request of the Co-ordination Committee concerning the implementation of the provisions of the Treaty that affect its sector.⁵⁵

2.4.5 The East African Court of Justice – EACJ

It is covered in Articles 23- 47 of the *Treaty for the Establishment of the EAC*. The Court is a judicial body tasked with ensuring the adherence to law in the interpretation and application of and compliance with the *Treaty for the Establishment of the EAC*. It consists of a First Instance Division and an Appellate Division. The First Instance Division has jurisdiction to hear and determine, at first instance, subject to a right of appeal to the Appellate Division any matter before the Court in accordance with the Treaty. Judges of the Court are appointed by the Summit from among persons recommended by the Partner States who are of proven integrity, impartiality and independence and who fulfill the conditions required in their own countries for the holding of such high judicial office, or who are jurists of recognized competence, in their respective Partner States. The EACJ judge serves for a maximum period of seven (7) years unless he or she resigns; is seventy (70) years of age; dies; or removed by the Summit after the submission of a recommendation of an independent tribunal, a body comprising of legal experts who are also appointed by the Summit.⁵⁶ Partner States, the Secretary General as well as legal and natural persons have the right to seek redress on the grounds of the infringement of the EAC treaty by a Member State.⁵⁷ The EACJ has the initial jurisdiction over the interpretation and application of the EAC Treaty. The Court also has the original, appellate and human rights jurisdictions on issues associated

⁵⁵ *Treaty for the Establishment of the East African Community*, Article 21, 22.

⁵⁶ *Treaty for the Establishment of the East African Community*, Articles 25, 26.

⁵⁷ *Treaty for the Establishment of the East African Community*, Articles 29, 30

with the Treaty. The EACJ has jurisdiction to hear cases involving the EAC and its employees⁵⁸. The EACJ may be called upon by a partner States to arbitrate an agreement to which the EAC or a Partner State is a party. Rulings of the Court are based on majority verdict.⁵⁹

Achievements of EACJ

It has handled a number of cases brought before and with the increase of cases before the Court, it has organized hearings to happen every last week of every month. The Court carries out activities aimed at improving its visibility and awareness on its jurisdiction and procedures. In this regard, sensitization workshops are organised in all the Partner States, space is bought in the major East African audiovisual and print media to publicize the Court.

The Court has also endeavoured to enhance its Judges and Staff skills to enable them improve on the quality of their work by organizing, budget allowing, and tailored training for them.⁶⁰

2.4.6 The East African Legislative Assembly- EALA

This is the law-making organ of the East African Community. It is made up by nine members from each Partner State who are appointed by each National Assembly of the Partner States. the appointees are not members of the National Assemblies of the Partner States and are supposed to represent, as much as is feasible, the various political parties

⁵⁸ *Treaty for the Establishment of the East African Community*, Article 31

⁵⁹ Justice H.R. Nsekela, President of the EACJ ' *A Paper for Presentation During the Sensitization Workshop on the Role of the EACJ in the EAC Integration*, Imperial Royale Hotel, Kampala, Uganda'

⁶⁰ 4th EAC Development Strategy (2011/12- 2015/16), 3rd *Development Strategy: Achievements and Challenges*. P. 48

represented in the National Assemblies, shades of opinion, gender and other special interest groups in each Partner State.⁶¹ The EALA representatives hold office for five years and are eligible for re-election once for a further term of five years. The EALA's functions are outlined in Article 49 of the Treaty and include: debating and approving budgets of the EAC; debating audit reports from the Audit Commission; performing an oversight function; and initiating Bills in the Assembly; discuss matters pertaining to the Community and make recommendation to the Council as may be necessary for the implementation of the EAC Treaty⁶². The EALA holds its proceedings once a year and such meetings are presided over by the Speaker. The Speaker is elected from among the representatives for a-five year term on a rotational basis⁶³. Decisions in the Assembly are guided by a majority vote of the representatives present and voting. Once a Bill has been enacted by the Assembly and assented to by the Heads of State or Government, it becomes an Act of the EAC⁶⁴.

Achievements of EALA

The EALA has made quite a number of achievements since its inception. These include:

⁶⁵

- i) enhancement of the mandate of EALA; institutionalizing and forging of stronger linkages between EALA and National and international Assemblies;

⁶¹ *Treaty for the Establishment of the East African Community*, Article 50.

⁶² *Treaty for the Establishment of the East African Community*, Article 49

⁶³ *Treaty for the Establishment of the East African Community*, Article 53

⁶⁴ *Treaty for the Establishment of the East African Community*, Article 58, 59, 62, 63.

⁶⁵ *4th EAC Development Strategy (2011/12- 2015/16)*, 3rd Development Strategy: Achievements and Challenges. P. 47

- ii) according EALA financial autonomy; and expansion of EALA in light of its increased mandate;
- iii) establishment of the EAC Bureau of Speakers;
- iv) institutionalized rotational sittings in each of the Partner States, formation of Inter-Parliamentary Liaison Committees on several subject areas;
- v) the annual hosting of the Inter-Parliamentary Relations Seminar;
- vi) creation of the EALA website (www.eala.org);
- vii) expansion of the membership of EALA to 52 with admission of Rwanda and Burundi;
- viii) intensification of outreach programmes to evaluate living conditions and accessibility of regional infrastructure

2.4.7 The Secretariat and Staff of the Community.

The Secretariat is the executive organ of the EAC. These are the officers who serve the EAC. They include: the Secretary General appointed by the Summit upon nomination by the relevant Head of State under the principle of rotation. Upon the appointment of the Secretary General the Partner State from which he or she is appointed forfeits the post of Deputy Secretary General. The Secretary General is the Principal Executive Officer of the EAC and is Head of the Secretariat; Accounting Officer of the EAC; the Secretary of the Summit; and carries out such other duties as are conferred upon him by the Treaty or by the Council from time to time⁶⁶. The Deputy Secretaries General are appointed by the Summit on recommendations of the Council and on rotational basis. They deputize the

⁶⁶*Treaty for the Establishment of the East African Community, Article 67*

Secretary General; and perform such other duties as may be prescribed by the Council. Their term of office is three years, renewable once⁶⁷. The Counsel to the EAC is the principal legal adviser to the EAC and is hired on contract.⁶⁸ There are other officers and staff of the Community as the Council may determine. All these are hired on contract terms. The Secretariat is concerned with administration, implementation and management of the day to day running of the Community. This includes: to initiate, receive and submit reports to the Council and forwarding Bills to the Assembly via the Co-ordination Committee; administration and financial management of the Community; custody of the property of the Community; to plan and monitor programmes for the development of the Community; to promote and disseminate information on the Community to stakeholders, the general public and the international community and implementation of the decisions of the Summit and the Council⁶⁹. The Secretary General, the EAC staff and any other employee including experts and consultants working for the Community are immune from civil process and immigration restrictions while performing their official duties prescribed in the Treaty⁷⁰.

2.4.8 Lake Victoria Basin Commission- LVBC

Lake Victoria Basin Commission (LVBC) is a specialized institution of the EAC that is responsible for coordinating the sustainable development agenda of the Lake Victoria Basin. The Protocol for Sustainable Development of Lake Victoria Basin was concluded

⁶⁷ *Treaty for the Establishment of the East African Community*, Article 68

⁶⁸ *Treaty for the Establishment of the East African Community*, Article 69

⁶⁹ *Treaty for the Establishment of the East African Community*, Article 71

⁷⁰ *Treaty for the Establishment of the East African Community*, Article 73

on November 29, 2003 and was ratified by the Partner States in December 2004. The Protocol provides for areas of cooperation as well as the establishment of Lake Victoria Basin Commission as an apex institution of the EAC responsible for coordinating matters relating to management and sustainable development of the Lake Victoria Basin.

The broad mandate of the Commission is to promote: equitable economic growth; measures aimed at eradicating poverty; sustainable utilization and management of natural resources; the protection of environment with the Lake Victoria Basin; and compliance on safety of navigation.⁷¹

Achievements of LVBC

Its achievements include, among others⁷²:

- i) strengthening of coordination and management capacity of the LVBC; promotion of investments in the LVB through different fora, in particular the LVB Investment Forum;
- ii) development of projects and programmes addressing harmonization of trans-boundary natural resources management policies, laws and regulations in LVB;
- iii) finalization of the Lake Victoria Water Release and Abstraction Policy;

⁷¹ 4th EAC Development Strategy (2011/12- 2015/16), 3rd Development Strategy: Achievements and Challenges. P. 49

⁷² 4th EAC Development Strategy (2011/12- 2015/16), 3rd Development Strategy: Achievements and Challenges. P. 49

- iv) establishment of an HIV&AIDS coordination unit and undertaking of HIV sero-behavioral studies in agricultural plantations, Universities and fishing communities;
- v) formulation of the LV transport Act 2007 and Regulations (2010);
- vi) refurbishment and equipment of RV Jumuiya;
- vii) completion of the pre-investment study leading to development of a project on maritime communication and safety of navigation in the Lake Victoria; and
- viii) establishment of equity and benefit sharing models for payment of ecosystem goods and services for improved livelihoods.

2.5 Strategies, Approaches and Co-operation in the New EAC

The new EAC has been in existence for over 15 years, which is a good indicator of eventual success than the 1st EAC which collapsed within 10 years. The current Community operationalizes the Treaty establishing it through medium-term development strategies. So far there have been three of such strategies and the current one is the fourth. The 1st EAC Development Strategy covered the period 1997- 2000 and focused on re-launching EAC. The period is commonly referred to as the Confidence Building Phase. The phase ended with the successful establishment of the EAC. The 2nd EAC Development Strategy covered the years 2001- 2005. Its main focus was on the establishment of the EAC Customs Union and laying the foundation for the Common Market. The 3rd EAC Development Strategy ran through the years 2006- 2010 and it prioritized the establishment of the EAC Common Market. To this end the Common Market Protocol was launched in January 2010. The 4th EAC Development Strategy is

the current one covering the period July 2011- June 2016. It focuses on the implementation of the EAC Common Market and the establishment of the EAC Monetary Union. It seeks to consolidate the benefits of a fully-fledged Customs Union, full implementation of the Common Market and laying the foundation for the attainment of Monetary Union and Political Federation and continuing implementation of other priority projects and programmes⁷³. In this regard co-operation in the EAC is pegged on four pillars: the Customs Union, the Common Market, a Monetary Union and a Political Federation. The Common Union seeks to achieve free movement of trade within the EAC by removal of internal tariffs and adoption of the Common External Tariff. The Customs Union is aimed at operating a single market with common trade laws, common taxes and the free movement of labour, capital, goods and services. The EAC Common Market Protocol was established in July 2010 and is still being implemented. The Monetary Union Protocol was agreed to by all the five EAC Partner States on November 30, 2013 and the Union is expected to come into force in 2024. Tough conditions like public debt ceiling of 5% have been put so as to ensure fiscal stability within the Union.

The EAC Treaty has provided for co-operation in a number of sectors to ensure the achievement of the Community's objectives. Articles 74- 79 outline co-operation in trade liberalization and development. The Community continues to deepen co-operation in monetary and financial matters; infrastructure; development of human resources, science and technology; agriculture and food security; environment and natural resources management; tourism and wildlife management; health, social and cultural activities;

⁷³ 4th EAC Development Strategy (2011/12- 2015/16), 3rd Development Strategy: Achievements and Challenges. P. 12

enhancement of the role of women in social economic development and investment and industrial development. There is established the East African Development Bank (EADB) which is tasked with lending for commercial projects and funding regional infrastructure to support free movement of goods and people across the region and also help meet the objectives of the EAC Common Market⁷⁴. The Lake Victoria Fisheries Organization (LVFO) manages fisheries as one entity in the shared lake in the region. It continues to harmonize, coordinate and implement measures aimed at promoting sustainable use of fisheries resources in Lake Victoria⁷⁵.

The Inter-Universities Council of East Africa (IUCEA) encourages and develops mutually beneficial collaborations between member universities and governments and other public and private organizations. ⁷⁶The Council collaborates with local and international partners to support researchers, teaching staff and students to undertake research and deliberate on pertinent academic and governance issues in East African universities. There is established the Civil Aviation Safety and Security Oversight Agency (CASSOA) which is responsible for the development of a sustainable safe, secure and efficient civil aviation sub-sector in the region in line with the dynamics in the aviation industry⁷⁷. The EAC Member States have strategic visions about their development and their objectively largely draw from the EAC Vision. This is captured in

⁷⁴4th EAC Development Strategy (2011/12- 2015/16), 3rd Development Strategy: Achievements and Challenges. P. 52

⁷⁵ 4th EAC Development Strategy (2011/12- 2015/16), 3rd Development Strategy: Achievements and Challenges. P. 49- 51

⁷⁶ 4th EAC Development Strategy (2011/12- 2015/16), 3rd Development Strategy: Achievements and Challenges. P. 51

⁷⁷ 4th EAC Development Strategy (2011/12- 2015/16), 3rd Development Strategy: Achievements and Challenges. P. 51

the Appendix Section in Table 1. The Partner States continue to co-operate in political matters, legal and judicial affairs and also in investment and industrial development. This form of co-operation is aimed at consolidating the partnership amongst the EAC members to enable it ultimately form a Political Federation.

2.6 Conclusion

The integration of the East African Region has been a long process traceable to the pre-colonial times. The various EAC Development Strategies have enabled the Community to make important strides towards its integration. The current EAC is keen to succeed but a lot more needs to be done to meet the envisaged objectives. Political goodwill, adherence to good governance, and the implementation of market-driven economic policies will undoubtedly contribute immensely to this. This needs the support of a strong private sector, sustainable institutional development, the development of an efficient and effective compensatory mechanism to prevent it from collapsing as it did in 1977.

CHAPTER THREE

THE EUROPEAN UNION – EU INTEGRATION

3.1 Introduction

This chapter will analyze the history of the integration of Europe and provide a chronology of major events that have taken place in the integration process. It will also examine and analyze the institutions of the EU as currently constituted, the strategies and approaches that have facilitated the EU integration.

3.2 The History of EU Integration

The European Union is a politico-economic union of 28 States in Europe. It covers an area of 4,324,782 sq. km/ 1,669,808 sq. miles with a population of 508,191,116 (2015 estimates). Its GDP totals \$19.035 trillion according to 2015 estimates.

EU history can be traced to the end of the Second World War and the 1951 decision by Germany and France to form the European Coal and Steel Community (ECSC) to ensure the countries' control over the vital raw materials for manufacturing weapons. The scheme aimed at removing suspicions of hidden motives and build mutual confidence between the ECSC members given that Germany and France had been at logger-heads since the end of the Napoleonic Wars. European integration was driven by a grand vision of peace and security in Europe rather than a calculation of economic costs and benefits⁷⁸. The idea of the EU had its origins to after the First World War when a proposal was made

⁷⁸ Shams R. (Prof) '*Vision and Development of European Integration*' in 'Proceedings of An EAC Seminar in Arusha, 19-20 March 2001,' EAC Secretariat, Arusha- 2002.

to form a European Union or a 'United States of Europe' to change Europe's nationalistic climate. However, this never materialized given the incessant rivalry in Europe which culminated into another devastating World War. The first major step towards an integrated Europe was the request by the USA for the establishment of a common European organization to administer the Marshall Plan which was meant to galvanize and reconstruct Western Europe. After the Second World War, British Prime Minister Winston Churchill proposed the creation of the 'United States of Europe' and the establishment of the Council of Europe. The 1948 Congress of Europe attended by 750 delegates including Europe's leading statesmen: Winston Churchill, Robert Schuman, Paul-Henri Spaak and Alcide Gasperi led to the establishment of the Council of Europe in 1949.⁷⁹ This was after a congress that was held in The Hague, Netherlands. The congress is commonly referred to as the Hague Congress which led to the birth of the European Federalist Movement and this way, the EU idea took shape. A post-graduate College of Europe tasked with training of administrators and opinion-shapers of the new Europe was also established. The Statute of the Council of Europe also known as the Treaty of London was signed on 5 May 1949 and it was designed to promote European unification. Article 1(a) of the Statute states that,

“The aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their economic and social progress.”

⁷⁹ Wegs R. and Ladrech R. 'Europe since 1945: A Concise History, Fourth Edition' Macmillan Press Ltd, New York, 1996. P142

3.3 Formation of the ECSC, EEC and EURATOM

Jean Monnet, who was the head of the French Planning Commissariat, mooted the idea of unifying key economic sectors within the few countries willing to participate in a supranational experiment. As a result, the French Foreign Minister Robert Schuman made an appeal to place coal and steel under one supranational authority so to avoid another Franco- German conflict. This was because coal and steel were the two most important sectors that would spark war at the time. France's desire to gain security against Germany provided the major impetus for European integration. Consequently, in April 1951, a treaty establishing the European Coal and Steel Community (ECSC) was signed by France, West Germany, Italy and the three BENELUX countries. The main aim of the ECSC was European security and sectorial market integration. In addition, Europeanists were compelled by economic arguments in the sense that integration of the European community would promote large scale, low-cost production that would lead to greater economic output and an improved competitive position in the world market.⁸⁰

The ECSC provided the platform on which discussions on the possibility of further integration of the six countries arose. The six countries signed the Treaty of Rome in 1957 creating the European Economic Community (EEC), and this established a Customs Union. They also formed the European Atomic Energy Community (EURATOM) on the same day, 25 March 1957. These two treaties came into force on 1 January 1958. The Rome Treaties envisioned the elimination of customs barriers by 1967 and the development of an economic unit that could compete with the United States. This saw the

⁸⁰ Wegs R. and Ladrech R. 'European Unity' in 'Europe since 1945: A Concise History, Fourth Edition' Macmillan Press Ltd, New York, 1996. P141

creation of the EC which gradually expanded to include more members under the impetus of the Cold War and the fear and resentment of American Hegemony. It steadily deepened and centralized more areas of cooperation under a common authority. The Treaties emboldened the hope that the economic community created could lay the foundations of a deeper and wider community. Essentially the economic means adopted would lead to achievement of political ends. This economic integration proved to be a vehicle for peaceful channeling and bypassing national resentment. Institutionally, the EU has undergone the four necessary stages of integration: a FTA, a Customs Union, the Common Market and the Economic Union. The foundations of the first three stages were already laid in the Treaty of Rome which suggested the idea of four economic freedoms—the free movement of factors of production. The Treaty of Rome called for end to virtually all government-imposed restrictions on trade between the member countries. Article 9 of the Treaty prohibited import tariffs, export taxes and all other similar charges on goods traded between the EEC members. Article 30 of the Treaty called for total abolition of import quotas on trade between member countries. The EEC liberalized intra-regional trade in the industrial sector.

3.4 The Single Market Act – SEA

Jacques Delors, French Finance Minister, was appointed to head the EEC Commission in 1985 and this gave the impetus for greater economic cooperation in Europe. Delors came up with an ambitious plan to move EEC forward to outdo Japan and the USA who were generally viewed in Europe as being far ahead in the important area of computer technology and space-related technology respectively. He was convinced that greater

European cooperation was needed to meet the challenge and so came up with The White Paper outlining 300 measures that were necessary to achieve a true Customs Union such as that of the USA. This initiative resulted in the Single European Act (SEA) of 1987 which bound member countries to the goal of a single EEC market by January 1, 1993. It also allowed progress towards further economic union by permitting majority voting rather than unanimous voting in the Council of Ministers of the EEC on issues related to the implementation of the Single Market. This greatly reduced the probability of deadlock to enable the creation of the internal market much faster. The SEA focused on market enhancement measures and provided a considerable stimulus to economic integration, new initiatives emerged to promote political cooperation, mostly as a result of German unification. The then German Chancellor, Helmut Kohl believed that further European integration was needed in order for Europeans to accept the unification of a larger Germany, and the French wanted more political unification to offset this greater Germany. These desires gave the impetus for movement towards Monetary Union, a Common Foreign and Defence Policy and cooperation on home affairs⁸¹. Deliberations on this reached fruition in December 1991 when the Maastricht Treaty was signed in Maastricht, Netherlands.

3.5 The Maastricht Treaty.

It is formally known as the Treaty of the European Union and was signed on 7 February 1992 in Maastricht, Netherlands by EC members and became effective on 1 November 1993. Its main aim was to integrate Europe by utilizing the existing offices of the EC and

⁸¹ Wegs R. and Ladrech R. *'European Unity' in 'Europe since 1945: A Concise History, Fourth Edition'* Macmillan Press Ltd, New York, 1996. P154

adding new intergovernmental offices on home affairs, justice, and foreign and security policy. The EU's imperatives of establishment are captured in its Pre-amble:

“Recalling the historical importance of ending division of the European Continent and the need to create firm bases for the construction of the future of Europe;

“Desiring to deepen the solidarity between their peoples;

“Desiring to establish a citizenship common to the nationals of their countries.”

EU objectives are clearly and concisely stated in this treaty. Title 1, Article A begins:

‘This Treaty marks a new stage in the process of creating an ever close union among the peoples of Europe, in which the decisions are taken as closely as possible to the citizens.’

Article B spells out the objectives which include: promotion of a balanced and sustainable economic and social progress; assertion of a common identity internationally; strengthening the protection of the rights and interests of the nationals through the introduction of a European citizenship; promotion of close cooperation on justice and home affairs and the maintenance in full of *“acquis communautaire.”*

The Treaty established three pillars of the EU. The first pillar was supranational and was created from the three European Communities: the ECSC, EAEC and EC. The other two pillars were: the Common Foreign and Security Policy (CFSP) pillar and the Justice and Home Affairs (JHA) pillar. The first pillar had the EU's supranational institutions i.e. the Commission, the European Parliament and the European Court of Justice. These had the most power and influence while the CFSP and JHA pillars were intergovernmental in nature with decisions being made by member States' officials. The three pillars were extensions of existing policy structures. The EC Pillar was a continuation of the EEC.

The second pillar was a continuation of the coordination that was carried out by the EPC. The JHA extended cooperation in law enforcement, criminal justice, asylum and immigration that had been an intergovernmental initiative under the Schengen Implementation Convention of 1990. The real achievement at the Maastricht meeting was the Treaty on Economic and Monetary Union (EMU) in which the EC members agreed to adopt a single currency and banking system for Europe. The first stage of EMU began in 1990 and sought to liberalize fully capital transactions within the EU. In 1994, the European Monetary Institute (EMI) was established and it assumed the preparatory functions for the European Central Bank (ECB) to begin working at the beginning of the third stage of the Union. In May 1998, the European Council came up with a four convergence criteria that had to be met by EU countries wishing to join the EU. The criteria included: the achievement of a high degree of price stability; a sustainable government financial position; exchange rate stability and the durability of convergence as reflected in long-term interest rates. Eleven EU member States were invited to join EMU because they met these requirements.

The third stage of EMU began in January 1999 when the conversion rate of the participating currencies was fixed irreversibly against the Euro. The ECB which had been established in Frankfurt in July 1998 became fully operational at this stage and took charge of the common monetary policy.⁸²

⁸² Shams R. (Prof), *'Vision and Historical Development of European Integration. Experiences and Historical Development of European Integration from Customs Union to Economic and Monetary Union'* in Dialogue on the Regional Integration in East Africa: Proceedings of an EAC Seminar in Arusha, 19- 20 March 2001. P. 81

The Maastricht Treaty has been modified in a number of ways to accommodate changes that occur in the EU especially when new members join. This has been done by the Treaty of Amsterdam, the Treaty of Nice and the Treaty of Lisbon. The Treaty of Amsterdam was signed on 2 October 1997, and came into force on 1 May 1999. Its main purpose was to reform EU institutions in preparation for the arrival of future member countries. It amended, renumbered and consolidated the EU and EEC treaties. The Treaty of Nice of 26 February 2001 came into force on 1 February 2003 reformed EU institutions so that the EU could function efficiently after reaching 25 member States. It formulated ways of changing the composition of the EU Commission and redefining the voting system of the Council. The Treaty of Lisbon entered into force on 1 December 2009 and reformed many aspects of the EU. It changed the legal structure of the European Union, merging the EU three pillars system into a single legal entity provisioned with a legal personality and created a permanent President of the European Council. Article 50 of the Treaty of Lisbon amended the TEU to allow Member States to withdraw from the Union as per the State's constitutional requirements.

It is instructive to note that a considerable part of the Treaty of the European Union is composed of provisions amending earlier treaties e.g. Part II involves 'Provisions Amending the Treaty Establishing the European Community' Part III refers to the ECSC while Part IV refers to EURATOM. This approach has ensured that the process has evolved cumulatively and it has strived to eliminate conflicts between preceding and succeeding treaties. This also makes it easier to assess achievements and to identify

constraints since all the provisions are incorporated in the consolidated and updated document.

3.6 The Institutions of the EU

These are outlined in Article 13 of the TEU which states that:

“The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions.” This sets out the system of supranational institutions and inter-governmental decisions through which the EU operates. The institutions are: the European Parliament, the Council of the European Union, the European Council, the European Commission, the Court of Justice of the European Union, the European Central Bank and the Court of Auditors.⁸³

3.6.1 The European Parliament

It is composed of representatives of the more than 500 million EU citizens. It has a membership of 751 members who are elected every 5 years by universal suffrage. The Parliament shares the legislative and budgetary authority of the Union with the Council of the European Union. It is tasked with exercising functions of political control and consultation as laid down in the Treaties and also elect the President of the Commission.

⁸³ Treaty on the European Union, Article 13

3.6.2 The European Council

It constitutes of the Heads of State or Government of the EU Member States. It meets four times a year to define the Union's policy agenda and give impetus to integration. It also provides political direction at the State or Governmental level to the Union. It does not have legislative function and its decisions are by consensus except where it is provided for otherwise.⁸⁴

3.6.2 The Council

It consists of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote. It is composed of 28 national Ministers who meet in various configurations depending on the topic to be discussed. The Council shares the legislative and budgetary power with the European Parliament.⁸⁵

3.6.3 The Commission

It is the executive arm of the EU. It is composed of one appointee from each Member State but it is designed to be independent of national interests. It is responsible for drafting all law of the EU and proposing Bills. The Commission is concerned with the day-to-day running of the Union and has the duty to uphold the law and Treaties. It exercises coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, the Commission ensures the Union's external representation.

⁸⁴ Treaty of the European Union, Article 15

⁸⁵ Treaty on the European Union, Article 16

The Commission is headed by the President who is nominated by the Council while the other Commissions are nominated by the member States and approved by the EU Parliament.⁸⁶

3.6.4 The Court of Justice of the European Union

It is the judicial organ of the EU located in Luxembourg, Luxembourg. It interprets EU law and ensures its observance in its interpretation and application of the Treaties. It consists of two major courts and specialised courts: the Court of Justice, the General Court and specialised courts.

The Court of Justice was first created in 1952 as the Court of Justice of the ECSC and later named the Court of Justice of the European Communities. It consists of one judge from each Member State assisted by the Advocates-General. The General Court was created in 1988 and includes at least one judge per Member State. The Judges and the Advocates-General of the Court of Justice and the judges of the General Court are chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are *Juris* consults of recognized competence. They are appointed by common accord of the governments of the Member States for six years. Retiring Judges and Advocates-General may be reappointed⁸⁷.

⁸⁶ Treaty on the European Union, Article 17

⁸⁷ Treaty on the Functioning of the European Union, Article 253

The Court of the European Union reviews the legality of the acts of the institutions of the EU; ensures the Member States comply with obligations under the Treaties; and interprets European Union law at the request of national courts and tribunals⁸⁸.

3.6.5 The European Central Bank

It is the central bank of the EU. It was established in 1998 by the Treaty of Amsterdam and took over from the European Monetary Institute. The ECB together with the national central banks of the EU constitute the European System of Central Banks (ESCB). The ECB together with the national banks of Member States whose currency is the Euro (Eurozone) form the Euro system and they conduct the monetary policy of the Union. The ESCB mainly maintains price stability and supports the general economic policies of the Union.⁸⁹

The ECB has the Governing Council which comprises the members of the Executive Board of the European Central Bank and the Governors of the national central banks of the Eurozone. The Executive Board comprises the President, the Vice-President and four other members. The President, the Vice-President and the other members of the Executive Board are appointed by the European Council, acting by a qualified majority, from among persons of recognized standing and professional experience in monetary or banking matters on a recommendation from the Council, after it has consulted the European Parliament and the Governing Council of the European Central Bank. Their

⁸⁸ Treaty of The European Union, Article 19

⁸⁹ *Treaty on the Functioning of The European Union*, Article 282.

term of office is eight years and non-renewable. Only nationals of Member States may be members of the Executive Board.⁹⁰

3.6.6 The European Court of Auditors

It is composed of one member from each Member State appointed by the Council every six years.⁹¹ The Members of the Court of Auditors are chosen from among persons who belong or have belonged in their respective States to external audit bodies or who are especially qualified for the office. Their independence must be beyond doubt⁹². They don't have a judicial function as the name suggests but ensure that the taxpayers' funds of the EU are spent properly. It gives an audit report for each year to the Council and Parliament. It also gives opinion and proposals on financial legislation and anti-fraud actions. The Court of Auditors examines the accounts of all revenue and expenditure of the Union. It also examines the accounts of all revenue and expenditure of all bodies, offices or agencies set up by the Union in so far as the relevant constituent instrument does not preclude such examination⁹³

3.7 Challenges Facing the EU.

Despite its notable success, the EU has been rocked by quite a number of challenges that have put into real test. These include the Eurozone Crisis, Ukrainian Crisis and the immigration Crisis. The Eurozone Crisis has seen some Eurozone members i.e. Greece, Portugal, Ireland, Spain and Cyprus unable to repay or refinance their government debt or

⁹⁰ *Treaty on the Functioning of The European Union*, Article 283

⁹¹ *Treaty on the Functioning of The European Union*, Article 285

⁹² *Treaty on the Functioning of The European Union*, Article 286

⁹³ *Treaty on the Functioning of The European Union*, Article 287

bail out over-indebted banks under their national supervision without the help of third parties like the other Eurozone countries, the ECB or IMF. This has led to adverse economic effects like rise in unemployment in Greece and Spain. The Ukrainian Crisis saw political instability rock Ukraine after the then President Victor Yanukovich refused to sign an association agreement with the EU. This led to mass protest from the people who wanted closer ties with the EU and ultimately there was a revolution in February 2014 which ousted Yanukovich. There followed post-revolution across the country which then escalated to pro-Russian unrest which led to the annexation of Crimea.

The EU currently faces an immigration crisis whereby there is an influx of refugees from the Middle- East and Northern Africa. The refugees are in scores of millions and there is disagreement among the EU nations on how to handle the crisis. This is attributed to lack of a clear refugee policy in the EU. It has been argued that the EU's challenges stem from the fact that the purpose for which integration of Europe came about of preventing war was achieved long ago and now the new generation running EU affairs grapple with generating new vision for posterity of the Union.

3.8 Strategies That Have Propelled the EU

The integration of the EU has been a tumultuous process and the Union has been hit by a number of crises as outlined above that have threatened its unity. Nevertheless, the integration of the EU has been successful given a number of significant factors:

- a) The vision of a united Europe which was initiated and propagated by the likes of Robert Schuman of France and Konrad Adenauer of Germany. They conceived

the idea of a new form of politics based on the supranational "community method" rather than the traditional balance-of-power model. The Franco-German axis has been instrumental and largely the main motivation for the integration process.

b) There has been consistent political will to share sovereignty and construct strong, legally based, common institutions to oversee the integration project. This can be credited on the progress made so far in the EU integration scheme and the consensus approach combined with solidarity and tolerance which is based on not isolating any member State if they have a major problem such as Greece in the most recent crisis whereby the other EU Member States agreed to a bail-out proposal fronted by Greece.

c) The principles and strategies applied by the EU have also aided its integration. These include:

i) The Subsidiarity Principle- this determines the level of intervention that is most relevant in areas of competencies shared between the EU and the Member States. This principle is established in Article 5 of the Treaty on the European Union. It is fundamental to the functioning of the EU as it determines the EU can legislate on an issue and this contributes to taking EU decisions as closely as possible to the citizen. The Subsidiarity Principle is used alongside the Principles of Conferral and Proportionality. There is also the Protocol on the application of these principles. The Protocol lays

down the criteria which establish the desirability of intervention at the EU level. The intervention by the EU can only come handy if the action needed has transnational aspects that cannot be resolved by Member States, if the absence of such action will be contrary to the requirements of the Treaty and if the desired action has clear advantages to the Union.⁹⁴ The Principle of Conferral stipulates that the EU has only those competencies that are conferred upon it by the Treaties. The Proportionality Principle indicates that the content and form of the action does not exceed what is necessary to achieve the objectives set by the Treaties. These Principles have been reformed by the Treaty of Lisbon and the Treaty of Amsterdam.⁹⁵

- ii) Mutual recognition- this principle of the EU law provides that EU Member States must allow goods that are legally sold in another Member State also to be sold in their own territory. The principle applies to non-harmonized goods i.e. those goods that are not already covered by EU-wide legislation on those goods allowed in the EU market. This principle has benefited businesses and consumers by stimulating trade between the EU Member States.⁹⁶
- iii) The extension of majority voting and the possibility of opting-out and enhanced cooperation which was introduced by the Amsterdam Treaty.

⁹⁴ *Treaty on the Functioning of the European Union*, Art. 5

⁹⁵ [Eur-lex.europa.eu/legal-content/EN/TXT/?uriserv:ai0017](http://eur-lex.europa.eu/legal-content/EN/TXT/?uriserv:ai0017), Accessed on October 11, 2015 at 10.06 a.m.

⁹⁶ <https://www.gov.uk/guidance/mutual-recognition-regulation-across-the-eea>, accessed on October 11, 2015 at 10.20 a.m.

- d) Moreover, the EU integration process has been supported by adherence to the stipulated deadlines and timetables. This has maintained credibility in the whole process as the Member States dedicate their effort toward executing agreements within the set timelines.
- e) The Union is also hesitant to move forward with policies until the majority of member States are ready to adopt them. In the event that a Member State has any reservation on a particular issue, the Commission shelves the idea and resorts to more and wider consultations to address the raised issue(s).
- f) The EU decision-making bodies compose of representatives of the national governments rather than legislatures. This gives the citizens of the EU member States direct participation in the EU affairs through their representatives. Hence the EU is undoubtedly a scheme that can be used as a model in regional integration in other parts of the World.

3.9 Conclusion

The EU has undergone a long and extensive transformation to be what it is today. Like any other Regional Integration Scheme, the EU has faced a number of challenges some of which have put to test its ability to stick together. However, what stands out in the integration of the EU is the fact that it has been able to navigate through these challenges a phenomenon that strengthens it. This can be attributed to the strong political will and readiness to share State sovereignty by the EU Member States leaders. The strategies discussed above have been instrumental in making the EU a model integration scheme in the World.

CHAPTER FOUR
EVALUATION OF CHALLENGES FACING EAST AFRICAN INTEGRATION
AND LESSONS FROM THE EUROPEAN UNION

4.1 Introduction

This chapter analyzes the challenges that the EAC faces in the modern times. It focuses on study findings and analysis, based on both primary data collected through a questionnaire administered to officials of the Kenyan East African Affairs and Tourism Ministry, EAC Partner States' embassy officials and secondary collected from materials and documents on the EAC. The chapter also discusses the lessons that the EAC can draw from the European Union.

4.2 The Challenges that Face the EAC Integration

A number of steps have been taken to ensure the EAC achieves the objectives set out in the Treaty but still there are challenges that hinder the full realization of these objectives. The Heads of State expressed concern at the slow pace of integration at a special Summit held in Nairobi on 27 - 29 August, 2004, and resolved to examine ways of expediting the process so that the ultimate goal of a Political Federation is achieved through a Fast Track Mechanism. The Summit set up a Committee to examine ways and means of fast tracking the EAC Political Federation which carried out wide consultations and presented its Report at the 6th Summit Meeting on 29th November, 2004⁹⁷. The committee came up with a fast-track timetable⁹⁸:

⁹⁷ *Report of the Committee on Fast Tracking East African Federation*, Background Section.

⁹⁸ Saturday Nation, November 27th, 2004. P.3

The Fast-Tracking Timetable as was drawn by the Committee:

Timeline	Activity	Status
January 2005	Free movement of goods across borders	Partially achieved
June 2005	Appointment of EAC Affairs ministers	Achieved
August 2005	Opening of regional airspace	Not yet achieved
December 2005	Establish the East Africa Central Bank	Not yet achieved
December 2007	Set up a Common Market	Achieved
September 2009	Draft Constitution and Referendum	Not yet achieved
December 2009	Single Regional Currency	Not yet achieved
2010-2012	Regional Constituencies drawn up	Not yet achieved
December – March 2013	Election of the East African President	Not yet achieved

Despite this ambitious timetable the EAC is yet to achieve most of its scheduled activities as shown in the table above. This can be attributed to the issues discussed here below.

4.2.1 Multiple Membership to Other Regional Blocs

The EAC Partner States are engaged in multiple REC memberships, Burundi is a member of COMESA, and Economic Community of Central African States (ECCAS) whereas Kenya is also a member of COMESA, Rwanda is a member of COMESA, and ECCAS, and Tanzania is a member of SADC while Uganda is also a member of COMESA. These blocs sometimes compete, or even overlap each other rather than complement each other. Belonging to other regional blocs makes EAC members reluctant to remove internal barriers to allow free movement of the factors of production and goods. A Common External Tariff (CET) is important to ensure free circulation of goods through the application of equal customs duties. That the EAC Partner States belong to the other regional blocs leads to the perforation of the EAC's CET in that the members trade with other countries outside the EAC below the agreed tariffs. This also means that the Partner States also have other commitments which may distract them from focusing on the EAC agenda. However, there have been efforts to forge a cooperation amongst the three blocs i.e. EAC, COMESA and SADC to come up with a Tripartite Agreement. This aims at smoothening the operations of each Partner State's in the respective bloc. The Tripartite seeks to promote regional economic growth by creating a conducive environment to facilitate regional trade. This will involve development of infrastructure, joint planning and free movement of business people across the tripartite region to facilitate the conduct of business. It also seeks to address the challenges of overlapping

membership by harmonizing programmes across the three RECs. The Tripartite Free Trade Area was signed in June 2015 and is currently in the process of being ratified by the Parliaments of the 26 members of the three RECs.

4.2.2 Protectionism Against of Loss of Sovereignty

There is fear that Partner States will lose power and independence of decision making if they are wound up to be a federation. Since the *Treaty Establishing the EAC* envisions a Political Federation, there lingers the question of how political federation will modify the sovereignty of the Partner States, and the kind of sovereignty that will emerge out of the Political Federation. Ceding international personality is a major challenge and poses the difficult plan of State succession affecting matters such as debts contracted, properties acquired and agreements already entered with international organizations and other countries. It also stretches into the management of common resources, budget and resource allocation, taxation and disbursement of development aid. The political elite in the Member States fear that as a Federation, the nation States would cease to have any meaningful powers; that they would be relegated to mere provinces within the Federation. This fear cannot be ignored and a mechanism is needed to eliminate such fears if the ultimate Political Federation is to be achieved.

4.2.3 Disparities in Governance

Divergent governance and democratic practices have generated concerns on how the EAC federation will bridge the gap that exists in the different EAC Member States. Poor governance practices, including corruption, human rights abuse, and failure to observe

constitutionalism and the rule of law in some of the EAC Partner States are a hindrance to the full integration of the region. There is fear that such practices will spill over to Partner States with better governance records. There is a feeling that this could undo progress made at national level for example in achieving peaceful, constitutional transfer of power or fighting corruption. Fear is rife that democratic deficits and lack of accountability that exists in some of the Partner States may be replicated at the regional level. Fears about political values and culture are related to governance practices in the Partner States ranging from limited political space, inadequate judicial independence, and limitations in exercising civil rights, corruption, and lack of respect for the rule of law are obstacles that are slowing down the integration. In addition the sustainability of the East African Community and the achievement of a political federation will depend on a level of political goodwill. There is a need for sustaining political goodwill and public support since the implementation of the EAC Treaty involves successful negotiation of a number of protocols.

4.2.4 Economic Disparities

There are glaring differences in the levels of economic development of the partner states in the EAC. Kenya's economy is the strongest and has relatively more developed infrastructure than any other State in the region. There has been a concern that stronger economies in the region will dominate the weaker ones once full integration is achieved, thus causing imbalance and inequitable distribution of benefits arising out of integration. The slow convergence of macro-economic framework hinders faster economic integration. This was actually one of the major causes of collapse of the EAC I in 1977.

Differences in the levels of wealth even within the same nation endanger socio-political cohesion, peace and security of any country. EAC Partner States have diverse socio-economic and political backgrounds as well as skills gaps. This has led to imbalances in entrepreneurship, competitiveness in manufacturing and provision of services, especially professional and financial services. The 3rd EAC Development Strategy (2006- 2010) envisaged that the EAC Member States had to achieve sustained economic growth rates in excess of 7%, sustainable public debt, budget deficits of less than 5% and single digit inflation. In spite of considerable development the challenge of macro-economic indicators persisted and they underperformed with regard to the EAC Convergence Criteria.

4.2.5 Financial Resource Challenges

There is a challenge in member States paying up their dues in good time or even fully and this hinders the operations of the EAC. There are limited options of raising resources to implement regional integration programmes. It has been argued that the challenge in remitting dues to the EAC could be attributed to the Partner States belonging to multiple RECs hence they get overwhelmed by the demands needed by the RECs.

4.2.6 Lack of Civil Society Engagement and Citizen Awareness

The Treaty Establishing EAC provides that the EAC will be people-centred. There is also a provision in the same line that the EAC will be market driven⁹⁹. This conception is structurally contradictory. Usually, markets are not people-centred and their quests will

⁹⁹Treaty for the Establishment of the East African Community, Article 7, 1(a)

rarely deliver on popular expectations. The reality on the ground shows that the people are neither adequately informed nor playing any active role; hence they cannot be said to be at the centre as anticipated in the Treaty.¹⁰⁰

4.2.7 Lack of Politically Accountable Authority at Regional Level

The autonomy of the organs and institutions of the EAC is not guaranteed as some officials are directly still answerable to their respective governments. For example, the Director General of the EAC Customs Union is an appointee of the EAC but the Commissioners under him are appointees of the Partner States' governments. This can compromise how the institution works as it may be subjected to divergent policies emanating from the different governments. The EALA and EACJ are not fully independent as they rely on Member States to fund their operations.

4.3 Lessons EAC Can Borrow From the European Union Integration

The EAC can borrow some lessons from the EU so as to hasten its quest for full integration of the region. First the East African integration should fully involve the citizenry of the region. Just like the EU does, the EAC should allow citizens to elect the legislators of the EALA. Citizens of the EU elect their representatives to the European Parliament directly. In East Africa, the members of the EALA are appointees of the Heads of State and this makes them accountable to the appointing authority. On the hand, when one is elected through universal suffrage he or she has a social contract with the masses who can hold him or her accountable and demand answers whenever necessary.

¹⁰⁰ *Report of the Team of Experts on Addressing the Fears, Concerns and Challenges of the East African Federation*. P. 28

Citizens should be fully entrenched in the entire process. This could include introduction of regional studies in the curricula of the Member States especially at Secondary and Tertiary levels. The Erasmus Programme established in 1987 in the EU provides free movement of the academic community and academic exchanges in 33 States. The EAC should initiate such a programme by strengthening and expanding the mandate of the Inter University Council of East Africa. The European Higher Education Area (EHEA) integrates the education system in Europe and degrees and study periods are recognized mutually. The IUCEA should integrate regional education and facilitate the mutual recognition of academic qualifications across the region.

Economic integration is possible among countries at different stages of development. This is evident from the co-existence of Germany and France. Even though there are a lot of differences in economic capabilities traceable to the colonial legacies, these should be positively harnessed to propel the integration of the region.

The EAC can introduce the East African Court of Auditors as is the case in Europe. This institution is charged with the responsibility of ensuring that the taxpayers' funds of the EAC are spent properly. This group consists of people who are beyond reproach and whose independence is beyond doubt. The Court of Auditors examines the accounts of all revenue and expenditure and this will go a long way in confidence-building as transparency will be take centre-stage hence earn trust from all stakeholders.

The Treaty on the EU is composed of provisions amending earlier Treaties and this has ensured that the process evolved cumulatively and strived to eliminate conflicts between preceding and succeeding Treaties. This facilitates the ease assessment of achievements and identify constraints that may stall the process. The EAC could come up with a way of updating its Treaty from time to time to align it with emergent issues and ensure smooth transition. It can be argued that the rigidity of a Treaty can derail what is envisaged therein.

An integration scheme ought to be pegged on a particular imperative. This can be 'Affection', 'Threat', 'Gain' or 'Power' imperative. This provides the motivation and makes unification necessary. The EU has its origins in the 'Threat' imperative whereby the EC came about as a result of fear of war. On the other hand, the EAC tends to ride on the 'Affection' and 'Gain' imperatives which involves 'liking' each other and benefits respectively. These imperatives do not give a strong and sustained drive to achieve given objectives. The 'Threat' imperative gives the strongest desire to unite towards a common cause. European nations have NATO which is a military body tasked with executing defence operations in the European Continent. East Africa has a common threat of insecurity, terrorism and piracy. The EAC Partner States can use these threats and challenges to form a formidable force and Union to deal with them. Currently the EAC seems to rely on the proverbial political will rather than hardnosed interests for its sustenance¹⁰¹. If this is adopted then the chances of a focused and full EAC bloc will be higher.

¹⁰¹ Mwesiga Baregu, *African Economic Community and the EAC: Any Lessons from the EU?* In 'Regional Integration in Africa.

Democratic institutions have a direct impact on the cooperation between and among like-minded States. The EAC Partner States should empower and enhance those institutions that deal with the welfare of the citizenry. This will earn them trust and support from their citizens and also facilitate coordination across the region hence integration will get another avenue on which it can happen.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter provides a summary of the whole study and then gives conclusions and recommendations from the study. It is hoped that this recommendations will be helpful for the solving of the current challenges facing integration of the East African region. The study will also aid those who wish to conduct further research on the area.

5.2 Summary

The objective of this study was to examine the challenges facing EAC integration and lessons it can draw from EU integration process to overcome them. Hence it sought to evaluate the integration of the two schemes, point out challenges that EAC faces and how the strategies that were used in the European Union can be applied to help solve the challenges.

The study was divided into five chapters. Chapter One is on the Research Proposal and gave a detailed background of the study, objectives and the justification of the study, literature review and research methodology. Chapter Two gives an overview EAC integration. This includes the history of East Africa integration; the two phases of EAC integration, the challenges that the initial EAC faced that led to its collapse, revival of the collapsed EAC and the new measures that were put in place to avoid collapse of the new EAC. Chapter Three analyses the integration of Europe and the making of the EU. This includes the strategies that have been employed in the making of the EU, its challenges

and successes. Chapter Four is an evaluation of the challenges facing the current EAC as were outlined during the research. The lessons that EAC can learn from the European Integration experience are also discussed in this section.

The study relied on both quantitative and qualitative methods of data collection. Questionnaires were administered to officials working with ministries and departments concerned with the EAC. These included officials in the Kenyan Ministry of East Africa Community Affairs & Tourism, the Kenyan Ministry of Foreign Affairs & International Trade and Embassy staff of EAC member States. This provided data on the EAC while information on the European Union was obtained using qualitative methods in which secondary data formed the core data collection.

5.3 Conclusion

From the study it is evident that integration in the East Africa region is a step in the right direction. It is been a long and tumultuous journey that has been characterized by quite a number of challenges. The quest for integration transcends time and its benefits are supposed to be felt by all the people in the region. Any integration scheme faces challenges at one point or the other. It is the bloc's ability to rise above such challenges that gives the impetus and zeal to proceed with the integration. Successful integration needs a 'forward-looking' strategy. The EU is lauded as a great model for integration but it has also been through a number of crises that have threatened to tear down the Union. These include: the Eurozone Crisis, the Ukraine Crisis and most recently the Immigration Crisis. However, the EU has been able to weather these storms and forge forward albeit at

a slower pace. This can be attributed to the firm political will from EU member States and the genuine investment by the member States whose national governments put long term goals of cooperation above the more immediate domestic priorities. Mutual respect and close working relation amongst the EU nations has facilitated the Union's strides.

The EAC, on the hand, has made considerable progress but then so much more needs to be done to facilitate its quest for a Political Federation. The Partner States should realize that political will and ceding of sovereignty will be key to unlocking the silent stalemate of the EAC moving forward to integrate fully. Membership to other regional bodies also 'distracts' the Partner States from the core objectives set out in the Treaty hence such divided attention can slow down the integration. Disparities in governance and economic development creates an obstacle of harmonizing policies amongst the Partners since those with lower economic power feel exploited and this is not good. Lack of timely and efficient implementation of agreed policies and protocols deals a blow to an integration scheme. There hasn't been extensive civil society and citizens' involvement so to enable the population across the region contribute to the EAC growth and its agenda. The EU has institutionalized citizen's participation by electing their representatives directly to the EU Parliament. The hypotheses that EAC integration has challenges, their similarity with the EU challenges and the EU being the most appropriate scheme for borrowing schemes were confirmed in this study.

5.4 Recommendations

EAC integration undoubtedly gives the Partner States a competitive advantage and bargaining power in the international arena. Strong and well established institutions are fundamental in the integration process and the success of the bloc depends on the support and commitment from all member States. It is important to note that integration should be all-inclusive i.e. it should involve everybody: the political class, the private sector, the civil society and the citizenry of all the member States of the bloc. This is the surest way of ensuring that everyone owns the process and contributes to its maturity. The challenges highlighted in this study need to be addressed quickly so to facilitate the laid down objectives in the EAC Treaty (1999). Hence there should be increased private sector, Civil Society Organizations (CSOs) and citizenry involvement.

Political will and commitment from the political elite of all the five member States is instrumental in propelling the EAC integration process. The leaders in the Partner States hold an influential position that nearly all the other factors depend on. The leaders should show the goodwill and urge their respective constituencies to support the process by consistently engaging them and urging them to participate. They should initiate activities and initiatives amongst their people which contribute towards integration. They should also lead other office holders in ensuring that the integration process and its benefits are well communicated to all. Organs and institutions are very important in the integration process.

The Supranational institutions spelt out in Article 9 of the EAC Treaty require reformation, strengthening and adjustment to address emerging issues within the community. These include their functioning, membership, methods of operation, accountability, reporting and monitoring so as to ensure efficiency. The institutions should be strong so as to ensure effective implementation of policies and protocols through robust institutional enforcement and evaluation. Partner States should commit fully to implement, enforce and execute all initiatives and projects within the set timelines. This should include aligning their institutions and other infrastructure as may be necessary to facilitate the same. In the same breath, the EAC Partner States should begin devolving their powers and authority to the EAC organs and institutions to tally with the EAC integration agenda. Protectionism against loss of sovereignty should be discarded as this will thwart efforts to achieve full integration.

Moreover, there should be concerted effort in the region to address disparities in the governance and economies of the members. These are a hindrance to successful integration given that they create suspicion and mistrust amongst the member States which may feel 'taken advantage of.' There is need for more coordinated and enhanced cooperation in dealing with challenges related to insecurity e.g. terrorism, proliferation of small arms and influx of refugees into the region.

A common Central Bank should be re-instituted faster so as to facilitate coordination of fiscal policies in the region and also establish a common currency as anticipated. This will help sort out the economic disparities that exist among the five Partner States so as to facilitate harmonization of trade laws, macroeconomic, investment and tax policies.

Bad governance practices e.g. dictatorship, lack of democratic space, corruption, tampering with the constitution for selfish gains, etc. can compromise cooperation and free interaction amongst States. States with good governance may be reluctant to interact with others who have questionable tendencies and this isn't good for integration. The Partner States should ensure good governance and uphold democracy. A Protocol on good governance should be instituted, finalized and adopted fast so as to give a common guide on this. This will help curb democratic deficits and ensure the rule of law, transparency, accountability and constitutionalism and facilitate political reforms and social justice among members. The Member States should uphold the rule of law, continue with multi-party and all inclusive elections through transparent and open processes. Transparency and accountability build trust which is very important when it comes to forging close ties. Hence the leaders in the five member countries should uphold the ideals of democracy and good governance as this will cement the much needed cooperation in the region.

National Constitutions of the Member States need to be aligned with the EAC Treaty so as to facilitate a smooth transition. Since the EAC Treaty envisions a Political Federation, it is important to begin preparing ground for that. If the Constitutions are aligned with the

Treaty the will provide the framework needed and set the new structures necessary to avoid a 'knee-jerk' transition. Moreover, such an action will prepare the citizenry of the five member States so that they are ready for a new dispensation. It will go a long of creating a regional culture among the peoples of the bloc.

Additional common transport and telecommunication services should be re-instituted. These include: a common airline and a common railway. Efforts by the governments to construct new infrastructure e.g. the \$ 26 billion Lamu Port Southern Sudan- Ethiopia Transport (LAPPSET) Corridor project which includes construction of a road network, oil pipelines, oil refinery, airports and resort cities are commendable because they will contribute immensely in the development of the region. A common railway and airline will supplement and hasten the delivery of goods and services across the region.

The Partner States should continue with their cooperation at the Tripartite and multi-lateral levels. The infamous phrase 'Coalition of the willing' only works towards exclusion of some Partner States hence is against the spirit of the integration of the region. All the EAC member States should forge forward as a bloc.

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Treaty on the Functioning of the European Union.

Treaty of Lisbon

Treaty of Nice

APPENDIX I: QUESTIONNAIRE

KENYAN EAST AFRICA COMMUNITY AFFAIRS MINISTRY OFFICIALS, EAC PARTNER STATES' EMBASSY OFFICIALS, KENYAN MINISTRY OF FOREIGN AFFAIRS & INTERNATIONAL TRADE OFFICERS AND IMMIGRATION OFFICERS.

My name is George Maangi. I am a Post-graduate student at the University of Nairobi conducting a research on the Challenges Facing Regional Integration in the East Africa Community and Lessons That Can Be Drawn from the European Union Integration. This is part of my Master's degree in Diplomacy.

I kindly request your assistance in conducting the research by completing the attached questionnaire. The information provided will be kept confidential and solely used for the study and will not be shared for any other purpose.

Thank you for taking your time to complete the questionnaire!

Question 1

a) Which EAC Partner State do you represent?

1. Kenya
2. Uganda
3. Tanzania
4. Rwanda
5. Burundi

Question 2

How many years have you worked within the EAC region during the integration process?

- 1. (1 - 5) years
- 2. (6 - 10) years
- 3. (11 - 15) years

Question 3

Which other Regional Community (REC) does your country belong to apart from the EAC?

- 1. COMESA
- 2. SADC
- 3. ECCAS
- 4. Others: Name: _____

Question 4

The following are some of the challenges facing regional integration in Africa, mark the ones which relate to the EAC

- a. Memberships to other regional bodies
- b. Disparities and differences in economic development
- c. Ideological differences amongst leaders
- d. Conflicts and Political instability in member States
- e. Lack of political commitment and sovereignty issues
- f. Lack of civil society engagement and citizen awareness

- g. Fear of loss of political power in case of political integration
- h. Limited options for raising resources to implement regional integration programmes
- i. Inadequately operationalized regionally shared vision
- k. None alignment of national and regional policies and plans, laws and regulations

Question 5

Do you think EAC will finally achieve a Political Federation as envisioned in its Treaty?

- Yes No

Question 6

The European Union is the most developed integration scheme in the World today. Its successes have been pointed to result from the strategies and actions outlined below. In your own opinion do you think the EAC can borrow any lessons from the European Union? Tick the areas you think the lessons can be drawn from the EU to enable EAC integrate fully.

- a. Political Will and Commitment from European governments
- b. Strong institutions with firm legal foundations
- c. Principles of Subsidiarity and Mutual Recognition amongst partners
- d. Representation by national governments' officials rather than from legislature
- e. Decision-making by consensus and tolerance amongst partner States

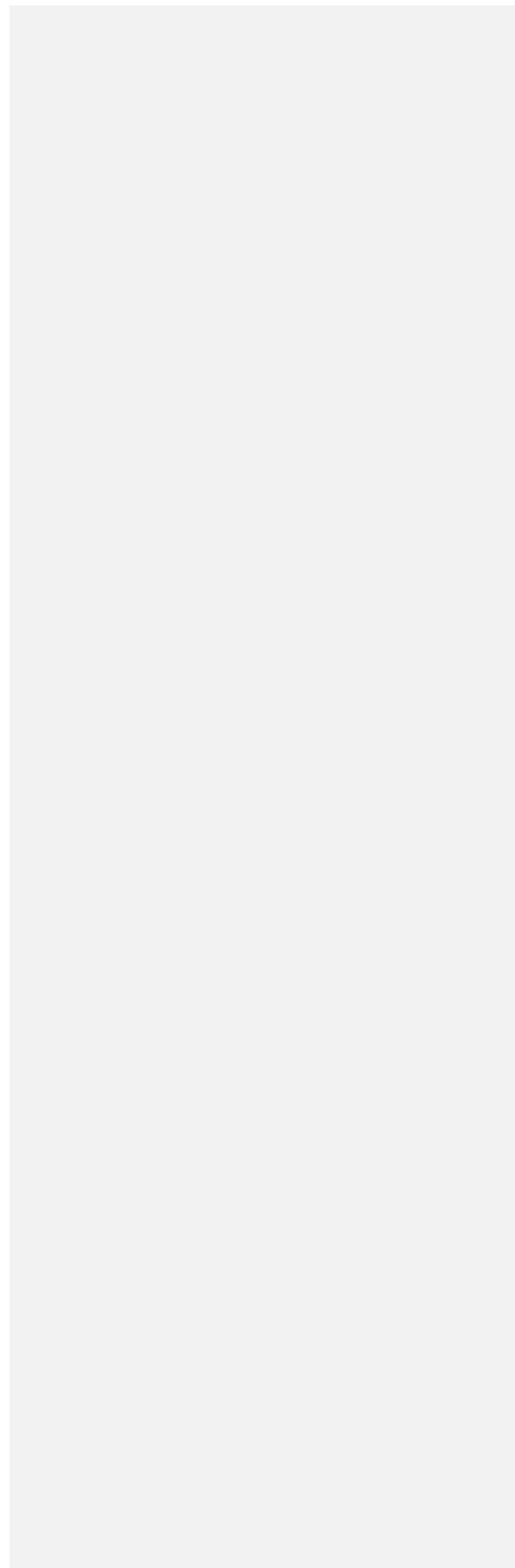
Question 7

Briefly what would you say about the EAC's quest for integration?

Question 8

Do you think the creation of the Ministries of EAC Affairs in the EAC Partner States has helped to advance the integration of the region? Briefly explain.

THANK YOU!



APPENDIX II:

TABLE 1- SHOWING STRATEGIC VISIONS OF EAC MEMBER STATES

Partner State	Time Frame	Strategic Vision	Priority Areas
Kenya	Vision 2030	Globally competitive and Prosperous Kenya with a high quality of life	To achieve Sectoral objectives including meeting regional and global commitments
Uganda	Vision 2035	Transform Ugandan society from peasant to a modern prosperous country	Prominence being given to knowledge based economy
Tanzania	Vision 2025	High quality of life anchored on peace, stability, unity, and good governance, rule of law, resilient economy and competitiveness.	Inculcate hard work, investment and savings culture; knowledge based economy; infrastructure development; and Private Sector Development.

Rwanda	Vision 2020	Become a middle-income country by 2020	Reconstruction, HR development and integration to regional and global economy
Burundi	Vision 2025	Sustainable peace and stability and achievement of global development commitments in line with MDGS.	Poverty reduction, reconstruction and institutional development.
EAC	Treaty	Attain a prosperous, competitive, secure and politically united East Africa	Widen and deepen economic, political, social and cultural integration at regional and global levels.

Source: 4th EAC Development Strategy 2011/12- 2015/16, p. 13