KENYA-TANZANIA TRADE DISPUTES AND ITS IMPLICATIONS TO THE EAST AFRICAN COMMUNITY (EAC), 2005-2014

BY

OGUTU ALEX OCHIENG

C50/68561/2013

PROJECT SUPERVISOR: PROFESSOR FRED JONYO

RESEARCH PROJECT PRESENTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF DEGREE OF MASTER OF ARTS IN INTERNATIONAL RELATIONS

NOVEMBER, 2019

DECLARATION

This project is my original work and has never been presented before for examination in any other university

Signature………………………….. Date……………………….

Ogutu, Alex Ochieng **Reg. C50/68561/2013**

This project has been submitted for examination with my approval as the University of Nairobi Supervisor.

Signature………………………….. Date……………………….

Professor Fred Jonyo

Dept. of Political Science & Public Admin.

ACKNOWLEDGEMENTS

I wish to acknowledge the work done by all the lecturers at the Department of Political Science and Public Administration who, in unique ways, paved way to smooth completion of this project. In particular, I acknowledge my project supervisor, Professor Fred Jonyo. His support, encouragement and most of all, guidance, resulted in successful unraveling of the project puzzle.

My course colleagues, Elijah Ambasa and Enock Omollo, provided the best peer support required for such a task. They took their valuable time to read and offer positive academic critique, a contribution that has had an invaluable share in refining the project. I duly acknowledge them both.

I also acknowledge my family: Father, brothers and sister for the moral and psychological support accorded.

DEDICATION

My late mother, Jane Ogutu, shall eternally remain central to my life. In her lifetime, she demonstrated sustained focus and sacrifice that has made this achievement a reality. Even before I could do it myself, she presciently saw my potential and unreservedly invested toward its future realization. To her, I dedicate this work.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

LIST OF ABBREVIATIONS

ACP-EU	African, Caribbean, Pacific, and European Union
AfCFTA	African Continental Free Trade Area
AD	Antidumping
AGOA	African Growth and Opportunity Act
ASEAN	Association of South East Asian Nations
BoT	Balance of Trade
CEMAC	Central Africa Economic and Monetary Community
CET	Common External Tariff
COMESA	Common Market for Eastern and Southern Africa
CVD	Countervailing Duty
DRC	Democratic Republic of Congo
DRS	Duty Remission Scheme
DSM	Dispute Settlement Mechanism
EABC	East African Business Council
EAC	East African Community
EAC-DS	East African Cooperation Development Strategy
EACJ	East African Court of Justice
EACLA	East African Central Legislative Assembly
EACSO	East African Common Services Organization
EADB	East African Development Bank
EAHC	East Africa High Commission
EALA	East Africa Legislative Council
EAMU	East African Monetary Union

ECOWAS	Economic Community of West African States
EPA	Economic Partnership Agreement
EU	European Union
GATT	General Agreement on Trade and Tariffs
GDP	Gross Domestic Product
GoK	Government of Kenya
ICC	International Criminal Court
ICT	Information Communication Technology
JCC	Joint Cooperation Commission
KAM	Kenya Association of Manufacturers
KEBS	Kenya Bureau of Standards
KEPHIS	Kenya Plant Health Inspectorate Services
KEPSA	Kenya Private Sector Alliance
KNBS	Kenya National Bureau of Statistics
KPA	Kenya Ports Authority
KRA	Kenya Revenue Authority
KRB	Kenya Roads Board
LPA	Lagos Plan of Action
MDC	Monrovia Declaration of Commitment
MNCs	Multi National Cooperations
MTS	Multilateral Trading System
NAFTA	North America Free Trade Area
NARC	National Alliance Rainbow Coalition
NTBs	Non-Tariff Barriers
OAU	Organization of African Unity

OECD	Organization for Economic Cooperation and Development
PTC	Permanent Tripartite Commission
REC	Regional Economic Community
RoW	Rest of the World
SADC	Southern Africa Development Community
SAPs	Structural Adjustment Policies
SCT	Single Customs Territory
SGR	Standard Gauge Railway
UNCTAD	United Nations Conference on Trade and Development
USA	United States of America
WAEMU	West Africa Economic and Monetary Union
WTO	World Trade Organization

ABSTRACT

Trade disputes between Kenya and Tanzania has characterized the historical relationship between the two countries. A number of studies examining trade disputes among the East African Community (EAC) member states have been undertaken. Specifically on Kenya-Tanzania, studies exist on their relationship under the first EAC, which collapsed in 1977. Not much has however been done on Kenya-Tanzania trade disputes after the re-establishment of the EAC in 1999. To fill the gap, this study therefore sought to examine trade disputes between Kenya and Tanzania and its implications to the EAC between 2005 and 2014. As a guiding framework, it used neoclassical realism owing to the theory's incorporation of state-level and systemic-level factors interplay and how it influences state decisions.

The study identified the main causes of the trade disputes between the two countries as the imposition by both countries of Non-Tariff Barriers (NTBs), lack of political goodwill, protocols implementation mismatch, membership to multiple Regional Economic Communities (RECs), varying levels of development and nationalistic ambitions and competition. Further the study identified a number of implications of the trade disputes to the EAC namely; slowing down the bloc's integration, impeding its economic growth and development and the degradation of EAC's strategic value. To address the trade disputes, the study has made a raft of recommendations including faithful implementation of the Non-Tariff Barriers Act 2017 and Single Customs Territory (SCT), sustained effort toward promoting the EAC to the citizens, embracing fair trade practices, incentivization of EAC-wide production and consumption and pushing for the implementation of more inclusive trade regimes such as the COMESA-EAC-SADC Tripartite Agreement and Africa Continental Free Trade Area (AfCFTA).

CHAPTER ONE
INTRODUCTION

1.0 Overview

This chapter introduces the study, providing guiding framework. It provides the background to the study, statement of the research problem, objectives of the study, research questions, research assumptions, justification of the study, literature review theoretical framework, methodology and definition of key terms.

1.1 Background to the Study

Trade between and among states is as old as the existence of states themselves. It is conducted either within bilateral framework, where trading states engage each other directly, or within a multilateral framework. The conduct of trade at the inter-states level is done within defined frameworks that allow for predictability and order. At the multilateral level, trade regimes are established to regulate how multiple states can trade with each other harmoniously. The most established contemporary global level trade regime is the World Trade Organization (WTO), which was established in January 1995 as a successor organization to the General Agreement on Trade and Tariffs (GATT). The primary objective of the WTO is "to open trade for the benefit of all." [1] This demonstrates the organization's liberalist orientation that seeks to harness the goodwill of states to promote the well-being of all. It seeks to accentuate the comparative strengths of various states for maximum global economic growth. It acknowledges potential challenges to such a system hence establishing provisions-some legal frameworks- that allow for management and mitigation of hindrances whenever they arise. It is a regime that strives to boost economic cooperation among member states through cross boundary trading.

Beyond the international-level regimes, regional frameworks exist that guide trade among states. The regions can either be continental, trans-continental or intra-continental. Among the most established continental frameworks include North America Free Trade Area (NAFTA) and the European Union (EU). While Africa hitherto lacks a profoundly established continent-wide trade regime, a number of geographically oriented regional frameworks exist: East Africa Community (EAC),

[1] World Trade Organisation. "What is the WTO?" https://www.wto.org/english/thewto_e/thewto_e.htm (accessed April 5th 2019)

Common Market for East and Southern Africa (COMESA), Southern Africa Development Community (SADC), Economic Community of West Africa States (ECOWAS) among others. Kenya-Tanzania trade relations fall within the EAC, which is a geographically established Regional Economic Community (REC) within East Africa.

Trade between Kenya and Tanzania could be understood against this background; bilaterally and multilaterally. Trade relationship between the two countries dates back to colonial times. Prior to independence, trade was mainly conducted within colonially regulated Protectorate frameworks. With Britain assuming control of Tanganyika following the defeat of Germany during the First World War, Tanganyika, later Tanzania, was admitted in 1927 into the "customs union between Kenya and Uganda launched in 1917"[2]. The pre-independence integration culminated in the establishment in 1948 of 'the East African High Commission (EAHC) that regulated common services: railway, postal services and currency.'[3] This was a forerunner to the first EAC, which was later to be established in 1967. Within the EAHC framework, Kenya's economic dominance was a source of tension, a fact that undermined the unity of the three member states. Nonetheless, after attaining independence, the three East African countries demonstrated desire to address their individual shortcomings while leveraging their strengths through the formation of the East African Community (EAC) in 1967. Like the defunct EAHC, the EAC collapsed in 1977 as a consequence of 'political differences.' [4] The political differences had its origins in both economic and ideological factors. At the dawn of independence of the three countries, the initial debate was on how to form a political federation, with Tanzania's Founding President, Julius Nyerere being its foremost advocate. His avid support for the idea was demonstrated when he attempted to delay Tanzania's independence in 1961 to wait for the independence of both Kenya and Uganda, a move that would bring the dream of a federation much closer. The vision would however run into a headwind owing to opposition by Uganda, which viewed it as a threat to its largely autonomous kingdoms.

[2] Kimbugwe, Kato, Perkidis Nicholas, Yeung May and William Kerr, eds. *Economic Development Through Regional Trade: A Role for the New East African Community?* (New York: Palgrave Macmillan, 2012), 61

[3] Ibid

[4] Ibid

The failure to realize the vision of a federation informed the move to a much lesser version of integration that largely emphasized economic aspects. The East African Community embodied the economic cooperation framework. The enduring pre-independence tensions transitioned to independence era. Kenya's sustained economic dominance in the EAC unsettled both Tanzania and Uganda. "Kenya continued to control about 50% of the intra-east African trade and its shares."[5] Tanzania move to adopt socialist system further complicated the quest to realize the dream of economic integration through EAC. With both Kenya and Uganda sticking to capitalist system, it became a matter of irreconcilable ideological difference. Political instability in Uganda too, especially under President Idi Amin, contributed to the unviability of the original EAC project. The EAC was later revived in 1999 following the signing of the EAC Treaty on 30th November 1999, which came into force on 7th July 2000. The original signatories of the treaty were Kenya, Tanzania and Uganda. Burundi and Rwanda signed the Treaty on 18th June 2007, becoming full members on 1st July 2007.

The Treaty laid out four pillars of integration; Customs Union, Common Market, Monetary Union and Political Federation. Through the Customs Union, which came into force in 2005, member states "agreed to establish free trade… on goods and services amongst themselves and agreed on a common external tariff (CET)."[6] Sectors under Customs Union are agriculture and food security, customs, health, immigration and labour, industrialization and Small and Medium sized enterprises development, infrastructure, tourism and wildlife management, and trade. The key initiatives here include AGOA, Single Customs Territory, EAC-EU Economic Partnership Agreement and COMESA-EAC-SADC Tripartite agreement. The second pillar, the Common Market, which came into force in 2010, granted additional freedoms namely "free movement of 'goods, persons, labour/workers, services and capital…..and rights of 'establishment and residence."[7] In addition to the sectors covered under Customs Union, the Common Market includes education, science and technology, energy, environment and natural resources, gender, community development and civil society, investment promotion and private sector development, and peace and security. The

---

[5] Lodompui, J. Tanzania's National Interest and the Collapse of the East African Community (University of Nairobi, Thesis 2010), 39

[6] East African Community. "What is the Customs Union?" https://www.eac.int/customs-union (Accessed 5th April, 2019)

[7] East African Community. "What is the Common Market?" https://www.eac.int/common-market (Accessed 5th April, 2019)

third stage, Monetary Union, allows "EAC Partner States to progressively converge their currencies into a single currency in the Community."[8] The Monetary Union Protocol was signed on 30th November, 2013 and it laid foundation for the realization of a common currency within ten years of its adoption. Sectors under the Monetary Union are trade, financial and investment promotion and private sector development. Political Federation climaxes the 4 stage integration process of the EAC. It is grounded on "three pillars: common foreign and security policies, good governance and effective implementation of the prior stages of Regional Integration."[9] The sectors covered under this stage are international relations and peace and security. The attainment of Political Federation would not only entrench the largely economic facets of integration realized through the preceding three stages, but it would also recognize and embrace political spheres of EAC's integration. Trade disputes between Kenya and Tanzania could be understood against this backdrop, defined by national interest and the desire for economic development.

Kenya-Tanzania trade disputes phenomenon, within the EAC, is not an isolated case. Similar scenarios play out globally within the WTO framework. Peter Van den Bossche articulates the tension inherent in the implementation of WTO regulations. He classifies the divergent and rival camps into liberalists and protectionists. Further he points out the guiding interests both in the developed and developing countries. Similarly, Burfisher, Norman and Schwartz point out the challenges within NAFTA. Additionally, they identify the dispute resolution mechanisms put in place to address the challenges.

1.2 Statement of the Research Problem

The revival of the EAC in 1999 with a four stage integration path laid foundation for a better trading engagement among the expanded EAC membership, with Rwanda and Burundi having joined the original three. The first two pillars have hitherto come into force: the Customs Union and the Common Market. Even with the two pillars in force, trade disputes still persist between Kenya and Tanzania. Moreover the two countries

[8] East African Community. "What is the Monetary Union?" https://www.eac.int/monetary-union (Accessed 5th April, 2019)
[9] East African Community. "What is the Political Federation?" https://www.eac.int/political-federation (Accessed 5th April, 2019)

signed a concrete bilateral agreement, the Joint Cooperation Commission (JCC), in 1988 that sought to entrench political and socio-economic cooperation between them.

While several studies have focused on trade among the member states within the broader EAC framework, not much has been done to examine the trade disputes between Kenya and Tanzania and its impact on the EAC. For instance, while examining the role of the new East African Community, Kato Kimbugwe, Nicholas Perkidis focus on the institutional role of protectionism policies in Africa. Their sample, which they extrapolate continentally, draws largely from Uganda's manufacturing sector.However, the study fails to appreciate the dynamics and uniqueness of other jurisdictions, including Kenya and Tanzania. Additionally, the focus on private sector while excluding government and public sector naturally fails to appreciate the entire spectrum of decision-making process in trade engagements.

Barak Hoffman and George Kidenda examine the role of transport sector in EAC integration. They note that the EAC "remains institutionally weak and is unable to coordinate regional infrastructure investment plans and enforce integration."[10] First, the study focusses on transport which is just one aspect of regional integration. Secondly, it bases its conclusion on a generalized assessment, individual state effort notwithstanding. It allows the state-level challenges of one state to mask successes of other states. The above studies are limited in scope while at the same time general in EAC coverage. That leaves out the dynamics and elaborate spectrums of individual states, in this case Kenya and Tanzania.

In his thesis, Lodompui Jonathan explains the role Tanzania's national interest played toward the collapse of the first EAC in 1977. He situates Tanzania's role toward the EAC's collapse within its pursuit of multiple interests within both the East and Southern Africa's regions. He attributes the eventual collapse of the EAC in 1977 to Tanzania's desire to stamp presence in the two regions. Firstly, the study focusses on the first EAC. Secondly, it focusses on Tanzania without necessarily acknowledging the dynamics of the other states, including Kenya.

[10] Hoffman, Barak and Kidenda George, *Political Economy of Transport Sector Integration in the East African Community* P. 143

It is this knowledge gap that the study intends to fill by examining the factors influencing trade disputes between Kenya and Tanzania and the impact on the EAC, 2005-2014.

1.3 Research Questions

1. What are the political, economic, geographical and social factors causing trade disputes between Kenya and Tanzania?
2. What are the implications of the Kenya-Tanzania trade disputes on the East African Community (EAC)?

1.4 Objectives of the Study

The study sought to examine Kenya-Tanzania trade disputes and its implications to the EAC. More specifically, the study:

1. Examined the political, economic, geographical and social factors causing trade disputes between Kenya and Tanzania
2. Examined the implications of the Kenya-Tanzania trade disputes on East African Community (EAC)

1.5 Justification of Study

This study is justified on both academic and policy fronts. As an academic work, this study will contribute to the general knowledge on understanding the dynamics of trade as a subset of broader international relations. It shall inform how trade plays out among various variables and the delicate balance sought to ensure safeguarding of national interests. Various studies on trade disputes have been undertaken, both within bilateral and multilateral framework. Whereas Peter Van den Bossche explains the case of WTO, his work does not address the finer details of the dynamics in the case of developing countries. Kimenyi, Lewis and Routman, while explaining the significance of intra-African trade toward boosting continental economic growth and development, do not zero down to uniqueness of various RECs, including the EAC. Lodompui Jonathan focusses on the role Tanzania's national interests played toward the collapse of the first EAC in 1977. His study is limited to the first EAC and also to Tanzania.

On policy front, this study will inform policy makers on the operations and effectiveness of RECs. This way, the study will contribute toward an understanding on what causes trade disputes, their implications and measures needed to mitigate them so that the policy makers are better placed in formulating policies that align with broader trade benefits and harmonious co-existence.

The choice of Kenya and Tanzania has been informed by a variety of factors; economic and geographical. Economically, Kenya and Tanzania are the two biggest economies in the EAC. As of 2014, Kenya's Gross Domestic Product stood at $61.45 billion while that of Tanzania stood at $48.22 billion. With a combined total of $109.67 billion against the EAC's GDP of $147.69 billion, the two contributed 74% of the entire EAC GDP.[11] Their share to EAC's GDP justifies the focus. Geographically, Kenya and Tanzania are the only EAC countries with access to coastline. The rest of the EAC members viz. Burundi, Rwanda and Uganda are landlocked and rely on the two for importation and exportation. Thirdly, membership to multiple RECs. Kenya is a member to both the EAC and COMESA. Tanzania on the hand is a member to both EAC and SADC. It is important to note that except for Tanzania, the rest are COMESA members.

The study focusses on the period 2005-2014. 2005 was identified because it was the year when the first integration pillar, the Customs Union, came into force. It allows for free movement of goods within the EAC while at the same time providing for a CET to all goods imported from outside of the EAC. In actual sense the year marked the dawn of EAC's rule-based trading relations. It was followed by the Common Market Protocol, which came into force in 2010.

1.6 Scope of the Study

The study sought to examine trade disputes between Kenya and Tanzania and its implications to the East African Community (EAC) between 2005 and 2014. The Customs Union Protocol, that sought to operationalize the first EAC integration pillars, Customs Union, came into force in 2005. The Common Market Protocol, that sought to operationalize the second integration pillar, the Common Market, came into force in

[11] World Bank https://data.worldbank.org/country/ (Accessed on 9th April, 2019)

2010. The study period, 2005 to 2014, deliberately covers the period following the coming into force of the two protocols, being the most defining protocols on trade affairs. The choice of Kenya and Tanzania was informed by a number of factors. Firstly, the two are the largest economies within the EAC and any trade dispute has the potential of greatly affecting the bloc. Secondly, they are the only countries within EAC with access to the coastline, with the other members of the bloc relying on them for access to coastline. Thirdly they provide a blend of membership to multiple RECs. Kenya is a member to both EAC and COMESA whereas Tanzania owes membership to both EAC and SADC. All the three factors collectively provide a blend of dynamics that justify their choice. It is interesting to find out how the factors inform their trading relations. Study of other countries could however be undertaken as well.

1.7 Literature Review

1.7.1 Global Perspective on Trade Disputes

In his study of the World Trade Organisation (WTO), Peter Van den Bossche captures the sustained tension between proponents of trade liberalisation and protectionism. He asks if at all "international trade (is) beneficial to anyone other than multinational corporations, the well-educated in developed countries and privileged elites in developing countries?" [12]Whereas he positively acknowledges the role that a liberalised international trading system has played in the economic growth of various countries, he explains why some countries find it necessary to adopt protectionist policies that inhibit international trade. He identifies five main reasons for the desire by states to adopting protectionist policies: protecting domestic industry and employment, safeguarding young industries from more established competitors; increasing revenue to the government through additional collections from increased custom duties, national security and self-sufficiency. He notes that protection of domestic and infant industries are especially synonymous with developing countries as opposed to the developed ones. Additionally, he points out that whereas some of the policies would appear to have injurious consequences to majority of the population, policy makers would be more inclined to align with few organised and entrenched interest groups. In other words, politics tramples over economy. While acknowledging that in some instances, adoption

[12] Bossche, Peter, *The Law and Policy of the World Trade Organisation: Text, Cases and Materials* (Cambridge: Cambridge University Press, 2005), 19

of liberal trade policies may have undesired effects on local economies through loss of jobs, he nevertheless advocates for adoption of right adjustment policies without sacrificing participation in the international trading system.

Furthermore, in situating the role of WTO in resolving international trade disputes Bossche notes that WTO employs "a rule based system through adjudication but also power-based dispute settlement through diplomatic negotiations."[13] Under WTO's Dispute Settlement Understanding (DSU), there are four methods of dispute resolution namely consultations, adjudication, arbitration; and good offices, conciliation and mediation. As a matter of procedure, preference is usually accorded to consultation failure to which adjudication is used. The framework has recorded considerable success but has also faced challenges. Since Kenya and Tanzania are members of WTO, this study will apply the entire WTO's dispute resolution mechanism to examine trade disputes between Kenya and Tanzania and the impact it has on EAC.

1.7.1.1 Regional Perspective on Trade Disputes: North America

In examining trade dispute resolution mechanisms by the North American Free Trade Agreement (NAFTA), Burfisher, Norman and Schwartz identify two broad applicable frameworks for dispute resolution, namely formal and informal. Formal mechanisms include the legally codified measures in both the NAFTA and WTO regulations. They also include national antidumping (AD) and countervailing duty (CVD) actions. Their legal framework is grounded on the fact that they have definitive, laid down application procedures, including enforcement timelines. Informal mechanisms, on the other hand, are avenues adopted by member states that largely derive from their goodwill. They are largely exercised at the discretion of the member states. The study identifies three informal mechanisms viz. government to government negotiations, private industry negotiations and technical assistance. Government to government negotiations involve direct engagements between the countries having a trade dispute.

Private industry negotiations entail the involvement of strongly established private advocacy organisations to address emerging disputes. They have especially proved beneficial to "small and medium sized businesses which need an economical and cost

[13] Ibid. 182

effective way to resolve disputes."[14] Technical assistance is NAFTA's deliberate effort to address disputes through institutional capacity building. The study notes that not only has the informal mechanisms been successful in resolving majority of the emerging disputes, but it has also proactively assisted in dealing with potential disputes before they occur. The study identifies symmetrical dispute resolution framework from a point of developed states, in this case the United States of America (USA) and Canada. This study, while borrowing from the developed states trade dispute resolutions approach, sought to examine the approach adopted by developing states, by examining what dispute resolution mechanisms Kenya and Tanzania have to address their trade disputes. NAFTA does present two crucial dynamics. First, it is a trading arrangement that comprises both developed countries, Canada and the USA, and a developing country, Mexico. The blend is interesting in establishing the dynamics of trade relationship between developing and developed states. Secondly, in its dispute resolution framework, it does provide for a mechanism of engagement between state and a non-state entity. This study borrowed from NAFTA's framework in examining trade disputes between Kenya and Tanzania and the impact it has on EAC.

1.7.2 Regional Perspective on Trade Disputes: Asia

Like Burfisher, Norman and Schwartz's study, a study by the United Nations Conference on Trade and Development (UNCTAD) explores trade dispute resolution mechanisms but within the Association of Southeast Asian Nations (ASEAN) framework. The UNCTAD study shows that whereas there are structural similarities between ASEAN and NAFTA, ASEAN, has not entrenched WTOs mechanisms as part of its dispute resolution mechanisms. Instead it prefers, as a priority, resolution of disputes amicably, in what is otherwise referred to a Dispute Settlement Mechanism (DSM) which is "patterned on the Dispute Settlement Understanding of the World Trade Organisation." [15] UNCTAD's study examines a hybrid engagement of both developed states, such as Singapore, and developing states, such as Philippines, both of whom are members of ASEAN. The study by UNCTAD spured interest into examining

[14] Burfisher Mary, Norman Terry, and Schwartz Renee "NAFTA Trade Dispute Resolution: What are the Mechanisms? Proceedings of the 6th Agricultural and Food Policy Systems Information Workshop, 2000: Pg. 139

[15] United Nations Conference on Trade and Development, "Dispute Settlement: Regional Approaches- ASEAN (2003) Pg. 23

trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

1.7.3 Regional Perspective on Trade Disputes: Europe

The European Union (EU) is one of the strongest economic, political and social inter-governmental organisation in the world. It started modestly after the end of the Second World War that left Europe in utter ruin. In examining its beginning, Goldstein and Pevehouse note that economic cooperation was at its foundation. Through the 1952 European Coal and Steel Community (ECSC), the then six member countries were able to "reduce trade barriers in coal and steel and to coordinate their coal and steel policies."[16] The 1957 Treaty of Rome expanded cooperation jurisdiction to incorporate a common market. An aspect of common market adopted in 1960s was the Common Agricultural Policy (CAP) which to date has been a source of tension and disputes not only among the EU members, but also with other non-EU countries and trading blocs. A study undertaken by the Organisation for Economic Cooperation and Development (OECD) in 2000 showed that the EU, alongside the US, have very often employed non-tariff barriers (NTBs) to protect sectors they deem crucial, with textile sector being a key beneficiary. The study also noted that "The European Union… is a frequent user of the World Trade Organisation (WTO) dispute settlement mechanism."[17] This study borrowed from EU's framework in examining trade disputes between Kenya and Tanzania and the impact it has on EAC.

1.7.4 Regional Perspective on Trade Disputes: Africa

Kimenyi, Lewis and Routman examine the role of intra-Africa trade in promoting the continent's economic growth. In their assessment, they find that "expanding intra-African trade is a key to accelerating economic growth on the continent."[18] To justify their position, they point to the success stories of intra-continental trade elsewhere, noting that in 2010, "internal trade in the European Union (EU) accounted for 60% of total trade in the EU, compared to Africa's 10%"[19]. Moreover, the study demonstrates

---

[16] Goldstein, Joshua and Pevehouse, Jon. International Relations (New York: Pearson, 2014), 359

[17] OECD. "The European Union's Trade Policies and their Economic Effects" Pg. 9

[18] Kimenyi S. Mwangi, Lewis, A. Zenia, and Routman Brandon "Introduction: Intra-African Trade in Context," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 1-5.

[19] Ibid

the power of harnessing geographical proximities, historical and cultural ties as a leverage to maximum economic benefits. From a policy point a view, the study demonstrates the benefits of striking an optimal balance between the realist driven state-centric interest and liberal integration viewpoint. Whereas the study offers a cogent argument in favour of increased trade between and among African nations, as a way to speeding growth, it does not zoom into the specifics of the dynamics between Kenya and Tanzania. This study therefore examined the trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

While acknowledging that intra-African trade holds the key to Africa's economic awakening, John Page singles out structural change as a route to Africa's economic success. He defines structural change as "the movement of workers from low productivity to high productivity employment."[20] He attributes Asia's economic progress to it while attributing Africa's stagnation to failure to implementing the same. Key to the structural change, he notes, is manufacturing sector. As a policy prescription, Page argues that a structured framework of promoting intra-African trade would be through Regional Economic Communities (REC). He emphasizes regional approaches to "infrastructure, institutional and legal frameworks in trade corridors and trade related services." [21] The study by Page is critical in two ways. First it isolates the manufacturing sector, which if well managed, could provide an ideal growth springboard. It would be useful for domestic policy makers. Secondly, he offers a foreign policy prescription on how to make the sector more profitably sustainable. By advocating regional economic cooperation, he points out the need to adopt a more liberal foreign policy outlook. Even though he is detailed in his assessment and prescription, the study by Page does not explain why even with the adoption of some of his foreign policy prescriptions, not much progress has been registered. The study also focusses primarily on manufacturing yet economic engagement involves other sectors such as agriculture, tourism and ICT. Borrowing from Page, this study examined the trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

[20] Page, John "Why Intra-African Trade Matters," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 6-7.
[21] Ibid

In their study of the role of infrastructure in intra-Africa trade, Olumide Taiwo and Nelipher Moyo argue that "trade between African countries holds promise for shared growth and development in the region"[22]. In the study, they note that whereas intra-African trade can spur economic growth in Africa, there are impediments and "barriers to the movement of goods and people within their countries."[23] As their recommendation for addressing these challenges, they emphasize the need for robust domestic development as a precursor to successful regional interaction. They argue that infrastructural development will enhance intra-African trade through enhanced mobility of both goods and services. They identify untapped potentials in roads and rail networks, underdeveloped inland waterways and prohibitive air travel costs. These, they argue, impose devastating limitations on the regional and continental integration. They provide a raft of recommendations which include "prioritizing maintenance, creating mechanisms to engage the private sector, leveraging China's growing interest in the region, and increasing connectivity between existing infrastructure."[24] Whereas the study provides an understanding of the role of infrastructure in advancing regional integration, the infrastructural development challenges faced and possible solutions, it does not capture regional specifics. The study offers useful insights in examining trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

In a separate study, Kimenyi, Lewis and Routman examine the role of external trade preferences in promoting intra-African trade. In particular, they examine the role of the African Growth Opportunity Act (AGOA) and European's Economic Partnership Agreement (EPA) in intra-African trade. In their study, they note that the structuring of the trade preferences could either be beneficial or restrictive to intra-African trade and integration. For AGOA and EPA to be a catalyst in regional integration, they note that they "should promote, rather than discourage cross-border value chains."[25] They note that positively, AGOA boosted value chain creation, with Kenya being an export destination for Tanzania's cotton. The implementation of EPA, they note, has had some

---

[22] Olumide Taiwo and Nelipher Moyo "Eliminating Barriers to Internal Commerce to Facilitate Intraregional Trade," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 8-11.

[23] Ibid

[24] Ibid

[25] Kimenyi S. Mwangi, Lewis, A. Zenia, and Routman Brandon "Trade Preferences and Value Chain," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 13-14.

counterproductive impacts largely due to the membership to multiple RECs with conflicting regulations. For example, some countries subscribe to both SADC and COMESA, each of which has different EPA preferences. This study, despite not providing detailed specifics of the impacts of the external trade preferences, does offer useful insights on the role of the trade preferences in advancing regional integration. This study will trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

1.7.5 Regional Perspective on Trade Disputes: East Africa

Muluvi, Kamau, Githuku and Ikiara, in their study of Kenya's trade within the East African Community, note that whereas Kenya's share of trade within the EAC has significantly increased with the coming into effect of both the Customs Union and Common Market, the country has yet to "fully exploit the opportunities offered by the EAC's integrated market."[26] They note that Kenya's trade volumes in the region rose from "from $1.2 billion in 2008 to $1.52 billion in 2010, representing a 26.7 percent increase."[27] They attribute the unexploited potential to institutional and regulatory barriers. They point out that part of the barriers are manifested in multiple enforcement agencies in various jurisdictions. They single out Kenya's Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KEBS), Kenya Roads Board (KRB), Kenya Ports Authority (KPA) and Kenya Plant Health Inspectorate Services (KEPHIS). They note that "these agencies operate independently of each other, without much coordination (thereby occasioning delays)."[28] The study, by laying particular emphasis on Kenya's role in establishing and enforcing disruptive barriers, provides an insight into the role of non-tariff barriers (NTBs) in restricting intra-African trade. This study narrowed down to the conduct of business between Kenya and Tanzania, examining trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

Thandrayan identifies membership to multiple RECs as a source of tension and barrier to smooth intra-African trade and integration. This, he notes, to be especially the case in areas where regulation and obligation differences couple overlapping membership.

---

[26] Muluvi Augustus, Kamau Paul, Githuku Simon and Ikiara Moses "Kenya's Trade within the East African Community: Institutional and Regulatory Barriers," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 20-23.

[27] Ibid
[28] Ibid

In the case of EAC, he notes that "the most pressing overlap to resolve is that of Tanzania's continued membership in SADC.[29]" Based on Tanzania's dual EAC-SADC membership, he argues that membership to RECs is not exclusively informed by economic factors but also "strategic, political…and objectives of the member state." He attributes Kenya's sustained economic dominance as a source of mistrust and tension between the Kenya and Tanzania, informing the latter's move to join SADC as a strategy of containing Kenya's EAC dominance. While borrowing from Thandrayan's study on the impact on trade of parallel membership to multiple RECs, this study sought to examine trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

Cooksey examines Tanzania's domestic political nationalism and its impact in foreign policy formulation. He notes of an emergence of Tanzania nationalism in "in which the ruling elite and Tanzanians more generally are struggling with the existential choice between trying to compete in international markets or retreating behind a wall….that protect local professionals, companies and entire sectors against external competition."[30] He notes the desire by the current Tanzania leadership to reclaim the high profile assumed by the country's Founding Father, Julius Nyerere, who stood out as a liberation hero. Economically he opines that Tanzania has adopted a more protectionist approach to trade, opting to restrict the exploitation of its resources to most pliable entities. In studying Tanzania's nationalism, Cooksey's study offers foundation for examining trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

In their study, "Mapping of Dispute Settlement Mechanisms in Regional Trade Agreements (RTAs)", Chase, Yanovich, Crawford and Ugaz note that five of Sub-Sahara's regional economic communities including Economic Community of West African States (ECOWAS), Common Market for Eastern and Southern Africa States (COMESA), Central African Economic and Monetary Community (CEMAC), EAC,

[29] Thandrayan, Pearl "The EAC: Regional Engine, African Model," *World Politics Review* (February 2013): https://www.worldpoliticsreview.com/articles/12733/the-eac-regional-engine-african-model (Accessed 3rd April, 2019)

[30] Cooksey, Brian, "Tanzania and the East African Community: A Comparative Political Economy", *European Centre for Development Policy Management, Discussion Paper 186* (May, 2016), Pg. 24.

West African Economic and Monetary Union (WAEMU), adopt a judicial model of dispute settlement mechanism (DSM). In their conceptualization, they define the judicial model as one in which there is greater operational autonomy and judicial authority. Whereas the study informs on the DSM adopted by the EAC, it does not offer a detailed examination of the effectiveness of the mechanism in addressing the trade disputes between Kenya and Tanzania. The foundation provided was crucial in examining trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

Existing literature has demonstrated the role of trade in promoting integration at different levels; state, inter-state, regional, intra-regional and globally. The motivations behind formation of different engagement frameworks as a way of boosting trade has been aptly and extensively captured. Equally, the push and pull between the liberal and realist motivations behind the formulation of foreign policies that inform different policy preferences have been demonstrated. Some regional dynamics and state-scale relations have been noted. The case of NAFTA and the European Union, for instance, demonstrates the engagement between and among developed states and developing states. The ASEAN demonstrates a common engagement framework comprising both developed and developing states. The EU-Africa and US-Africa engagements, through Economic Partnership Agreement (EPA) and AGOA respectively capture the dynamics between developed and developing states. Available literature on the various intra-African frameworks demonstrate, not just developing-developing states relationship, but it captures the African context and set up. Within the EAC, existing literature mostly captures trade relationships among the member states. There is however, minimal literature that is specific to the conduct of trade between Kenya and Tanzania and the impact they have on the EAC, to which both are members. This study therefore sought to examine the trade disputes between Kenya and Tanzania and the impact the disputes have on the EAC.

The EAC has been a subject of university projects as well. John Kipkoech examines the challenges and prospects of the EAC regional integration process. He identifies key crucial challenges. Firstly, exportation of mainly primary products, poor infrastructure and low industrialization level. Secondly, the tendency by member states to undermine the EAC institutions. Thirdly the highly uneven development among member states and finally, the failure of domestication of EAC operations within the systems of member states. It is important to note that some of the challenges highlighted characterized the first EAC that collapsed in 1977. While appreciating the revelations of the challenges, the study does however fail to identify individual member states contributions to the challenges.

1.8 Theoretical Framework

Sorensen conceptualizes theory as a framework through which the world can be understood. In an ever changing world, full of evolving dynamics, Sorensen notes "facts do not speak for themselves….they (theories) structure our view of the world."[31] They assist extracting sense and meaning from a sustained interplay of factors globally. This includes inter-states interactions. The behaviour of states between and among themselves exhibits varied patterns. It may assume the spirit of cooperation and sometimes that of confrontation. The engagement between a state and the outside world has its foundation in the foreign policy configuration. The nature of the government in place, whether in a democracy, autocracy or monarchy, informs the nature of the foreign policy adopted to engage with the outside world.

International relations are founded on political, economic and social pillars. Trade is a key component of international economic engagement. In view of Sorensen, a clear framework would be necessary to help organise the complex engagements into a more systematic and comprehensible output. The most dominant international relations theories are realism and liberalism and their derived strands. Each of the theories attempt to explain why states behave as they do. This study will employ neoclassical realism to provide a theoretical foundation for examining the trade disputes between Kenya and Tanzania.

Neoclassical realism is a synthesis of both the classical and neo-realism strands of realist theory. It combines both state-centric elements of classical realism and structural and systemic elements of neo-realism. It acknowledges the influence of systemic variables on state actions and at the same time acknowledging the role of domestic factors on foreign policy formulation and conduct. Neo-classical realists want "to retain

[31] Sorensen, Georg and Jackson, Robert, *International Relations: Theories and Approaches* (Oxford: Oxford University Press, 2013), 57

the structural argument of neorealism. But they also want to add to it the instrumental (policy or strategy) argument of the role of state leaders on which classical realism places its emphasis."[32] Its blending of both systemic and domestic variables makes it the most suitable theory in examining trade between Kenya and Tanzania.

According to its foremost proponent Gideon Rose, it 'explicitly incorporates both external and internal variables, updating and systematizing certain insights drawn from classical realist thought.' [33] It reconciles the competing views of both the offensive and defensive strands of realism. While the former accords primacy to the influence of systemic factors on individual state behaviour, the latter 'takes a softer line, arguing in practice that systemic factors drive some kinds of state behavior but not others.'[34]Additionally, the theory challenges the 'Innenpolitik' theories, whose primary assumption is the overwhelming influence of domestic factors in shaping a country's foreign policy.

Primarily, neoclassical realism is anchored on some key assumptions. Firstly, the theory assumes that state's relative power in the international system shapes its foreign policy trajectory. They point out that the more power a state accumulates, the higher the appetite there would be to assert influence globally. Similarly, power diminution would occasion contracted influence from the global space. Secondly, while acknowledging that the international system is anarchic, neoclassical realists assume that 'states respond to the uncertainties of international anarchy by seeking to control and shape their external environment.' [35]Thirdly, the theory assumes that domestic factors, including the nature of decision-makers, play a role in shaping state's behavior in the international system. The theory asserts that understanding of state's relative power might be 'relative' depending on the decision-maker. In other words, there is no fixed or straight-forward or absolute definition of states' relative power. It is on that basis that they acknowledge the space of domestic variables in shaping states' foreign policies.

---

[32] Ibid Pg. 87

33 Rose, Gideon, "Neoclassical Realism and Foreign Policy", Review Article in World Politics 51, (October, 1998), 146

[34]Ibid

[35] Ibid. Pg 152

Application of the Theory to the Study

The suitability of the theory derives from its explanatory capability that captures the nexus between state and the international system. Both Kenya and Tanzania are states within the international system. They both have similarities and attributes that are unique to them. In addition to being independent states in the international system, they share membership to various international and regional organizations which include, inter alia, the East African Community (EAC). The theory, by acknowledging the place of state and the constraining dynamics imposed by the international system, aptly accounts for the trading relations between Kenya and Tanzania, including the implication to the EAC. The role of relative power and varied decision-makers are key variables in explaining trade disputes between Kenya and Tanzania. On the one hand, the existence of trade disputes between the two countries point to the state-centric interest as generally articulated by realists. On the other hand, the fact of committing to extra-state institutions, in this case EAC, points to the role of systemic factors. The blend of the two justifies the suitability of neoclassical realism.

1.9 Definition and Operationalization of Key Concepts:

Trade disputes: According to Gordeeva Tamara, trade disputes occur when 'there is tension in the relations, associated with the material losses caused by the measures taken by one country, which worsen the trade conditions of the other (or others).'[36] In the context of this study, trade disputes mean trade tensions between Kenya and Tanzania occasioned by either geographical, economic, political or social factors.

Geographical factors: In the context of this study geographical factors refer to factors associated with the locations of both Kenya and Tanzania in absolute terms as well as relative to other countries and physical features.

Economic factors: In the context of this study economic factors are associated with the economic size of both Kenya and Tanzania and the role that they play in their international engagements.

Political factors: In the context of this study political factors are factors that identify with the idiosyncratic nature of leadership and systems of decision-making obtaining from Kenya and Tanzania.

---

[36] Tamara, Gordeeva. 'International Trade Disputes in Modern Regulatory Paradigm.' IEP 19 (2013): Pg. 105

Social factors: In the context of this study, social factors are associated with demographic attributes: composition and behaviour (culture) of both Kenya and Tanzania.

1.10 Research Assumption

1. Trade disputes between Kenya and Tanzania have negative implications on the East African Community (EAC).

1.11 Research Methodology

This section discusses the methodology used. More specifically, it presents the study approach, research design, sources of data, data collection techniques, study population, sample frame, sample size, sampling technique, reliability and validity, method of data analysis and ethical considerations.

1.11.1 Study Approach

This is a mixed study. It analysed both qualitative and quantitative data to understand trade disputes between Kenya and Tanzania and the implications it has had on the East African Community (EAC) between 2005 and 2014.

1.11.2 Research Design

Research design can be defined as a totality of the all the components and steps undertaken in a particular study. The components include identification of a research problem, formulating of research questions, assessment of an existing theory, data collection and analysis. The research design for this study is mixed design. The suitability of the design stems from its focus on both qualitative and quantitative data. Quantitative data in the study include figures used to capture trading volumes between the two countries relative to other comparable circumstances. Such figures, mostly drawn from secondary sources, show trade volumes and derivable trends over the study period. The data has been analyzed via graphs and pie-charts to provide better visual interpretation. The choice of figures deliberately aligns with the study objectives. Qualitative data has been used to describe various issues in line with the study objectives.

1.11.3 Sources of Data

The study employed both primary and secondary data. Primary data was sourced from respondents, primary publications, including official joint communiques and press releases covering the study period. Secondary sources included books, journals and newspapers.

1.11.4 Data Collection Techniques

Interviews were conducted through an interview schedule prepared in advance. Prior prepared questions were administered to various respondents from the sampled population: Officials from the ministries of East African Community, Trade and Industrialization and Foreign Affairs in Kenya, Tanzania High Commission and the East African Community Secretariat, the East Africa Legislative Assembly and the East African Court of Justice. Additional data was sourced from various relevant publications.

1.11.5 Study Population

The study population include officials from the Government of the Republic of Kenya, Government of the United Republic of Tanzania, the East African Community and the private sector. The choice of the private sector was informed by the increasing influence, prominence, attention and depth of engagement they are assuming in addressing regional trade disputes. It is well captured in the proposed move by the Summit to hold 'a round-table with the private sector to set an economic agenda for the region'[37] during the 21st Ordinary Summit scheduled for November 2019.

1.11.6 Sample Frame

The sample frame drew from relevant ministries, departments and agencies of the target population. In addition, the study drew from the private sector covering the two countries. On Kenya's side three ministries were selected; the Ministry of Foreign Affairs, the Ministry of East African Community and Regional Development and the Ministry of Industry, Trade and Cooperatives. Agencies interviewed include Kenya's Keninvest, Kenya Export Promotion and Branding Authority (KEPROBA), Kenya Revenue Authority (KRA) and Micro and Small Enterprises Authority (MSEA). On the Tanzania side an official from the Tanzania High Commission in Kenya was interviewed. Officials from the EAC Secretariat, the East African Legislative Assembly

[37] Muchira, Njiraini, "Presidents for Nov. 30 Arusha Summit." *The East African,* November 9, 2019

and the East African Court of Justice were interviewed from the EAC side. Private sector players interviewed include the Kenya Association of Manufacturers (KAM, Kenya Private Sector Alliance (KEPSA), Trademark East Africa (TMEA), Kenya National Chambers of Commerce and Industry (KNCCI) and the East African Business Council (EABC).

1.11.7 Sample Size

A total of forty-five (45) respondents were interviewed. They included 2 from the Ministry of Foreign Affairs, 2 from the Ministry of East African Community and Regional Development, 3 from the Ministry of Industry, Trade and Cooperatives, 2 from the EAC Secretariat, 3 from the East African Legislative Assembly, 1 from the East African Court of Justice and 1 from the Tanzania High Commission in Nairobi, Kenya, 6 from Kenya Revenue Authority, 3 from Kenya Export Promotion and Branding Agency (KEPROBA), 3 from East African Business Council (EABC), 3 from Micro and Small Enterprises Authority (MSEA), 3 from Kenya Private Sector Alliance (KEPSA), 2 from Trade Mark East Africa (TMEA), 3 from Kenya National Chamber of Commerce and Industry (KNCCI), 4 from Keninvest, and 4 from Kenya Association of Manufacturers (KAM)

1.11.8 Sampling Technique

Samples were selected purposively. Purposive sampling was used to identify staff based on their position, knowledge and experience on Kenya-Tanzania trade relations and the broader relations among EAC member states. "Purposive sampling is used when the investigator wants to locate the units of observation that have the required characteristics."[38] The choice of the sampling technique was informed by the very nature of the research. It is policy-oriented and expert responses from relevant respondent were most necessary. Advance prepared interview schedule was used to ensure sustained focus and confinement to research objectives.

1.11.9 Reliability and Validity

Data was collected from broad range of sources covering both government ministries, departments and agencies. Additionally, data was collected from the East African Community organs as well as the private sector. Peer review of the interview schedule

[38] Mugenda, Abel, *Social Science Research: Theory and Principles* (Kijabe: Kijabe Printing Press, 2008), 196

was done before being run by the supervisor to ascertain the suitability of the questions in line with the objectives of the study. In some cases, responses were provided both orally and in writing as part of ascertaining the accuracy of the collected data. Documented versions of the orally presented responses were shared with various respondents, in line with their request, to ascertain that they are accurately captured in the final report.

1.11.10 Data Analysis

Qualitative analysis of the collected data, both from the primary and secondary sources, was undertaken to help in answering the research questions. Data collected from interviews was analyzed as per the responses given by the sampled and interviewed respondents. Thereafter conclusions and recommendations were made regarding trade between Kenya and Tanzania and the impact it has on EAC.

1.11.11 Ethical Considerations

The study kept to applicable ethical research standards throughout. Participation was absolutely voluntary, with written commitment to the respondents assuring confidentiality of their information. Necessary authentication documents, including institutional letter, were duly produced and presented to the respondents to guarantee the genuineness of the exercise.

1.12 Organization of the Study

This study has four chapters. Chapter One is the introduction and details the background to the study; Statement of the Research Problem; Research Questions, Objectives of the Study, Justification of the Study, Scope of the Study, Literature Review, Theoretical Framework and Research Methodology. Chapter Two discusses the Background/Historical perspective of the problem under investigation. Chapter Three provides Data Analysis, Presentation and Discussion. Finally, chapter four presents Summary, conclusion and recommendations.

CHAPTER TWO

HISTORICAL PERSPECTIVE OF TRADE DISPUTES BETWEEN KENYA AND TANZANIA

2.1 Introduction

This chapter traces the historical background of trade disputes between Kenya and Tanzania. It dates back to pre-independence era from the time of the establishment of territories of the two countries under the colonial system. The history, especially the pre-independence history, of the two countries is largely woven into the engagement at the time, which was largely fashioned along what would culminate into the EAC. It discusses the relationship under the East African High Commission (EAHC) and East African Central Legislative Assembly (EACLA), engagement under the East African Common Services Organization (EACSO), relationship under the first EAC, the period that followed the break-up of the first EAC, and finally re-engagement under the new EAC.

2.2 Origin/Early Years

The Kenya-Tanzania political, economic and social cooperation has its origin in the colonial years when Britain assumed control of the East African territory. The building of the Kenya-Uganda Railway particularly shaped the foundation of Kenya, Uganda and Tanganyika as viable nation-states. When the railway was being built, observes the EAC 'Kenya was discovered and constituted as a viable White Settler economy, leading to the first common customs collection arrangement of 1900.'[39] At first all the collected customs were to be remitted to Uganda Treasury, by then a more established Protectorate. The plan however failed to work leading to the establishment in 1917 of Customs Union between Kenya and Uganda. Tanganyika, later Tanzania, was admitted into the union in 1919. Prior to the customs collection arrangement, some joint institutions had been established as a means of consolidating regional control. In 1902, 1905 and 1911 respectively, Britain established the Court of Appeal for East Africa, the East Africa Currency Board and Postal Union between Kenya and Uganda.

Not long after, Britain, with the persuasion of British citizens and politicians, toyed with the idea of forming an East African Federation comprising the three territories. Consequently the Ormsby-Gore Commission was established to explore the viability of

[39] East African Community Report Pg. 2

the proposed federation. The Commission reported the natives' hostility toward the formation of a federation under the British stewardship. As a measure, it did recommend holding of regular conferences of the governors in charge of the three territories, the first of which was held in 1926 that resulted in an agreement to manage "all common East African issues such as Customs, Common Currency, Court of Appeal, Posts and Telegraphs, and the Common Market."[40] The arrangement would however run into head winds owing to the perceived imbalance that appeared to largely favour Kenya. Uganda and Tanzania made regular protests, consequently inhibiting the realization of the federation project.

2.3 East Africa High Commission (EAHC)

Over time, especially after the World War II, hostility would continue mounting toward the governors' conferences. This was largely due to what was considered as its exclusive and secretive nature, which largely ignored both the European settlers and native Africans. To address the concern, governance changes were initiated that led to the formation in 1948, through the Colonial Paper No 191, of the East African High Commission (EAHC). It would allow for a more open, inclusive and participatory approach to governance. Functionally, it provided oversight over the management of the region's common services. They were ports and harbours and postal services. Alongside the EAHC, East African Central Legislative Assembly (EACLA) was formed in the same year (1948) as a legal anchor to the regional integration effort. It formed the basis of legal enforceability of the decisions made by the EAHC hence elevating the integration effort to a whole new level.

2.4 East African Common Services Organization (EACSO)

Sustained Kenya's dominance threatened the sustained relevance of the EAHC, with Tanganyika's Julius Nyerere threatening to quit if no reforms were undertaken. Both Uganda and Tanzania "resented….at the disproportionate benefits accruing to Kenya in terms of growth in GNP, foreign investment, international trade, and the location of common services in Nairobi."[41] In response, the British Colonial Government established the Sir Jeremy Raisman Commission in 1961 to review the common system arrangement to address the festering imbalances. The Commission, while

---

[40] East African Community Report Pg. 370

[41] Kasaija, Phillip "Regional Integration: A Political Federation of the East African Countries?," *African Journal of International Affairs: Volume 7 Numbers 1&2* (2004): 21-34.

acknowledging the imbalances to be largely in Kenya's favour, recommended that the common market be retained while strengthening it through the creation of a more structured common services framework. As a result, the East African Common Services Organization (EACSO) was established in June 1961 as a successor framework to the EAHC. Unlike the EAHC, the EACSO had a radically reformed administrative structure which included "a Summit, a permanent secretariat, an empowered EACLA with powers to approve plans and budget for General Fund Services as well as the East African Common Services." [42] Challenges notwithstanding, the EACSO demonstrated high economic growth potential with the noted "intra-regional trade growing by 10–19 per cent between 1959 and 1961 and trade with the RoW (Rest of the World) growing by 8–10 per cent in the same period."[43]

2.5 Road to the First EAC

With the arrival of independence for the three East African countries, the desire to establish a federation looked well underway. With Tanganyika's independence on the horizon in 1961, Julius Nyerere expressed desire to delay his country's independence to wait for Kenya and Uganda to allow for a harmonised establishment of a federation bringing together the three countries. Uganda's independence in 1962 followed by Kenya's in 1963 came with new challenges that killed the dream at conception. Local and external factors proved too much to surmount. Locally, the immediate post-independence regimes were distracted by their desire to consolidate their respective administrations thereby relegating the federation project to the periphery. Nationalistic ideologies too stood in the way, with Uganda, for instance, opposing outright 'the high degree of centralisation, which its partners wanted to build into a federation.' [44] Regionally, each of the three countries was engaged in an intense battle for regional hegemony. Kenya's sustained economic dominance continued to pose a challenge.

Even though the establishment of a federation proved too big an ambition to realize, the three countries retained a desire to work out a post-independence framework, albeit

---

[42] Report of the Committee on Fast Tracking East African Federation: Arusha, Tanzania (26th November, 2004) Pg. 371

[43] Kimbugwe, Kato, Perkidis Nicholas, Yeung May and William Kerr, eds. *Economic Development Through Regional Trade: A Role for the New East African Community?* (New York: Palgrave Macmillan, 2012), 63

[44] Kasaija, Phillip "Regional Integration: A Political Federation of the East African Countries?," *African Journal of International Affairs: Volume 7 Numbers 1&2* (2004): 21-34.

a weaker one. In 1964, they signed the ‘Kampala Agreement’ whose main objective was to address the industrial distribution imbalance, which was skewed largely in Kenya’s favour. Among its provisions was that “certain industries such as tyres, bicycle parts and fertilizers, be exclusively located in Uganda and Tanzania.” [45] Kenya however failed to ratify the Agreement effectively killing it. Signs of latent tensions emerged when in 1965, the East Africa Common Currency collapsed. Consequently, each country set up its own central bank, assuming the control of issuing national currency. Determined to soldier on despite the challenges, a commission was set up, headed by an expert from the United Nations, Phillip Kjeld, and comprising representatives from the three countries to negotiate “a permanent solution to the problems that were afflicting East Africa’s integration.” [46] Its landmark recommendation was the need to establish the EAC.

It was realized when the three countries signed the Permanent Tripartite Commission for East Africa Cooperation that established the EAC. It came into force, on 1st December 1967. It outlined, as its three objectives “to strengthen, accelerate and regulate industrial, commercial and other relationships between the partners as a conduit to harmonious and balanced development and sustained expansion of economic activities”, secondly, to ensure that “the benefits…. shared equitably through the harmonization of economic policy, formulation of joint projects” and thirdly to ensure “consultation in the planning, preparation and implementation in areas such as agriculture, education and manpower, energy and power, industry, tourism, balance of payments, transport and communications, and so on.”[47] Basically, it established some solid arrangements that sought to address historical challenges while consolidating the gains of its nascent provisions. First, it combined both the common services and common market framework. Secondly, it provided for steps to address economic imbalance. Thirdly, it established thematic organs to coordinate specific areas. Challenges would however stalk the newly formed EAC. They largely assumed political, economic and ideological dimensions.

---

[45] Ibid
[46] Ibid
[47] Kimbugwe, Kato, Perkidis Nicholas, Yeung May and William Kerr, eds. *Economic Development Through Regional Trade: A Role for the New East African Community?* (New York: Palgrave Macmillan, 2012), 66

Economically, Kenya's economic dominance persisted. The EAC attempted to institutionalize measures to address the issue by establishing the East African Development Bank (EADB). Its establishment was chiefly to "promote industrial development especially in Tanzania and Uganda."[48] Secondly a tax transfer system was put in place that allowed for deliberate imposition of tariff on imports from a more advanced partner by a less advanced one. Despite the measures, "location advantages in Kenya were strong and kept investors pulling to this country (Kenya)."[49]

The three members were intricately and inevitably caught up in the global ideological Cold War. President Jomo Kenyatta of Kenya and Julius Kambarage Nyerere of Tanzania adopted diametrically opposite ideological positions. Whereas the former adopted free-market capitalist ideology, the latter adopted a more socialist 'ujamaa' ideology. The divergent ideological paths birthed schism between the two that rendered EAC harmony an incredibly strenuous exercise. "The divergent ideological differences among the East Africa leaders translated into the economic practices adopted, leading to the collapse of EAC."[50]

Politically, personal ambitions, nationalistic feelings and national interest, and stability in governance were major issues that stood in the way of smooth integration. For instance, the coup in Uganda in 1971, that saw Idi Amin assume the leadership of the country created a rift within the EAC, with Tanzania declaring outright as illegal, Uganda's membership to the EAC. Each of the leaders had their own personal ambitions that in some instances became too tempting to sacrifice. "East African political leaders were not ready to forfeit their political ambitions and the personal fortunes they framed in the language of national economic sovereignty."[51]
Structurally, the EAC lacked strong structures and autonomy to allow it achieve its mandate effectively. A lot of power was placed in the hands of the East African Authority, which comprised the Heads of State of the three countries, who were themselves embroiled in intense rivalry. This naturally deprived the EAC of the much

---

[48] Shams, Rasul, "Trade Imbalances and the Political Economy of a Transitional Fund in the EAC," *Hamburg Institute of International Economics (2003)*: Pg. 10.

[49] Ibid
[50] Ochwada, Hannington "The History and Politics of Regionalism and Integration in East Africa," *Conflict and Peacebuilding in the African Great Lakes Region* (2012): Pg. 56.

[51] Ibid.Pg.55

needed political goodwill to steer the organization forward in a way that was consistent with the founding vision. The varied factors combined in different ways and magnitude to torpedo the effort toward East Africa's integration. The differences proved too much and eventually the EAC, whose treaty came into force in December 1967, collapsed in 1977 when Julius Nyerere closed the Kenya-Tanzania border.

2.6 The Hiatus: 1977-1993

With the 1977 collapse of the EAC, the region experienced mixed fortunes, defined by political, economic, social as well as geographical factors. On the one hand, the fall-out that prompted the collapse of the EAC outlived it. For instance, in 1978, conflict emerged between Uganda and Tanzania that degenerated into a full scale war. On the other hand, some socio-cultural, economic and geographic factors proved too impregnable for forces of division. Culturally, some ethnic communities straddled geographical boundaries of the three countries, becoming difficult to limit their day-to-day interactions. Geographically, the contiguity factor inevitably 'forced' the three countries to sustain some form of cooperation, albeit more out of need than out of desire. Political dynamics too, both domestic and external, played out to shape the post EAC engagement between the three countries. In Uganda for instance, Idi Amin's policy that led to mass expulsion of residents of Asian/Indian descent in 1970s negatively impacted Uganda's economy, largely through reduced domestic manufacturing. Consequently, Uganda found itself having to rely on imported goods from Kenya. Incidentally, most of those expelled from Ugandan settled in Kenya. Increased cross-boundary trade witnessed between Kenya and Uganda was also transpired between Kenya and its southern neighbor, Tanzania with "Numerous MNCs operating in Kenya extend(ing) their commercial activities in the Tanzanian market." [52]

Though officially dead, the spirit of the EAC lurked, partly inspired by intervening systemic variables. The Organisation of African Unity (OAU) was determined to chart a new path for the continent by ensuring its self-sustainability. In July 1979, two years after the collapse of the EAC, the OAU held its 16th Heads of State and Government session that yielded the "Monrovia Declaration of Commitment" (MDC). Therein, the

[52] Ibid. Pg. 56

leaders committed to, among other things, “establish national, sub-regional and regional institutions which will facilitate the attainment of objectives of self-reliance and self-sustainment.” [53] Not long after, the leaders met in Lagos, Nigeria in 1980, where they developed the Lagos Plan of Action (LPA). LPA, while building up on the MDC identified key specific areas to be acted upon for the continent’s economic renaissance: Environment, science and technology, food and agriculture, trade and finance, women empowerment, industry, natural resources, human resources, transport and communications.

Drawing from the OAU’s desire for continental unity, Presidents Daniel arap Moi of Kenya, Julius Kambarage Nyerere of Tanzania and Apollo Milton Obote of Uganda, showed the willingness to in future explore potential areas of cooperation. In a meeting in 1984 they committed themselves to “to explore and identify further areas for future cooperation and to work out concrete arrangements for such cooperation.”[54] The leaders showed the strongest desire yet to revive regional cooperation when in November 1991, the three, Kenya’s Daniel arap Moi, Uganda’s Yoweri Kaguta Museveni and Tanzania’s Ali Hassan Mwinyi, met in Nairobi, where they constituted a committee comprising ministers in charge of the countries’ Foreign Affairs. The committee was charged with the responsibility to “explore the modalities for promoting further cooperation in the region.”[55] The work of the Committee culminated in the formation of the Permanent Tripartite Commission (PTC) for East African Cooperation in November 1993. It set and readied the stage for EAC’s rebirth.

2.7 The Take Off: 1993-2000

The period following the establishment of the PTC saw a rapid succession of events. In 1994, the first protocol establishing the EAC Secretariat was signed in Kampala, Uganda. According to the protocol, the Secretariat would be housed in Arusha, Tanzania. It was eventually set up in March 1996. It duly started the monumental task of reconstructing the EAC, including the “the operational structures and functions of the East African Cooperation.”[56] As the Secretariat worked to establish the structures,

---

[53] OAU: Declaration and Resolutions Adopted by the 16th Ordinary Session of the Assembly of Heads of State and Government: July 1979

[54] EAC Mediation Agreement Article 14 Pg. 39

[55] http://www.internationaldemocracywatch.org/index.php/east-african-community- Accessed on 21st July 2019

[56] Ibid

the PTC, a committee comprising ministers in charge of Foreign Affairs of the Partner States, worked overdrive toward the formulation of the East African Cooperation Development Strategy (EAC-DS), the first of which covered 1997-2000. To move the process closer to realization, the EAC-DS, inter alia, provided for the upgrading of the Mediation Agreement to a treaty. The draft treaty was made available in 1998 and following consultations internally, it was assented to by the presidents of the three founding Partner States on the 30th day of November, 1999: Daniel Toroitich arap Moi for Kenya, Yoweri Kaguta Museveni for Uganda and Benjamin William Mkapa for Tanzania. It officially came into force on the 7th day of July, 2000.

2.8 The New EAC: Pillars and Structural Foundation

The new look EAC established key anchor pillars, structures and well laid out plans properly aligned with its overall objective of realising its "great strategic and geopolitical significance and prospects." [57]The revived EAC set out as its ultimate goal, the establishment of the region's political federation. However unlike in the original case, a clearer path to the goal was defined. Previously, there was a strong desire, especially from Tanzania's Julius Nyerere, for the region to establish a federation from the onset. Subsequent challenges however proved too much for the idea, leading to the adoption of a framework more focussed on economic aspects of cooperation than political. In the words of Tom Mboya "The Treaty (1967 EAC Treaty)…is a truly historic document which will guide economic relations among the three East Africa countries".[58] While seeking to achieve the original dream of a federation, the new EAC established different pillars leading to the ultimate dream.

The four pillars are the Political Federation, Monetary Union, Common Market and Customs Union. Implementation assumes a progressive pattern that seeks to realise and consolidate the easier and more achievable economic areas of cooperation en route to the more complex political areas. The first integration pillar, the Customs Union, came into force in 2005. It establishes a free trade area among Partner States, while establishing Common External Tariff (CET) for all importations made outside the EAC. In 2010, the Common Market, came into force. It is the second pillar. It provides for the "Freedoms of movement for all the factors of production and two Rights between

[57] https://www.eac.int/overview-of-eac: Accessed on 21st July 2019
[58] Challenge of Nationhood: Tom Mboya

themselves".[59] The two Rights are: Establishment and Residence. The East African Monetary Union (EAMU) Protocol, which establishes the Monetary Union, was adopted on the 30th day of November, 2013. It "lays groundwork for a monetary union within 10 years and allows the EAC Partner States to progressively converge their currencies into a single currency in the Community."[60] Political Federation envisages achievement of three pillars namely; "common foreign and security policies, good governance and effective implementation of the prior stages of Regional Integration." [61]

To assist in the implementation of the programs, the EAC established different organs to help realize its founding objectives and aspirations. The organs include the Summit, the Council of Ministers, the Coordinating Committee, Sectoral Committees, the East African Court of Justice, the East African Legislative Assembly and the Secretariat. The Summit comprises Heads of Partner States. Its primary objective is giving "strategic direction towards the realisation of the goal and objectives of the Community."[62] The Council of Ministers, comprising Ministers in charge of foreign affairs from Partner States, is "the central decision-making and governing Organ of the EAC."[63] The Coordinating Committee, constituted of Permanent/Principal Secretaries responsible for foreign affairs and regional integration, has as its mandate the coordination of the Sectoral Committees which "conceptualise programmes and monitor their implementation."[64] The East African Court of Justice (EACJ), as the judicial arm, "ensures adherence to the law in the interpretation and application of compliance with the EAC Treaty."[65] The East African Legislative Assembly (EALA), as the arm responsible for legislative affairs, assumes "cardinal function to further EAC objectives, through its Legislative, Representative and Oversight mandate." [66] The Secretariat ensures that "that regulations and directives adopted by the Council (of Ministers) are properly implemented."[67]

---

[59] https://www.eac.int/common-market: Accessed on 21st July 2019
[60] https://www.eac.int/monetary-union: Viewed on 21st July 2019
[61] https://www.eac.int/political-federation: Viewed on 21st July 2019
[62] https://www.eac.int/eac-organs: Viewed on 21st July 2019
[63] Ibid
[64] Ibid
[65] Ibid
[66] Ibid
[67] Ibid

2.9 Kenya-Tanzania Trade Disputes: A Historical Perspective

Historical trade disputes between Kenya and Tanzania mirror East Africa's historical engagement trajectory. Tanzania's journey into East Africa's integration project begun after World War 1 when it Britain assumed its control following the defeat of Germany. After being admitted into the Customs Union comprising Kenya and Uganda in 1922, tensions surfaced, largely attributed to Kenya's dominance. "The issue of trade imbalances between Tanganyika (later Tanzania) and Kenya was first raised in 1932 in a report by Sir Sydney Armitage-Smith." [68]Kenya was noted to have adopted protective measures, including high import duties, to protect its industrial sector. To address the imbalance, Armitage-Smith recommended that Tanzania should "levy duty on imports from her neighbours at the same rate as imports from third countries."[69] The issue persisted despite the deliberate interventions to address it. The 1961 Report of the Economic and Fiscal Commission concluded that there was no evidence suggesting that Kenya may have been a beneficiary of predatory factors that deliberately sought to pry away investments destined for Tanzania and Uganda.

With the issue persisting and following the independence of all of the three countries, including Kenya and Tanzania, an Emergency Committee was established with a primary objective of addressing the trade imbalances between the three countries. It came up with the Kampala Agreement of 1964. Viewing it as being inimical to its own interest, Kenya failed to ratify the Agreement, effectively killing its implementation. Kenya was noted not to have been ready to "accept a change in its dominant industrial status." [70]

Challenges and frictions notwithstanding, the three countries went ahead to ratify, in 1967 the Agreement establishing the first EAC. Deliberate measures were adopted in an attempt to address the imbalances precipitating tensions, especially between Kenya and Tanzania. One such measure was the creation of the EADB. It was assigned the task of designing deliberate interventions to rationalise industrial distribution among

---

[68] Shams, Rasul, "Trade Imbalances and the Political Economy of a Transitional Fund in the EAC," *Hamburg Institute of International Economics (2003)*: Pg. 9.

[69] Ibid.

[70] Shams, Rasul, "Trade Imbalances and the Political Economy of a Transitional Fund in the EAC," *Hamburg Institute of International Economics (2003)*: Pg. 14.

the three countries. Despite such efforts, no meaningful achievements were realised. With other factors coming into play, the continued cooperation of the three countries became unsustainable, resulting in Tanzania opting to close her border with Kenya in 1977, leading to the collapse of the EAC. In actual fact the Kenya-Tanzania schism largely prompted the collapse. That notwithstanding, bilateral trade between them continued. In 1988 the two countries, acknowledging the need to strongly revive bilateral engagement between the two of them signed the Kenya-Tanzania Joint Cooperation Commission (JCC) which sought to guide political, economic and social relations. It has since remained the foremost guiding blueprint for bilateral relationship between them.

Effort toward reviving the East Africa Community and the restoration of a closer trading relationship among the three countries, including Kenya and Tanzania, bore fruit when they established the Permanent Tripartite Commission for East African Cooperation in 1993. The treaty re-establishing EAC was signed by all the three Partner States on the 30th day of November, 1999 and became effective on 7th day of July, 2000. Available statistics show a significant jump in trade volumes between the two countries five years after 1993 compared to five years before. Balance of Trade (BoT) did however favour Kenya.

Table 2.1: Kenya-Tanzania Trade Volumes 1989-1993: Exports and Imports by Kenya to and from Tanzania

Year	Exports (K£ million)	Imports (K£ million)
1989	27.48	13.26
1990	32.26	12.51
1991	54.13	11.29
1992	80.99	14.45
1993	270.48	24.44

Source: Kenya National Bureau of Statistics (KNBS)

Table 2.2: Kenya-Tanzania Trade Volumes 1994-1998: Exports and Imports by Kenya to and from Tanzania

Year	Exports (K£ million)	Imports (K£ million)
1994	454.78	54.54
1995	631.02	31.10
1996	758.25	46.40
1997	823.03	43.23
1998	805.82	30.50

Source: Kenya National Bureau of Statistics (KNBS)

Table 2.3: Kenya-Tanzania Trade Volumes 2000-2004: Exports and Imports by Kenya to and from Tanzania

Year	Exports (Ksh million)	Imports (Ksh million)
2000	11,092	928
2001	13,511	585
2002	14,181	803
2003	14,588	1,368
2004	17,921	2,009

Source: Kenya National Bureau of Statistics (KNBS)

The trend remains significantly the same for the first five years following the signing and coming into force of the Treaty. Even though the Treaty did establish framework of engagement among the EAC countries, trade disputes between Kenya and Tanzania have persisted.

CHAPTER THREE
DATA ANALYSIS, PRESENTATION AND DISCUSSION

3.1 Introduction

This chapter looks at the formulation of trade policy by both Kenya and Tanzania, the causes of trade disputes between the two countries, the implications of the disputes on the East African Community and the remedial measures being undertaken to address the disputes.

3.2 Formulation of Kenya's Policy of Trade

Kenya's policy of trade is grounded on its national interests defined as "quest for national security and economic prosperity."[71] It is articulated through various policy documents that aim to clearly identify and map out the country's trade objectives, in line with well-defined national interests. Generally, Kenya's policy of trade has evolved over time since independence. It has evolved "through the following distinct policy orientations: import Substitution Policies (1960s -80s); Trade Liberalization through Structural Adjustment Policies (SAPs) (1980s); Export Oriented Policies 1990s."[72] In 2003 the NARC regime, which won the 2002 general election, formulated the '*Economic Recovery Strategy for Wealth and Employment Creation: 2003-2007*'. (ERS) It noted the primary objective as the revival of the country's economic fortunes following 'decades of slow and stagnant economic growth.'[73] The government laid out deliberate policy to embrace and entrench international trade. It sought to actively engage sister regional blocs including EAC, COMESA and ACP-EU. Moreover, it emphasized the active role the African market and the European Union would play toward achieving the growth objectives.[74] By recognizing the role of foreign trade, the administration thus acknowledged the inevitability of international trade as an avenue of achieving its policy objectives. At the same time, it ensured that policies and strategies adopted did not compromise stipulated interests.

In 2007, at about the same time when the ERS was coming to an end, the Government developed a long-term development blueprint, *Kenya Vision 2030: A Globally*

[71] Republic of Kenya Foreign Policy Framework, Ministry of Foreign Affairs, 2009, pg. 2
[72] Republic of Kenya: National Trade Policy: Efficient Global Competitive Economy, 2009, pg. 6
[73] Kenya: Economic Recovery Strategy for Wealth and Employment Creation, 2003-2007
[74] Ibid. pg.27

Competitive and Prosperous Kenya (KV2030) which is anchored on three pillars, among them economic pillar. It spells out Kenya's overall growth objective; to make the country a middle income country by the year 2030. While acknowledging the benefits of regional integration, especially within the EAC and COMESA, the government signaled the risks, including reduction in revenues accruing from duties. As a measure, it stipulated the need to 'ensure judicious use of incentives to avoid "a race to the bottom" with our EAC partners and to protect the revenue base'[75]. The caution fits well within the country's desire not to compromise its national interest even while pursuing trade liberalization trajectory.

Even though the government acknowledges the need to entrench its presence in traditional markets and increase footprints in non-traditional ones, it particularly identifies the EAC as primary to its economic diplomacy within the broad foreign policy objectives. Through the *Foreign Policy Framework 2009*, the government noted that the country would engage Partner States to particularly strengthen the EAC to enhance its economic viability. Kenya's particular focus in EAC is not without justification and strategic considerations. It acknowledges the fact that some of its biggest trading partners are in the region. This was in reference to the Republics of Tanzania and Uganda. Entrenching itself into the region would undoubtedly ensure realization of 'economic prosperity' as articulated in the 2009 Foreign Policy Framework. Additionally, the economic prosperity, deriving partly from the EAC's market share, would secure one of the country's instrument of foreign policy: Economy. As of 2009, when the Foreign Policy was developed, Kenya's economic size was the region's largest, with a GDP of $37.022 billion, compared to Tanzania's $29.081, Uganda's $18.169, Rwanda's $5.373 and Burundi's $1.781.[76]As a regional economic giant, Kenya was and remains keen to retain its status as regional economic powerhouse. Instructively, Kenya proposed, in 2009, to establish 'Kenya Fund for Technical Cooperation', an entity whose sustenance would derive from economic endowment.

[75] Kenya Vision 2030: A Globally Competitive and Prosperous Kenya, pg. 7
[76] https://data.worldbank.org/

In 2009, the country developed its '*National Trade Policy'*. Therein, the objective of international trade was succinctly and eloquently defined: 'to enhance export growth through value addition in export oriented manufactures and in the services sector.'[77] As an anchor to foreign trade, the policy identifies RECs as important ingredient to Kenya's successful international trade engagement. It specifically singles out the EAC as an important market, noting that it (EAC) has created a fertile ground and destination for Kenya's export oriented production. The policy aptly captures Kenya's desire to consolidate and entrench its interest within the bloc.

The place of economic diplomacy within Kenya's foreign policy architecture became even more incandescent when the country published its Foreign Policy in 2014. Coming against the backdrop of tenuous relationship between Kenya and the West, which was occasioned by the crimes against humanity cases at the International Criminal Court (ICC), Kenya signaled its desire to pivot away from reliance on the Western markets and instead train focus in Africa. It sought to make 'intra-African trade as the cornerstone for Africa's socio-economic and political unity.'[78] Even within the heavily afro-centric aligned policy, it singled out EAC as the most important bloc. Strategic it is because it remains 'Kenya's most important foreign policy vehicle and her major trading and investment bloc.'[79]

In a nut shell, Kenya views economic prosperity as not only critical to its domestic wellbeing but also as a necessary instrument to advance its foreign policy agenda. As a means of its realization, trade features prominently across all the policy documents. International trade in particular, is identified as critical toward the achievement of both foreign and domestic policy goals. Further, the EAC stands out tall among all the trading blocs and partners, inevitably owing to geographical proximity, cultural kindred and trading volumes. To Kenya, EAC strategic importance is viewed primarily on how well it stands to satisfy its (Kenya's) well defined and stated national interests and strategic goals.

[77] Republic of Kenya: National Trade Policy: Efficient Global Competitive Economy, 2009, pg. 6
[78] Kenya Foreign Policy, 2014. Pg. 5
[79] Ibid. pg. 30

3.3 Formulation of Tanzania's Trade Policy

Like Kenya, Tanzania has communicated its trade policy via various policy documents. Key among them include *Tanzania Development Vision 2025* and the *National Trade Policy of 2003*. In its National Trade Policy, the country notes its desire to align its policy to the realities and dynamics of the 21st century. More specifically, Tanzania is desirous of facilitating 'smooth integration into the Multilateral Trading System (MTS) and roll back the gradual descent towards marginalisation.' [80] The objective captures the deliberate attempt to reverse the policies, mostly adopted by the country's Founding President, Julius Nyerere, immediately after independence that ushered decades of slow growth and virtual development stagnation. The socialist ideology adopted by the government limited liberal and free-market enterprising, effectively diminishing the country's economic strength compared to its neighbours, especially Kenya. Ideological divergence between Kenya and Tanzania at independence is indeed partly attributed to the collapse of the first EAC in 1977. With the 21st century-aligned trade policy, the country hopes to 'ensure effective participation in the rules-based trading system that has emerged at the international level and in seizing the opportunities inherent in the free flow of resources inherent in globalisation.'[81]

It is that desire to give opportunity to liberal free-market policies that has informed the decision by the government to adopt more progressive policies, including in foreign trading. While adopting and incorporating free market policies, the government has also been keen to ensure that its national interests are not compromised. It basically sought to undertake a sensible blend, mix and balance of both liberalist and protectionist orientations. The former works to ensure tapping of fresh and beneficial opportunities from the global market space while the latter seeks to ensure provision of safeguards to locally driven and managed ventures. This way 'the strategy provides some space for government intervention in the direction of trade subject to continuing conformity with obligations in the MTS and regional undertakings.'[82] The policy identifies a number of instruments at government's disposal to enforce protectionist objectives; tariffs, non-tariff barriers (NTBs) and trade defence mechanisms. It is indeed safe to note that implementation of some of them has been at the heart of trade disputes with Kenya.

[80] The United Republic of Tanzania: National Trade Policy for a Competitive Economy and Export-Led Growth, 2003. Pg. i
[81] Ibid.
[82] Ibid. pg. 2

As part of international engagement, Tanzania recognises the role of RECs as a tool toward promoting free trade. It is a member of both EAC and SADC. It is in fact a founding member of the EAC. It is important to note that Tanzania's participation in RECs is carefully aligned to the country's national interests. The Policy outlines as the main objectives of joining RECs 'reduce trade imbalances with regional partners; achieve harmonisation of policies with regional partners; promote diversification of exports; and become a competitive regional economy.' [83] The objectives clearly point out to a country that is not only keen to enhance its economic fortunes but also right the wrongs of the previous policies, that would in turn allow it to catch up with some of its regional peers, key among them being Kenya. It views the RECs as platforms through which it can boost its fortunes and achieve its overall objective which, as articulated in the country's Development Vision 2025, entails acquiring for itself 'advanced technological capacity, high productivity, modern and efficient transport and communication infrastructure and…highly skilled manpower imbued with initiative'.[84]

3.4 Causes of Trade Disputes between Kenya and Tanzania

This section looks at the political, economic, geographical and social factors triggering trade disputes between Kenya and Tanzania.

3.4.1 Political Causes

This section focusses on political causes of trade disputes between Kenya and Tanzania defined as factors aligned with idiosyncratic nature and systems of decision making in both Kenya and Tanzania.

3.4.1.1 Political Goodwill and Commitment

Political goodwill and commitment to enforce various regulations has also been identified as a cause of the trade disputes between Kenya and Tanzania both of which are signatories to the Treaty for the Establishment of the EAC which, inter alia, provides for guiding framework on trade, industrial development and financial cooperation. It also establishes EALA, the legislative arm charged with development of laws to operationalize various provisions of the Treaty. Additionally, the Treaty, through EACJ, lays down arbitration procedure for arising disputes. Further, the two countries signed and ratified the Customs Union and Common Market Protocols, both of which

---

[83] Ibid. pg. 58

[84] Tanzania Development Plan, Vision and Investment Priorities to Achieve Middle Income Status by 2025. Pg. v

seek to entrench economic cooperation within the EAC. Despite the elaborate rule-based provisions, trade disputes between the two countries have continued, demonstrating the role of goodwill or lack thereof toward addressing such disputes.

Beyond the Treaty provisions, EAC leaders have made subsequent commitments, via Ordinary and Extra-Ordinary Summits, toward addressing emerging challenges while entrenching regional integration. For instance, during the 2009 11th Heads of State Ordinary Summit, the leaders, including from Kenya and Tanzania, committed to the development of 'a comprehensive sensitization programme for continuous and in-depth sensitization including initiatives to promote mutual trust, confidence building….about the EAC integration.'[85] The mutual trust and confidence building should work toward entrenching the spirit of cooperation in all areas captured in integration documents. At a similar Summit held in 2011, the leaders emphasized the need to continue eliminating barriers among the partner states, singling out the need to conclude the establishment of a single customs territory.

At a Food Security and Climate Change retreat held in the Republic of Tanzania in 2010, Kenya's President, H.E Mwai Kibaki committed Kenya to any effort aimed at ensuring regional food security and mitigating impact of climate change. He further called on Partner States, including Tanzania to open up their borders to allow for flow of food products as a way of distributing products from surplus to deficit areas. In 2011 in Tanzania, the EAC Heads of States participated at the 9th Africa Investment Forum, where they committed to undertake measures aimed at creating enabling environment for private sector investors as a way of improving the region's social-economic wellbeing. At the Forum's side line, Kenya's Mwai Kibaki hosted various private sector investors at the Kenya Presidential Roundtable aimed at showcasing to potential investors from across the region available investment opportunities in Kenya.

Beside multilateral framework, Kenya and Tanzania have engaged bilaterally. The engagement has largely been undertaken within the Kenya-Tanzania Joint Commission for Cooperation (JCC) framework. It was originally established in 1988 by the then presidents of the two countries: H.E. Daniel Toroitich arap Moi of Kenya and H.E. Ali Hassan Mwinyi of Tanzania to 'deepen economic and political ties between the two

[85] Communique of the 11th Ordinary Summit of the EAC Heads of State: Pg. 3

East African nations.'[86] It essentially laid out the engagement framework between the two countries away from the collapsed first EAC, even as signs emerged of the desire to revive it, a desire that would be realised when the founding members signed the EAC Treaty in 1999. In April 2009, Kenya and Tanzania, via their respective Presidents then, H.E. Mwai Kibaki and H.E. Jakaya Kikwete, jointly witnessed the launch of the Arusha-Namanga-Athi River Road construction, being part of Tunduma-Moyale Road connecting Kenya, Tanzania, Ethiopia, South Sudan and Uganda.

While on an official tour in Kenya in September 2012, Tanzania's President, Jakaya Kikwete committed to "spearhead the removal of non-tariff barriers hindering movement of goods and labour." [87]The challenge had particularly been cited by Kenya traders who noted that they inhibited trading between them and their Tanzanian counterparts. Through the Kenya Association of Manufacturers (KAM), Kenyan manufacturers noted that "Kenyan manufacturers importing inputs through the preferential duty remission scheme and exporting final goods to Tanzania were being charged the common external tariff, which is meant for goods sourced from outside the bloc."[88] In his last bilateral engagement with Tanzania before relinquishing power in 2013, President Mwai Kibaki was hosted by his Tanzanian counterpart, President Jakaya Kikwete, for a two day state visit in Dar-es-Salaam. Objectives of the bilateral engagement included the review of the steps achieved toward the realization of the Kenya-Tanzania Joint Commission for Cooperation (JCC) framework. He would later inaugurate H.E. Mwai Kibaki Road in Tanzania's capital city.

The foregoing demonstrate deliberate and multipronged approach to secure trade harmony between Kenya and Tanzania via both multilateral and bilateral initiatives and frameworks. The desire is grounded on the EAC Treaty and various protocols. It is further anchored on boardroom commitments to undertake measures aimed at

[86] https://www.tanzaniainvest.com/kenya

[87] Business Daily: https://www.businessdailyafrica.com/corporate/Tanzanias-Kikwete-pledges-freer-flow-of-goods-from-Kenya/539550-1506750-3njp6dz/index.html

[88] Ibid.

unlocking the recurring stalemates. Moreover, it is demonstrated in occasional bilateral engagements between the two countries. They are all a demonstration of the wish to achieve trade harmony between Kenya and Tanzania, and by extension the East African region, but which lack commensurate goodwill to follow through.

3.4.1.2 Protocols Implementation Mismatch

Dissimilarity in the interpretation and subsequent varied implementation of various protocols was identified as another cause of trade disputes between Kenya and Tanzania. Customs Union Protocol was in particular noted to have had divergent interpretations, at least for some of its provisions. In 2012 for instance, differences arose between Kenya and Tanzania on the '*Duty Remission Scheme*' (DRS). The scheme, which seeks to promote export-oriented manufacturing, allows gazetted manufactures to import their industrial inputs duty free hence lowering their production cost for more competitive products at the export market. Understanding of what constitutes export market became the point of contention between the two countries. Whereas Kenya understood any foreign country to be a potential market for the goods manufactured under the scheme, Tanzania argued that the EAC constituted local market and that goods manufactured under the scheme only qualified to be exported outside the EAC. A barrier was thus erected on Kenyan goods manufactured under the scheme destined for Tanzania market. Tanzania did in fact point out that "Uganda, Tanzania, Rwanda and Burundi are part of the domestic market and excluded from rules meant to help grow industrial exports in Kenya."[89]

The development slowed down trading between Kenya and Tanzania, with the greatest immediate impact being on the goods originating from Kenya manufactured under the scheme. Tanzania viewed it as a deliberate attempt by Kenya to further its industrial development at the expense of the other less industrially-established EAC members. Kenya on the other hand interpreted it as a deliberate attempt by Tanzania to sabotage cross-boundary trade and the entire EAC integration project. It harboured the potential of degenerating into areas initially not part of the contention.

[89] Business Daily: https://www.businessdailyafrica.com/corporate/Tanzanias-Kikwete-pledges-freer-flow-of-goods-from-Kenya/539550-1506750-3njp6dz/index.html

3.4.2 Economic Factors

This section focusses on economic factors triggering disputes between the two countries. They are associated with the economic sizes of the countries and how they influence international engagements.

3.4.2.1 Non-Tariff Barriers (NTBs)

Non-Tariff Barriers (NTBs) have been identified as one of the major causes of trade disputes between Kenya and Tanzania. A respondent from Kenya's Ministry of Industry, Trade and Cooperatives did in fact note that 'they should not even be referred to as disputes but NTBs', (Trade Ministry Official) effectively capturing how pronounced they are. Drawing from its own historical experience and that of other jurisdictions, the founding members of the revived East African Community (EAC) in 1999, set out from the very onset as its objective, through its establishing Treaty, to eliminate all NTBs. Further, through the EAC Customs Union Protocol, which both Kenya and Tanzania signed on 2nd March 2004, and which came into force on 1st January 2005, both parties agreed to "remove, with immediate effect, all the existing non-tariff barriers to the importation into their respective territories of goods originating in the other Partner States and, thereafter, not to impose any new non-tariff barriers.[90]" Generally, the liberalization of the market, through the EAC Treaty, and in particular the 2005 Customs Union, boosted trade between Kenya and Tanzania.

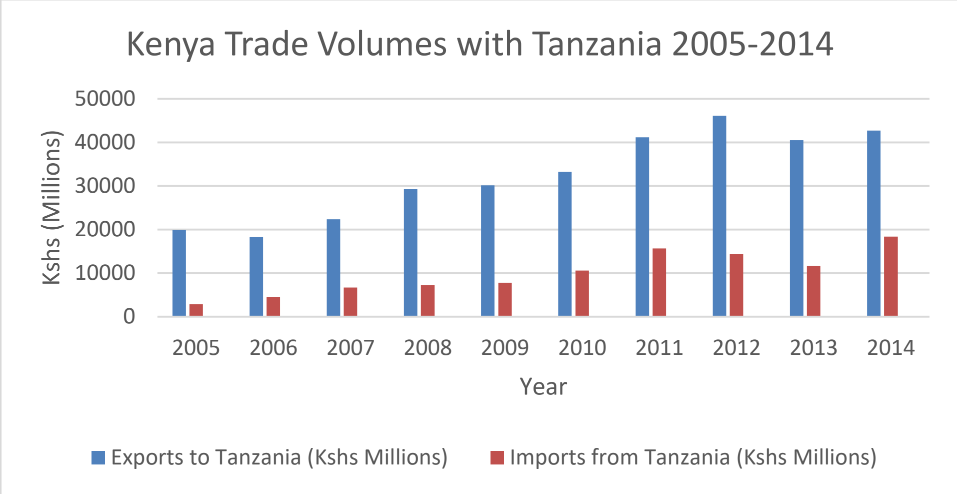
Table 3.1: Kenya Trade Volumes with Tanzania (Exports and Imports)-2005-2014

Year	Exports to Tanzania (Kshs Millions)	Imports from Tanzania (Kshs Millions)
2005	19887	2867
2006	18288	4514
2007	22326	6678
2008	29224	7265
2009	30087	7809
2010	33211	10549
2011	41173	15670
2012	46036	14402
2013	40496	11666
2014	42725	18364

Source: Kenya National Bureau of Statistics (KNBS)

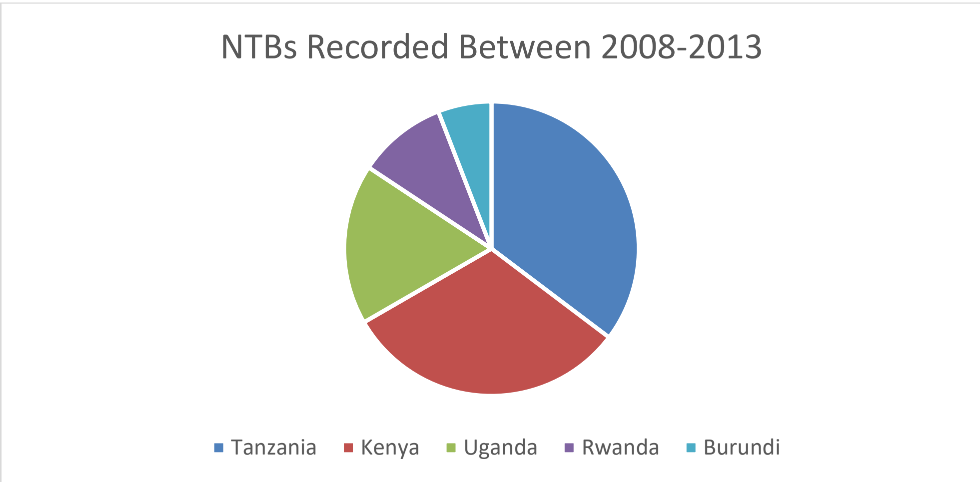
[90] Customs Union Protocol, Article 13

Figure 3a: Kenya Trade Volumes with Tanzania (Exports and Imports)-2005-2014



Despite the progressive trade volumes, Kenya and Tanzania continued to impose NTBs, which assumed various forms. Of the 51 identified NTBs between 2008 and 2013, Tanzania "has 18 (35% of the total), Kenya has 16 (31%), Uganda has 9 (18%), Rwanda has 5 (10%), and Burundi has 3 (6%)."[91] Even though the general trend showed growth in trade volume between the two countries between 2005 and 2014, fluctuations were noted, partly attributed to applied NTBs. NTBs assume the form of permits, verification, transit charges, inspection, multiple standardization and quality checks and approvals and police checks.

Figure 3b: Non-Tariff Barriers (NTBs) Imposed by EAC Partner States-2008-2013



[91] East African Common Market Scorecard 2014. Pg. 36

The two countries, alongside other EAC Partner States, demonstrated sustained desire to work toward the elimination of the NTBs. For instance, at the 6th Extra-Ordinary Summit of the EAC Heads of State held in August, 2007, the Heads of States noted the need "to promote deeper economic integration and to lock-in gains achieved from economic cooperation" [92] In 2011, the Summit, in addition to agreeing on the need to establish a Single Customs Union, committed to exploring the means of enhancing institutional enforcement capacity. The issue has however remained, demonstrating the enduring challenges in addressing the problem. It is a stark reminder on the extra effort required to avoid the pitfalls and landmines that characterised the acrimonious fall out in 1977.

3.4.2.2 Levels of Development

Varied levels of development between Kenya and Tanzania was identified to be a fuelling agent of trade tensions between the two countries. It has provided fertile ground that has bred and fed antagonistic trade relations. It is safe to note that the factor is not just an issue today, but it is historical in nature. It did in fact contribute to the collapse of the first EAC in 1977. Kenya's sustained economic dominance has been viewed with suspicion by Tanzania. In 2005, with a GDP of $19billion, Kenya's economy was "about the size of Tanzania's (S$ 10.3 billion) and Uganda's GDP (US$ 9 billion) put together."[93] The situation has remained fairly unchanged. The desire by Tanzania to catch up has informed its decision to pursue more aggressive policies that seek to enhance domestic growth which has mostly limited Kenya's access to its market. Policy shift has seen Tanzania enhancing its manufacturing sector, investing partly in production areas where they hitherto relied on imports from Kenya.

---

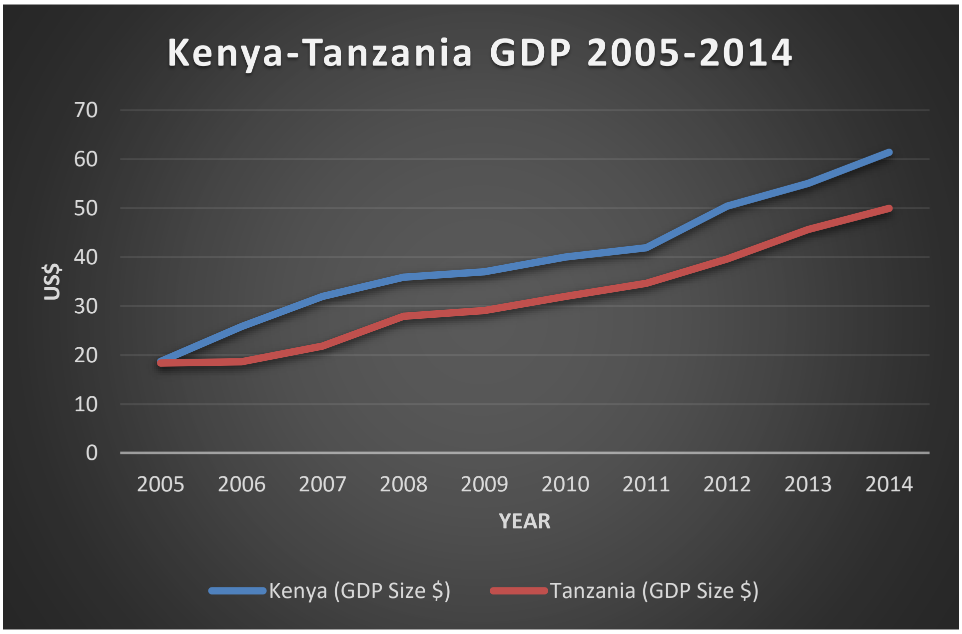
[92] 6th Extraordinary Summit of the East African Community Heads of State: Joint Communique Pg.3
[93] 3rd EAC Development Strategy 2006-2010: Pg.17

Table 3.2: Respective Size of Economies of Kenya and Tanzania (GDP)-2005-2014

Year	Kenya (GDP Size ($)	Tanzania (GDP Size ($)
2005	18.738	18.399
2006	25.826	18.65
2007	31.958	21.844
2008	35.895	27.941
2009	37.022	29.081
2010	40	32.014
2011	41.953	34.657
2012	50.413	39.651
2013	55.097	45.681
2014	61.448	49.965

Source World Bank: https://data.worldbank.org/country/tanzania / https://data.worldbank.org/country/kenya

Figure 3c: Respective Size of Economies of Kenya and Tanzania (GDP)-2005-2014



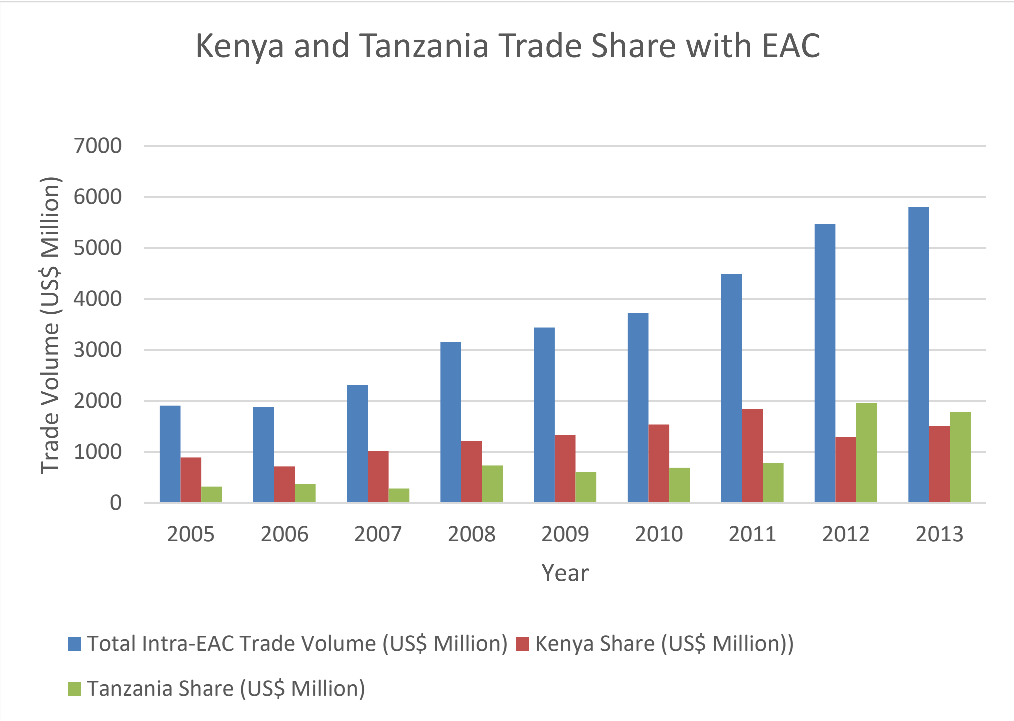
Furthermore, Kenya's sustained economic dominance has been matched by its trade domination. Kenya's share of regional trade has fairly remained higher, a factor that has been noted to have unsettled its partners, including Tanzania.

Table 3.3: Kenya and Tanzania Respective Shares of Trade with EAC-2005-2013

Year	Total Intra-EAC Trade Volume (US$ Million)	Kenya Share (US$ Million)	Tanzania Share (US$ Million)
2005	1905.4	890.7	317.9
2006	1881.7	717.7	368.0
2007	2315.2	1018.4	279.5
2008	3157.7	1217.6	735.8
2009	3437.3	1332.0	601.9
2010	3722.9	1536.8	690.2
2011	4485.9	1847.2	787.1
2012	5470.7	1291.9	1957.3
2013	5805.6	1515.0	1785.5

Source: East African Community Development Strategy

Figure 3d: Kenya and Tanzania Respective Shares of Trade with EAC-2005-2013



3.4.3 Geographical Factors

This section looks at the geographical factors to the trade disputes between the two countries. The factors are associated with both the absolute and relative locations of both countries and how it influences the outlook of their foreign policy.

3.4.3.1 Nationalistic Ambitions and Competition

Competition and rivalry between the two countries purely fashioned along nationalistic ambitions was cited as a cause trade disharmony. The matter is further complicated by their geographical positioning. In the region, only the Republics of Kenya and Tanzania have access to coastline. All the rest are landlocked. Desire by both Tanzania and Kenya to leverage their geo-strategic positioning for maximum economic gains has sometimes seen them compete for influence over the landlocked hinterland, a development that has sometimes pitied them against each other. Such ambitions are noted to have contributed to the 'Coalition of the Willing', a loose grouping that in 2013 grouped together Kenya, Rwanda and Uganda on the one side against Tanzania and Burundi on the other. Kenya and Tanzania were effectively engaged in a competition to exercise influence over the hinterland.

The development saw intensified effort by each of the two rivals to outdo each other, with each launching investments aimed at gaining strategic leverage. Most of the investments were directed toward infrastructure. The period saw Kenya officially launch the construction of the Standard Gauge Railway (SGR) which was originally planned to start from Mombasa all the way to Kigali in Rwanda. In a sense Kenya was keen to secure the place of the Northern Corridor, which links Kenya, Uganda, South Sudan, Ethiopia, Rwanda and Eastern Democratic Republic of Congo (DRC). Tanzania on the other hand, home to the Central Corridor, entered a deal with China for the construction of Bagamoyo Port, which when complete would dwarf the ports of Dar es Salaam and Mombasa. It would have an installed capacity of '20 million containers a year, compared with Mombasa's installed capacity of 600,000 and Dar es Salaam's 500,000.'[94] Rattled by the looming isolation, the Government of Tanzania responded to the coalition, arguing that 'the ongoing tri-lateral talks between the countries were against the EAC protocol.'[95] The acrimonious fall-out could potentially trigger broader implication.

---

[94] The East African: https://www.theeastafrican.co.ke/oped/comment/Coalition-of-the-willing-Using-the-EAC-stick-to-beat-Tanzania/434750-1983028-14w3vnjz/index.html

[95] Daily Nation: https://mobile.nation.co.ke/news/Tanzania-govt-renounces-coalition-of-the-willing/1950946-2041956-format-xhtml-jcoiq3z/index.html

3.5 Implications of the Trade Disputes on the EAC

This section focusses on the implications of the trade disputes between Kenya and Tanzania on the East Africa Community (EAC). The disputes are triggered by political, geographic, economic and social factors.

3.5.1 Slowing Down Regional Integration and Political Federation

The trade disputes between Kenya and Tanzania have not only negatively affected the relationship between the two countries, but the implications have been felt beyond to the entire EAC. They have affected both political, economic and social spheres of the EAC.

3.5.1.1 Political Integration Implications

The Treaty establishing the EAC envisages a progressive integration approach that would be attained in phases through four pillars. The ultimate phase, Political Federation, provides for a closely knit entity that not only operates an integrated economic system as contemplated in the preceding three pillars, but also a harmonised foreign policy and security system. Harmonised foreign policy and security arrangement requires uniform domestic policy outlook and orientation. The divergence between the two countries, partly occasioned and precipitated by trade disputes, has largely compromised the ability to drive toward region-wide policy harmonisation and reconciliation. In some instances, it has led to regional rivalries that are naturally inimical to the integration project. Such was the case witnessed in 2013 with the established of the 'Coalition of the Willing' that grouped the Republics of Kenya, Rwanda and Uganda on the one hand against the Republics of Burundi and Tanzania on the other. Ironically, the 'Coalition of the Willing's' key objective was reported to be 'fast tracking the integration project.'[96] The first meeting of the trio, held in Entebbe, Uganda 'also discussed a plan to establish political federation'[97]. Incidentally, the said political federation is provided for in the EAC Treaty meaning that its establishment

---

[96] Muluvi Augustus and Odhiambo Paul "East African Partner States Pulling in Different Directions: What Are The Implications for the East African Community?: https://www.brookings.edu/blog/africa-in-focus/2013/12/02/east-african-partner-states-pulling-in-different-directions-what-are-the-implications-for-the-east-african-community/

[97] Ibid.

should ideally not appear to be crafted to exclude any of the Partner States, and much less a founding member such as Tanzania. The latter's exclusion does therefore signal the dangers abound by a fragmented approach to the whole project.

The disputes further undermine political goodwill, a key ingredient for successful integration, through the entrenchment of nationalistic views and ideologies at the domestic level. It distorts member states' domestic policy direction and orientation that sometimes run contrary to the integration trajectory as outlined in the EAC Treaty. It fuels unhealthy intra-EAC competition, with each member racing to develop and implement parochial nationalistic agenda.

3.5.1.2 Economic Integration Implications

The achievement of economic integration, as an antecedent to political federation, is designed to be achieved through the first three integration pillars; Customs Union, Common Market and Monetary Union. The Customs Union came into force in 2005 with the Common Market following in 2010. The Protocol establishing the Monetary Union was signed in 2013. The trade disputes between Kenya and Tanzania have largely contravened the provisions of the first two protocols hitherto in force. Not only have they suppressed economic integration between the two countries, but they have also spilled over the entire region. Tanzania and Kenya recorded the highest share of the NTBs recorded between 2008 and 2013 at '35% and 31% respectively'[98], effectively suppressing the region's economic growth and integration.

3.5.1.3 Socio-cultural Integration Implications

Trade disputes affect, not just the free flow of goods and services, but also of people across the region. Regional integration would not be complete without full appreciation of the region's socio-cultural diversity. The EAC is a home to multiple identities defined along ethnicity, race, and religion among others. With a combined size of '1,817,700 square kilometres as of 2014, the region was a home to 145.5 million people.'[99] Its diversity stretches its geographical extent just as it does its population. The Common Market Protocol anticipates an entity that would be accommodative of an unfettered movement of its citizens across the region. Unhindered movement of

[98] East African Common Market Scorecard 2014. Pg. 36
[99] EAC Fact Book 2014

people would provide a boost to integration through cultural fusion and harmonisation. Trade disputes have almost always resulted in limited movement of people across the region. As a consequence, it limits the opportunity of enhancing of socio-cultural fusion and harmony among the regional populations. It works to sustain some long-held stereo-types that work against the spirit of regional unity and cooperation. Additionally, it fuels the nationalistic feelings that only work to fortify the walls of regional separation. Avenues and ways of cultural integration, such as through marriage, education and tourism are severely constrained.

3.5.2 Slowing down EAC's Economic Growth and Development

One of the main objectives of the formation of RECs is to enhance economic profile and power of such formations. By bringing together various factors of production and aligning them to carefully thought-out engagement rules, such entities, in this case states, are able to leverage the applicable economies of scale. Maximization could be through resultant huge populations that offer ready market to products and labour to the production process itself. Further, and largely through dissimilar resources distribution, states are able to boost their interdependence through the principle of comparative advantage, where each state focusses on what it produces best while relying on partners within the bloc on what it lacks, or whose production capacity might be way below the demand. The EAC is no exception to the economic desires that inform establishment of such entities. The objective is in fact succinctly articulated in the Treaty establishing the EAC and further protocols that seek to operationalize the Treaty. The extent to which such objectives are met depends on how well the partners remain true to the cause, including, but not limited to, strong foundation and sustained unity of purpose.

The EAC, which as of 2014, comprised 5 member states has had mixed fortunes. The promises of the bloc's unity have been punctuated by cases of occasional tenuous relations among members, with the most sustained being between the Republic of Kenya and the United Republic of Tanzania. They are respectively the two biggest economies within the bloc, and any strain in their relations would undoubtedly have a bearing on the economic trajectory the EAC takes. The disputes limit the extent to which the region can fully exploit its internal potential for maximum economic growth. The limitation is manifested in various ways. Firstly, such disputes limit the unhindered flow of goods and services within the region, thereby inhibiting the attendant benefits for both the states of origin and destination of the target goods and services. Secondly, it fuels national protectionist tendencies that in most cases work against the promises of comparative advantage. Each state tends to heavily invest in areas that they would have otherwise saved were they to embrace regional trade. Thirdly, such disputes encourage importation of goods and services from outside the region even in areas where they would be readily available internally. The region is deprived of the resources invested outside through importations occasioned by such disputes. Fourthly, animosities resulting from disputes degrade the region's capacity to attract foreign direct investments.

3.5.3 Loss of Strategic Value

All the EAC member states belong to multiple regional groupings. Tanzania, for instance belongs to both EAC and SADC whereas Burundi, Kenya, Rwanda and Uganda belong to both EAC and COMESA. Membership to multiple RECs was identified to be a potential minefield especially in the event of trade disputes. In the event of economic antagonism between Kenya and Tanzania, there is be temptation by Tanzania, for example, to overlook the EAC in favour of SADC. This effectively erodes EAC's value as a vital REC. In 2012, Tanzania's trading with SADC registered an increase of '22 percent to reach Sh2.33 trillion……from Sh1.91 trillion in 2011.'[100] Within the same period, it 'earned Sh956.7 billion from exports to EAC.'[101] Statistics do in fact show that Tanzania's exports to SADC between 2009 and 2012 remained consistently higher than exports to the EAC. The variation in the trade volumes, which appear to earn Tanzania more from SADC than from EAC would appeal to Tanzania's attempt to harden its position against EAC partners. It is a factor that has the potential to degrade EAC's strategic value and significance as a REC of choice.

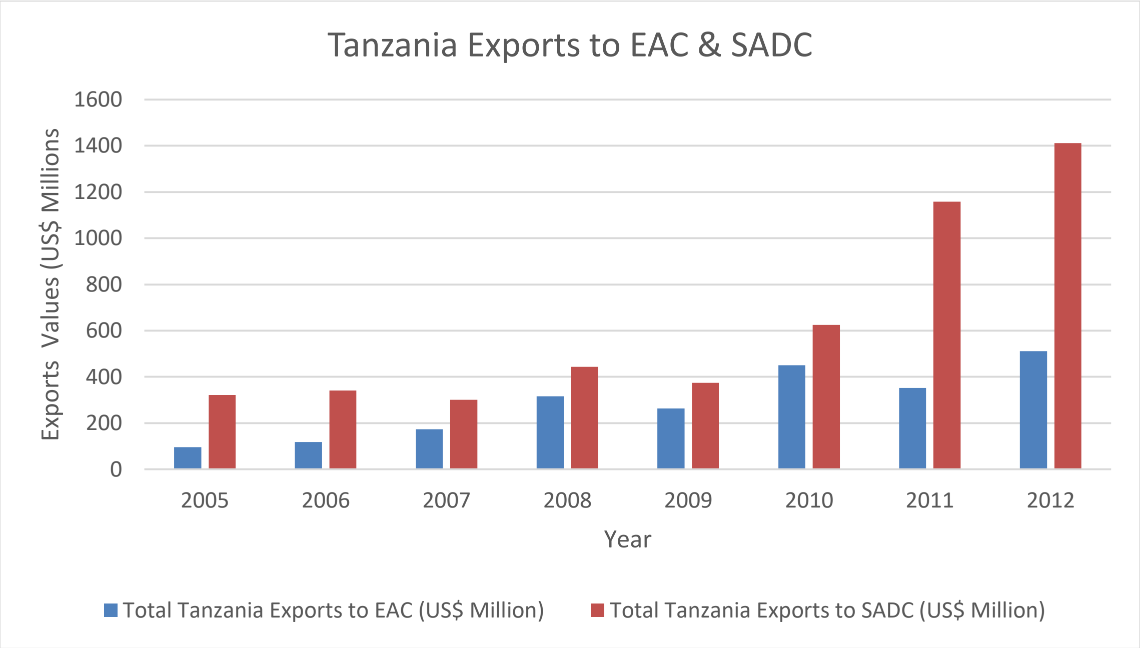
[100] https://www.thecitizen.co.tz/news/How-Tanzania-ranks-as-member-in-both-Sadc--EAC/1840360-2090084-37ehuez/index.html
[101] Ibid

Table 3.4: Tanzania Trading Volumes with EAC and SADC-2005-2012

Year	Total TZ Exports to EAC (US$ Million)	Total TZ Exports to SADC (US$ Million)
2005	96.4	322.3
2006	117.7	341.1
2007	173.1	300.8
2008	315.5	443.4
2009	263.7	374.2
2010	450.1	625.1
2011	352.4	1158.8
2012	512.0	1412.3

Source: Economic Survey Report-Tanzania Ministry of Finance and Planning 2009/2012

Figure 3e: Tanzania Trading Volumes with EAC and SADC-2005-2012



CHAPTER FOUR
SUMMARY, CONCLUSION AND RECOMMENDATIONS

4.1 Introduction

This chapter gives a summarized version of the project, conclusion and recommendations deriving from the study findings.

4.2 Summary

This study sought to examine trade disputes between Kenya and Tanzania and its implications to the East African Community (EAC), 2005-2014. More specifically, the study sought to examine the causes of trade disputes between Kenya and Tanzania, the implications of the trade disputes to the EAC and the mitigating measures put in place to address the disputes. The study employed neoclassical realism as the theory of choice. Its suitability was informed by its incorporation of the role of both the state and systemic factors in the conduct of international trade. It is a qualitative research relying on both primary and secondary data sources. Primary data sources include interviews administered to various respondents from sampled targets: Governments of Kenya and Tanzania and the East African Community. A total of 14 respondents were interviewed from various ministries, High Commission and EAC organs. Secondary data was sourced from various publications, including books, newspapers, institutional reports and journals.

The causes of the disputes have been identified as being, Non-Tariff Barriers (NTBs), lack of political goodwill and commitment, disparity in levels of development between the two countries, mismatch in implementation of applicable protocols, nationalistic ambitions, competition and overlapping membership to multiple RECs. Of all the causes, NTBs was particularly singled out as the major cause of the disputes. The two states were noted to have consistently applied NTBs to inhibit unhindered flow of goods and services. Between 2008 and 2013, Tanzania imposed the highest share at 35% of the total with Kenya following closely at 31%. The levels of development, a historical source of tension, has remained a contributor. Kenya has been accused of seeking to benefit to the exclusion of others. Thirdly, the two countries have sometimes sought to adopt divergent interpretations of the applicable protocols in way that is consistent with their interests. In the process, they have accused each other of seeking to tilt factors in their favour, a factor that has precipitated disputes between them. Fourthly, each of them has sought to leverage their respective attributes to win greater regional influence. The competition has sometimes degenerated into nasty confrontations. It has occasioned formation of rival groupings such as the 'Coalition of the Willing' in 2013. Such competition plays a role in fuelling nationalistic feelings, which is also a cause of the disputes.

The disputes have had varied and significant consequences, both bilaterally between the two countries and regionally on the EAC. Firstly, it slows down the whole integration effort. The realization of the four pillar integration process is a sequential and incremental process. Success of a succeeding pillar depends on the successful implementation of the preceding ones. For instance implementation of the Common Market Protocol can only be successful if the Customs Union Protocol objectives are realized. The disputes, arising from failure and reluctance to fully implement applicable protocols only works to slow down and impede the realization of EAC's ultimate goal; Political Federation. Secondly, it impedes the region's social integration and cohesion. The Common Market Protocol provides for freedom of movement and the right of establishment. Disagreements such as those arising from trading only serve to slow down implementation of more socially inclusive provisions. They limit the opportunities of the development of an East African identity, thus fuelling and consolidating nationalist feelings and tendencies. As a consequence, regional social cohesion becomes a victim. Thirdly, it slows down the region's economic growth. Intra-EAC trade has generally remained low compared to other RECs within and without Africa. As at 2013, it stood at 6.4% compared to EU's 40%, SADC's 10% and ASEAN's 24%. Fourthly, the disputes degrade the EAC's strategic value as a REC of choice. It is further aggravated by EAC's Partner States' multiple and overlapping RECs membership. Tanzania belongs to both EAC and SADC and any disputes with Kenya would tempt them to scale down their involvement with EAC in favour of SADC. Such balancing acts work to degrade EAC's prestige and strategic value.

Despite the existence of the challenges, effort continues to be made to have them addressed and pave way for dispute-free trading between Kenya and Tanzania. They are pursued within both bilateral and multilateral arrangement. Bilaterally, the Kenya-Tanzania Joint Cooperation Commission (JCC) remains the reference framework.

Having been signed in 1988, the JCC provides for, inter alia, promotion of economic cooperation between the two countries. Presidents of the two countries have in various occasions sought to work out a way of fully realizing its provisions. On the multilateral front, EAC, through its various structures, has provided an anchor and an instrument of regional engagement. Through the Summit, regional leadership has regularly met to take stock of progress made toward integration. Through the platform they have been able to identify sustained challenges and sought to inject corrective measures. Various other organs, such as the Council of Ministers, have provided technical support required to comprehensively deal with the isolated challenges. EALA has been crucial in developing legislations and regulations that are key in promoting trade among Partner States, including Kenya and Tanzania. Some of the laws include the EAC Customs Management Act, 2007, the East African Community Joint Trade Negotiations Act 2008, the EAC One Stop Border Post Act, 2013. As EAC's judicial arm, EACJ has been critical in the interpretation of various laws, thereby guaranteeing regulatory predictability which is crucial in harmonious engagement.

4.3 Conclusion

There exist trade disputes between Kenya and Tanzania, a situation that has had both political, economic and social implications, not only to the two countries but to the EAC as a whole. The identified causes of the trade disputes are reflective of the attempt by each of the state to pursue its national interest. It is largely centered on the desire by both Kenya and Tanzania to consolidate and assert their influence. Intense rivalry between the two countries was noted to be exacerbated by their geographical positioning that have them controlling the East African sea coast, a factor that has witnessed each of the two countries invest toward controlling the hinterland. The dynamic aligns with neoclassical theory which assumes that with an anarchic international system, each state engages in strategies that would guarantee its own survival. Additional imposition of various barriers, including non-tariff barriers (NTBs), seek to limit economic benefits that they derive from each other. Limitation of economic gains naturally degrades the ability of states to acquire resources necessary for expansion and power projection.

Despite the intense competition exhibited by the two, they nevertheless have subjected themselves to supra-state institutional arrangement that seeks to regulate the management of affairs within the East Africa region. Not only are they signatories to the founding EAC instruments, but they have also committed themselves to subsequent instruments that seek to operationalize effective realization of the EAC dream. Both countries have ratified both the Customs Union and Common Market Protocols which, inter alia, seek to streamline regional economic integration. The move does align with the neoclassical point view which acknowledges the role of systemic structures in regulating the behavior of states in the international system.

4.4 Recommendations

Kenya and Tanzania are inevitable neighbours. They are contiguous to one another, a factor that limits their trading options. For the two countries, co-existence is an inevitability which they not only need to embrace, but also accept as an immutable fact. Faced with trade challenges, they have no otherwise but navigate multiple options to ensure that they hew the best out of each another in an amicable and cordial environment. Indeed they have witnessed both high and low moments in their post-independence existence. Acrimony notwithstanding, the decade long engagement under the first EAC demonstrated the benefits of pulling together. Though the union collapsed in 1977, the two countries, acknowledging the ties that bind them together, continued diplomatic and economic cooperation, albeit bilaterally. In 1988, the two countries shone an even brighter light in their engagement when they signed the Kenya-Tanzania Joint Cooperation Commission (JCC), whose primary focus was to 'to strengthen economic and bilateral powers between the two countries.'[102]It remains the framework of reference to date. Progressively, they were able to overcome the forces of divergence that drove them apart. It climaxed in the signing of the Treaty establishing the EAC in 1999. Both are founding members of the re-born EAC. Based on the identified challenges, the following are some recommendations that would be helpful in ensuring smooth trade relations between the two East African economies.

First, the two countries should sustain engagement toward the elimination of NTBs, a dominant contributor to the tensions between the two of them. This can be achieved either bilaterally or multilaterally. The leadership of the respective countries should agree, through bilateral meetings to lift the NTBs to boost flow of goods and services between them. Relevant ministries, especially those responsible for foreign affairs and

[102] https://www.nation.co.ke/news/1056-599052-k3g9f5z/index.html

East African Community, should sustain regular contacts to help identify existing challenges, measures to address them as well proactively anticipate potential future challenges. They should employ both curative and preventive measures. At a multilateral level, the two should willingly and readily agree to operate within the EAC framework, a treaty to which both are signatories. Acknowledging that both have assented to the Customs Union and Common Market Protocols, which greatly address measures to undertake to deal with NTBs, the two should willingly implement both of them. In particular the two countries should religiously implement the Non-Tariff Barriers Act 2017 which has since come into force. It provides for, among other things, applicable sanctions on any non-compliant EAC Partner State. Additionally, all Partner States should hasten the establishment of Trade Dispute Committee as provided for in the Customs Management Act. Such a committee would allow for an expert-driven and an inclusive platform for elimination of NTBs.

Secondly, there should be deliberate effort by the two countries to invest heavily in the institutions that directly manage their affairs. In particular, they should, without hesitation, invest in technical capacity of their human resources. With such empowerment, addressing both existing and emerging trade related challenges would inch closer to resolution. Application of informed minds, with an elevated sense of rationality and objectivity would help bridge existing divides and emerging rifts. It would easily allow for an easier venture in reconciling rival and divergent views and standpoints that sometimes spill over to the interpretation of existing instruments of engagement as was the case in 2012 Duty Remission Scheme. Technically armed human resources would work optimally toward pulling down any mismatches.

Thirdly, there should be EAC-wide concerted effort toward promoting regional integration as articulated in the EAC Treaty. There should be deliberate and sustained promotion to EAC citizens on the existence of EAC and its attendant benefits. The leadership should effectively implement one of the resolutions it agreed upon during the 2009 11th Ordinary Summit of Heads of State in which they agreed to undertake 'comprehensive sensitization programme for continuous and in-depth sensitization including initiatives to promote mutual trust, confidence building, an East African identity and solidarity among citizens of East Africa about the EAC integration'[103]. If effectively implemented, such an initiative would come in handy toward annihilating some nationalistic feelings that sometimes fuel acrimonious fall outs. It might have the impact of prompting a bottom-up push that would compel top leaders to move along the wave of goodwill generated by citizens in respective Partner States.

Fourthly, EAC Partner States, including Kenya and Tanzania, should move to fully implement the provisions under the Single Customs Territory (SCT). Robust implementation of the SCT would serve to boost intra-EAC trade which, as of 2013, stood at a paltry 6.4%. There should be Community-wide incentivization of region-wide production and consumption. Fair trade and incentivization would surely serve toward boosting economic growth and development, both at Partner States and regional levels. Progressively, such effort would ensure that each Partner State gets their rightful share of development hence removing potential for unhealthy and acrimonious competition. The largely entrenched position of Kenya's economic dominance at the expense of others, including Tanzania, would be largely addressed. Such view has historically been central to suspicion and tension between Kenya and Tanzania.

Fifthly, the countries should be at the forefront of championing full implementation of broader and more inclusive RECs and regimes such as the COMESA-EAC-SADC Tripartite Free Trade Area. Its successful implantation would constructively address the tensions that arise from membership to multiple RECs by various EAC Partner States. Kenya's membership to both EAC and COMESA and Tanzania's membership to both EAC and SADC has partially fuelled trade disputes between the two of them, especially in areas where the RECs have dissimilar and divergent provisions. Additionally, effort should be made toward the realization of the African Continental Free Trade Area (AfCFTA). If successful it would creatively absorb and dissolve the disparate and sometimes rival continental RECs that have limited flow of goods and services across the continent. Kenya and Tanzania would be a beneficiary to such a move.

[103] 11th Ordinary Summit of the East African Community Heads of State; Joint Communique, 20th November, 2009. Pg. 3

Lastly, there should be further research on the implications of various initiatives that have since been undertaken to address trade disputes between the two countries. In particular, research should be undertaken to examine the impact of Non-Tariff Barriers Act 2017 taking into consideration the fact that NTBs are a key contributor of trade disputes between the Republic of Kenya and the United Republic of Tanzania. Additionally, there should be research to assess the effectiveness of the Single Customs Territory (SCT).

BIBLIOGRAPHY

Brown, Chris and Ainley, Kristen. *Understanding International Relations*, (*3rd ed.).* New York: Palgrave Macmillan, 2005

Burfisher Mary, Norman Terry, and Schwartz Renee "NAFTA Trade Dispute Resolution: What are the Mechanisms? *Proceedings of the 6th Agricultural and Food Policy Systems Information Workshop, 2000*

Capital FM: https://www.capitalfm.co.ke/news/2013/02/kibaki-off-to-tz-for-two-day-visit/ . Accessed 19th August 2019

Claude Chase, Alan Yanovich, Jo-Ann Crawford, and Pamela Ugaz "Mapping of Trade Settlement Mechanisms in Regional Trade Agreements-Innovative or Variations on a Theme?" *Working Paper World Trade Organisations* (June, 2013)

Cooksey, Brian, "Tanzania and the East African Community: A Comparative Political Economy", *European Centre for Development Policy Management, Discussion Paper 186* (May, 2016)

Daily Nation: https://mobile.nation.co.ke/news/Tanzania-govt-renounces-coalition-of-the-willing/1950946-2041956-format-xhtml-jcoiq3z/index.html Accessed 20th August 2019

Daily Nation: https://www.nation.co.ke/news/1056-599052-k3g9f5z/index.html Accessed 7th July 2019

Daily Nation: https://www.nation.co.ke/news/politics/Kibaki-back-from-EA-leaders-summit/1064-1066184-hx59ooz/index.html Accessed 18th July 2019

Goldstein, Joshua and Pevehouse, Jon. *International Relations: 2013-2014 Update,* (*10thed.).* New York: Pearson, 2014

Kasaija, Phillip *"Regional Integration: A Political Federation of the East African Countries?,"* African Journal of International Affairs: Volume 7 Numbers 1&2 (2004): 21-34.

Kenya Vision 2030: A Globally Competitive and Prosperous Kenya. Retrieved from https://www.researchictafrica.net/countries/kenya/Kenya_Vision_2030_-_2007.pdf Accessed on 30th August 2019

Kenya: Economic Recovery Strategy for Wealth and Employment Creation, 2003-2007 Retrieved from http://siteresources.worldbank.org/KENYAEXTN/Resources/ERS.pdf Accessed on 30th August 2019

Kimbugwe, Kato, Perkidis Nicholas, Yeung May and William Kerr, eds. *Economic Development Through Regional Trade: A Role for the New East African Community?* New York: Palgrave Macmillan, 2012

Kimenyi S. Mwangi, Lewis, A. Zenia, and Routman Brandon "Introduction: Intra-African Trade in Context," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 1-5.

Kimenyi S. Mwangi, Lewis, A. Zenia, and Routman Brandon "Trade Preferences and Value Chain," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 13-14.

Lobell, Steven, Norrin Ripsman and Jeffrey Taliaferro, eds. *Neoclassical Realism, the State and Foreign Policy*. Cambridge: Cambridge University Press, 2009

Mboya, Tom. *The Challenge of Nationhood: A Collection of Speeches and Writings.* Washington: Praeger Publishers, 1970

Meehan, Eugene. *The Theory and Method of Political Analysis*.Homewood: The Dorsey Press, 1965

Ministry of Foreign Affairs "Republic of Kenya Foreign Policy Framework, 2009." Nairobi, 2009, https://www.academia.edu/10213952/Kenya_Foreign_Policy_Document Accessed on 18th August 2019

Ministry of Industry and Trade "The United Republic of Tanzania: National Trade Policy for a Competitive Economy and Export-Led Growth, 2003." Dar es Salaam 2003. http://www.tzonline.org/pdf/tradepolicyforacompetitiveeconomy.pdf Accessed 5th August 2019

Ministry of Trade "Republic of Kenya: National Trade Policy: Efficient Global Competitive Economy, 2009". Nairobi, http://extwprlegs1.fao.org/docs/pdf/ken147959.pdf Accessed on 19th August 2019

Muluvi Augustus and Odhiambo Paul "*East African Partner States Pulling in Different Directions: What Are The Implications for the East African Community?*:

https://www.brookings.edu/blog/africa-in-focus/2013/12/02/east-african-partner-states-pulling-in-different-directions-what-are-the-implications-for-the-east-african-community/ Accessed on 2nd September 2019

Muluvi Augustus, Kamau Paul, Githuku Simon and Ikiara Moses "Kenya's Trade within the East African Community: Institutional and Regulatory Barriers," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 20-23.

Neuman, Lawrence. *Understanding Research*.Boston: Pearson Education, 2009

OAU: Declaration and Resolutions Adopted by the 16th Ordinary Session of the Assembly of Heads of State and Government: July 1979

Ochwada, Hannington *"The History and Politics of Regionalism and Integration in East Africa," Conflict and Peacebuilding in the African Great Lakes Region* (2012)

Odhiambo Allan, and Mugwe David, "Tanzania's Kikwete pledges freer flow of goods, labour from Kenya." *Business Daily*,September 13, 2012. https://www.businessdailyafrica.com/corporate/Tanzanias-Kikwete-pledges-freer-flow-of-goods-from-Kenya/539550-1506750-3njp6dz/index.html Accessed 16th August 2019.

Olumide Taiwo and Nelipher Moyo "Eliminating Barriers to Internal Commerce to Facilitate Intraregional Trade," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 8-11.

Page, John "Why Intra-African Trade Matters," *Accelerating Growth through Improved Intra-African Trade* (January 2012): 6-7.

Rose, Gideon, "Neoclassical Realism and Foreign Policy", Review Article in *World Politics* 51, (October, 1998), 144-72

Shams, Rasul, "Trade Imbalances and the Political Economy of a Transitional Fund in the EAC," *Hamburg Institute of International Economics* (2003): Pg. 10.

Sorensen, Georg and Robert Jackson.*Introduction to International Relations: Theories and Approaches,* (*5thed.).* Oxford: Oxford University Press, 2013

Tamara, Gordeeva. 'International Trade Disputes in Modern Regulatory Paradigm.' IEP 19 (2013): 96-118

Tayari Emmanuel, "Coalition of the Willing: Using the EAC Stick to Beat Tanzania will only Annoy the Sleeping Giant." *The East African*, September 7, 2013. https://www.theeastafrican.co.ke/oped/comment/Coalition-of-the-willing-

Using-the-EAC-stick-to-beat-Tanzania/434750-1983028-14w3vnjz/index.html Accessed on 6th August 2019

Thandrayan, Pearl "The EAC: Regional Engine, African Model," *World Politics Review* (February 2013)

The Citizen: https://www.thecitizen.co.tz/news/How-Tanzania-ranks-as-member-in-both-Sadc--EAC/1840360-2090084-37ehuez/index.html Accessed on 3rd August 2019

United Nations Conference on Trade and Development, "Dispute Settlement: Regional Approaches-ASEAN (2003) Pg. 23

Joint Communiques

11th Ordinary Summit of the East African Community Heads of State; Joint Communique, 20th November, 2009. Pg. 3 & 4

13th Ordinary Summit of the East African Community Heads of State; Joint Communique, 3rd December, 2011. Pg. 2

6th Extraordinary Summit of the East African Community Heads of State; Joint Communique, 20th August,2007. https://oldsite.issafrica.org/uploads/EACSUMCOMAUG07.PDF Accessed 12th August 2019

Websites

https://www.eac.int/common-market: Accessed on 21st July 2019

https://www.eac.int/monetary-union: Accessed on 21st July 2019

https://www.eac.int/political-federation: Accessed on 21st July 2019

https://www.eac.int/eac-organs: Accessed on 21st July 2019

https://data.worldbank.org/country/tanzania / Accessed on 27th July 2019

https://data.worldbank.org/country/kenya Accessed on 27th July 2019

https://www.tanzaniainvest.com/kenya Accessed on 27th July 2019

https://www.eac.int/eac-organs Accessed on 27th July 2019

http://www.eala.org/documents/category/acts-of-the-community Accessed on 2nd August 2019

http://www.eala.org/documents/category/resolutions/P32 Accessed on 2nd August 2019

APPENDICES

APENDIX 1: INTERVIEW SCHEDULE

ALEX OCHIENG OGUTU

MASTER OF ARTS IN INTERNATIONAL RELATIONS

UNIVERSITY OF NAIROBI, KENYA

REGISTRATION NUMBER: C50/68561/2013

RESEARCH TOPIC: FACTORS INFLUENCING KENYA-TANZANIA TRADE DISPUTES AND ITS IMPLICATIONS TO THE EAST AFRICAN COMMUNITY (EAC), 2005-2014

<u>INTERVIEW SCHEDULE</u>

1. What is your understanding of trade relations between Kenya and Tanzania?
2. Have there been cases of trade disputes between Kenya and Tanzania?
3. In your view what would you say are the causes of the trade disputes?
4. Could there be non-trade related causes to the trade disputes?
5. Bilaterally, what impact would you say these trade disputes have had on the relations between Kenya and Tanzania?
6. What impact would you say these disputes have had on the EAC?
7. How did Kenya and Tanzania individually respond to these trade disputes?
8. How did the EAC respond to these trade disputes between Kenya and Tanzania?
9. How did these responses impact Kenya-Tanzania trade disputes?
10. Are there any long-lasting measures that have been put in place to address these disputes?

APPENDIX TWO: LIST OF RESPONDENTS

Study Population	Target Sample (Designation)	Number
Ministry of Foreign Affairs & International Trade (Kenya)	*Director: Directorate of Africa and African Union *Director: Office of the Great Lakes Region	2
Ministry of East African Community & Regional Development (Kenya)	*Director: Department of East African Community *Director: Regional and Northern Corridor Development	2
Ministry of Industry, Trade and Co-operatives	*Deputy Director: State Department for Trade: Directorate of International Trade *International Trade Officer: State Department for Trade *Regional Trade Officer: State Department for Trade	3
East African Community (EAC) Secretariat	*Principal Trade Officer (Internal Trade): Trade Directorate *Principal Customs Officer: Customs Directorate	2
East African Legislative Assembly (EALA)	*Senior Clerk Assistant, EALA Standing Committee on Communication, Trade and Investment *Chairman: Communication, Trade and Investment Committee *Senior Research Officer	3
East African Court of Justice	*Assistant Registrar	1
Tanzania High Commission in the Republic of Kenya	*High Commissioner	1
Kenya Revenue Authority (KRA)	*Head of Policy Unit *Head of Customs and Trade Facilitation Unit *Officers from Policy Unit and Customs and Trade Facilitation Unit	6
Kenya Export Promotion and Branding Agency (KEPROBA)	*Officers from Research Unit	3
East African Business Council (EABC)	*Head and Officers from the Trade and Policy Department	3
Micro and Small Enterprises Authority (MSEA)	*Officers from Policy Planning and Research	3
Kenya Private Sector Alliance (KEPSA)	*Officers from the Research Unit	3
Trade Mark East Africa (TMEA)	*Officers from the Research Unit	2
Kenya National Chamber of Commerce and Industry (KNCCI)	*Officers from the Research Unit	3
KENINVEST	*Officers from the Research Unit	4
Kenya Association of Manufacturers (KAM)	*Head of Policy, Research and Advocacy Unit (PRAU) *Research officers from PRAU	4