

UNIVERSITY OF NAIROBI

**DEPARTMENT OF POLITICAL SCIENCE AND PUBLIC
ADMINISTRATION**

**THE INFLUENCE OF NATIONAL INTEREST ON REGIONAL INTEGRATION: THE
CASE OF KENYA IN THE EAST AFRICAN COMMUNITY**

MARTIN KIZITO ONYANGO ONG'OYI

REG. NO. C50/86304/2016

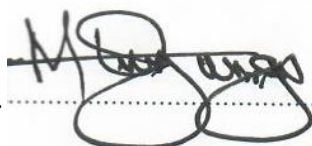
**A THESIS SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS
FOR THE AWARD OF THE DEGREE OF MASTER OF ARTS IN POLITICAL
SCIENCE AND PUBLIC ADMINISTRATION, UNIVERSITY OF NAIROBI.**

JUNE 2021

DECLARATION

This thesis is my original work and has not been presented for any other academic award at any other institution of learning.

Signed:



Date: 14 June 2021

Name: MARTIN KIZITO O. ONG'OYI
Reg. No. C50/86304/2016

This thesis has been submitted for examination with our approval as the university supervisors.

Signed:



Date: 15 June 2021

PROF. PHILIP O. NYINGURO
First Supervisor

Signed:



Date: 15 June 2021

PROF. FRED JONYO
Second Supervisor

ACKNOWLEDGEMENT

I have incurred many debts while researching and writing this thesis. First of all, I extend my deepest appreciation to my academic advisor, Professor Philip Nying'uro. I have been amazingly fortunate to know him and receive the guidance from his vast and in-depth knowledge, not only on a state's national interest, but also on politics and theories in general. I doubt that I will ever be able to convey my appreciation fully, but I owe him my eternal gratitude.

To the entire teaching and non-teaching staff who facilitated successful completion of my coursework in the Department of Political Science and Public Administration, I salute you. You have been a source of kind and generous assistance during my time at the department.

Most importantly, none of this would have been possible without the love and patience of my family. My wife and children, have been a constant source of love, concern, support and strength all my life. Above all, I thank God for granting me the gift of life and good health during the entire duration of writing my thesis.

To all these people I am truly grateful. I remain wholly responsible, of course, for all errors and deficiencies in this work.

DEDICATION

This thesis is dedicated to my family and staff at my work place for their support during my study.

LIST OF ABBREVIATIONS AND ACRONYMS

AD	Anno Domino
ADB	African Development Bank
AIC	ASEAN Industrial Cooperation
AICS	ASEAN Industrial Cooperation Scheme
ASEAN	Association of South East Asia Nations
AU	African Union
BCO	British Colonial Office
BOC	British Order of Council
BPC	British Parliamentary Committee
BRICS	Brazil, Russia, India, China and South Africa
CACO	Central Africa Consultative Organization
CAI	Continental American Integration
CJTF	Combined Joint Task Force
CLA	Central Legislative Assembly
DBSA	Development Bank of South Africa
DFLR	Democratic Forces for the Liberation of Rwanda
DRC	Democratic Republic of Congo
DS	Directing Staff
DSC	Defence Staff College
EA	East Africa
EACB	East African Currency Board
EAC	East African Community
EACJ	East African Court of Justice
EACSO	East African Common Services Organization

EADS	East African Development Strategy
EAHC	East African High Commission
EALA	East African Legislative Assembly
ECDPM	European Centre for Development Policy Management
ECSA	European Consumer Safety Association
ECOWAS	Economic Community of West African States
ECSC	European Coal and Steel Community
EEC	European Economic Community
EFTA	European Free Trade Association
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
FLS	Front Line States
GFPR	Global Fire Power Ranking
IO	International Organization
ITO	Inter-Territorial Organization
KDF	Kenya Defence Forces
KUR	Kenya Uganda Railway
KURHA	Kenya Uganda Railway and Harbours Administration
LAPSSET	Lamu Port and Lamu Southern Sudan-Ethiopia Transport Corridor
LDCs	Least Developed Countries
LRA	Lord's Resistance Army
MAR	Market Access Regulations
MERCOSUR	Mercado Cmún del Sur (Southern Common Market)
MGCE	Military Games and Cultural Events

MNCs	Multinational Corporations
MOU	Memorandum of Understanding
NAFTA	North America Free Trade Area
NCIP	National Commission on Indigenous Peoples
NEPAD	New Partnership for Africa's Development
NGOs	Non-governmental Organizations
NRA	National Resistance Army
OAS	Organization of American States
PAFMECA	Pan-African Movement of East and Central Africa
PSO	Peace Support Operation
PTA	Preferential Trade Area
PU	Postal Union
RNC	Rwanda National Congress
SADC	Southern African Development Community
SPSS	Statistical Packages for Social Sciences
TPP	Trans-Pacific Partnership
UNECA	United Nations Economic Commission for Africa
USSR	Union of Soviet Socialist Republics
WB	World Bank
USD	United States Dollar

TABLE OF CONTENTS

DECLARATION.....	ii
ACKNOWLEDGEMENT.....	iii
DEDICATION.....	iv
LIST OF ABBREVIATIONS AND ACRONYMS	v
TABLE OF CONTENTS.....	viii
LIST OF FIGURES	xii
LIST OF MAPS.....	xi
LIST OF TABLES	xiii
LIST OF APPENDICES	xiv
ABSTRACT.....	xvi
CHAPTER ONE: INTRODUCTION.....	1
1.0 Background to the Study	1
1.1 Statement of the Problem.....	4
1.2 Objectives of the Study	6
1.2.1 Main Objective	6
1.2.2 Specific Objectives.....	6
1.3 Research Questions	6
1.3.1 Main Question	6
1.3.2 Specific Questions.....	7
1.4 Justification of the Study.....	7
1.4.1 Academic Justification	7
1.4.2 Policy Justification	8
1.5 Scope and Limitation of the Study.....	8
1.6 Definition of Concepts	9
1.7 Literature Review.....	11
1.7.1 Introduction	11
1.7.2 Imperatives and Stages of Regional Integration.....	11
1.7.3 Economic Integration	13

1.7.4	Security Integration	20
1.7.5	Political Integration	23
1.7.6	Cultural Integration	28
1.7.6	Conclusion.....	28
1.8	Theoretical Framework	29
1.8.1	Introduction	29
1.8.2	Realism.....	30
1.8.3	Liberalism.....	32
1.8.4	Conceptual Framework	34
1.9	Research Hypotheses.....	35
1.10	Research Methodology.....	35
1.10.1	Introduction	35
1.10.2	Research Design	36
1.10.3	Data Collection Methods.....	36
1.10.4	Ethical Consideration	36
1.11	Organization of the Study	39

CHAPTER TWO: EVOLUTION OF REGIONAL INTEGRATION IN EAST AFRICA IN PERSPECTIVE 40

2.0	Introduction	40
2.1	Integration in the Colonial East Africa	40
2.2	The East African Community I	47
2.3	The East African Community II.....	50
2.3.1	Introduction	50
2.3.2	Establishment of East African Community II	52
2.3.3	The Organs of the East African Community II	53
2.4	Conclusion.....	56

CHAPTER THREE: THE TREATIES OF EAST AFRICAN COMMUNITY AND NATIONAL INTEREST OF THE PARTNER STATES 58

3.0	Introduction	58
3.1	Conditions for Joining the Community	59
3.2	Principles of the Community.....	62
3.2.1	The Principle of Subsidiarity.....	62
3.2.2	The Principle of Variable Geometry	63
3.2.2	The Principle of Assymmatry.....	64
3.3	The Organs and Institutions of the Community	66

3.3.1	The Summit	67
3.3.2	Other Organs of East African Community	69
3.4	Conclusion.....	72

CHAPTER FOUR: KENYA'S NATIONAL INTEREST AND REGIONAL INTEGRATION IN THE EAST AFRICAN COMMUNITY 73

4.0	Introduction.....	73
4.1	Competing Economic Interests and Regional Integration in the East African Community.....	74
4.2	Peace and Security	94
4.3	The Defence Cooperation.....	98
4.3.1	Military Training	100
4.3.2	Combined and Joint Military Operations	102
4.4	Social and Cultural Identity.....	105
4.5	Political Interest.....	113
4.6	Conclusion.....	118

CHAPTER FIVE: SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS..... 120

5.0	Introduction	120
5.1	Summary of Findings and Conclusion	120
5.1.1	Economy and Regional Integration	120
5.1.2	Political Sovereignty and Regional Integration.....	122
5.1.3	Defence Cooperation.....	123
5.1.4	Social and Cultural Identity.....	124
5.2	Conclusion of the Study.....	125
5.3	Recommendations	126
5.3.1	Policy Recommendations	126
5.3.2	Academic Recommendations	126

BIBLIOGRAPHY..... 129

APPENDICES..... 135

LIST OF MAPS

Map I.I East African Community correct as at 2019.....xv

LIST OF FIGURES

Figure 4.1	Population Distribution of EAC II Partners State as at 2016	76
Figure 4.2	Annual Population Growth Rate (%) of the EAC II Partner States from 2005 to 2015	78
Figure 4.3	GDP of EAC I Partner States from 1967 to 1977	80
Figure 4.4	The Gross Domestic Product (GDP) IN USD	83
Figure 4.5	GDP of EAC II Partner States from 2000 to 2016	85
Figure 4.6	Intra-regional trade in East Africa, 2012–17 (% of total exports).....	87
Figure 4.7	Intra-regional trade in East Africa, 2012–17 (% of total exports).....	108

LIST OF TABLES

Table I.I	Population and GDP of the EAC II Partner States as at 2018	35
Table 1.1	Conceptual Framework	36
Table 1.2	Distribution of Respondents	38
Table 4.1	Population Distribution of EAC II Partners State as at 2016.....	77
Table 4.2	Annual Population Growth Rate(%) of the EAC II Partner Statesfrom.2005to 2015.....	78
Table 4.3	GDP of EACI Partner States from 1967 to 1977.....	80
Table 4.4	The Gross Domestic Product (GDP) inUSD.....	82
Table 4.5	GDP of EAC Partner States from 2000 to 2016	83
Table 4.6	Intra-regional trade in East Africa, 2012–17 (% of total exports).....	86
Table 4.7	EAC II Defence Sector Calendar of Activities for 2019.....	104
Table 4.8	The 11 th Edition of Military Games and Cultural Events.....	107

LIST OF APPENDICES

Appendix 1	Interview Schedule and Questionnaires.....	137
Appendix 2	The Treaty for East African Co-operation Act 1967.....	143
Appendix 3	The Treaty for the Establishment of the East African Community.....	215
Appendix 4	Protocol on the Establishment of the EAC Customs Union.....	260
Appendix 5	Protocol on the Establishment of the EAC Common Market.....	275
Appendix 6	Protocol on Co-operation in Defence Affairs.....	298

Map I.I East African Community as at 2019



Source: Google Maps, 2019.

Table I.I Population and GDP of the EAC II Partner States as at 2018

S/No	State	Approx Population in (m)	GDP in USD (in Billions)	% of Population	% of EAC GDP
1	Burundi	11,216,450	3.48	5.9	1.9
2	Kenya	50,950,879	89.59	26.7	48.3
3	Rwanda	12,501,156	9.71	6.5	5.2
4	S.Sudan	12,919,053	1.00	6.8	0.5
5	Tanzania	59,091,392	55.00	30.9	29.6
6	Uganda	44,270,563	27.00	23.2	14.5
Total	EAC	190,949,493	185.8	100	100

Source: The World Bank Group, 2019.

ABSTRACT

This study examined the extent to which Kenya's pursuit of its national interest has promoted or undermined the integration process in the East African Community (EAC) region. The study was guided by the following research question: To which extent has Kenya's pursuit of its national interest promoted or undermined integration process in the EAC region? The study was anchored on realist and liberalist theories to explain the extent to which Kenya's behaviour and participation in the EAC region has influenced the integration process. The two theories proved relevant for this study since in many instances, Kenya combined the use of both hard power (read force, coercion and economic sanctions) and soft power (read negotiations, mediations as well as diplomacy) to pursue its national interest within EAC region. Documentary and interview methods were used to gather data for the study. Thematic analysis was used to analyse the data which was then presented in both narrative and numerical forms.

The study found that Kenya's pursuit of national interest in EAC region has promoted and at the same time undermined integration process in various ways. Being the most developed economy in the region, Kenya has been benefiting asymmetrically from the larger EAC market by exporting goods and services to other EAC partner states duty free. This has promoted its national interest while at the same time undermined integration process in the region. However, on the other hand and positive to the other EAC states, Kenya's regional peace and security efforts have been key in boosting stability in the region. The study therefore concluded that the pursuit of Kenya's national interests has promoted and at the same time undermined the East African integration process. The study thus recommends that the EAC Treaty 199 needs to be reviewed in order for the integration process to move forward smoothly. However this is only possible with political goodwill from the EAC leaders. Additionally, Kenya needs to balance between pursuit of its national interest and EAC's collective goals.

CHAPTER ONE

INTRODUCTION

1.0 Background to the Study

Relations and co-operation among states can be traced back to the beginning of human society. Aristotle described a man as a *zoon politikon* (a political animal) which connotes that a man is a creature designed by nature to live in *polis* (city state) (Jowett, 1885). Prior to Aristotle's thinking, Plato in his analogy of the *polis* and the soul related a state to a man, where a state has similar needs to a man. A state ensures its survival through the pursuit of its goals, objectives, aims, desires and choices. A state as a social entity relates with other states in order to meet and satisfy its needs. These relations take many forms and are fuelled by economical, socio-cultural, political, security and geographical factors. States' interactions are regulated by international laws, treaties, conventions, agreements and memoranda of understanding (MOU) for mutual benefits of all parties. States in their external relations pursue national interest through foreign policy. Foreign policy is a set of rules, norms, procedures, preferences and regulations that guide a state's external behaviour (Hill, 2003). Further, he argued that foreign policy is the sum of official external relations conducted by an independent actor, usually a state in its international relations. The main goal of any foreign policy is to achieve national interest, which is primarily state survival in an otherwise anarchic international environment.

Regional integration dates back to the period immediately after the Second World War. It was adopted by states for purposes of coordinating economic and social policies, setting up common institutions and occasionally cooperating on security issues. Subsequently, many different regional organizations were established in different parts in the world. In Europe, several regional bodies were established which included the European Coal and Steel Company (ECSC),

the European Free Trade Association (EFTA), the European Economic Community (EEC) and the European Community (EC) among many others (Urwin, 1991). All these bodies evolved to finally form the European Union (EU) through the Treaty of Rome on 25th March 1957, which became effective on 1st January 1958. In Africa, there were Pan-African Movement of East and Central Africa (PAFMECA), the Front Line States (FLS), Economic Community of West African States (ECOWAS), the East African Community (EAC) among many others. Equally Asia and the Americas have had a number of regional organizations such as Association of Southeast Asian Nations (ASEAN) and the North America Free Trade Area (NAFTA), respectively.

Regional integration has been driven by different factors. Nyong'o (1990) observed that the emerging trends in the global economic order are responsible for resurgence of regional integration. In Europe, integration was as a result of concerns arising from domination of Germany, the Soviet threat and the need for economic recovery after the Second World War (Urwin, 1991). Similarly in Asia, ASEAN was created due to the communist threat of the Soviet Union and common need for economic development (Shiraishi and Okamoto, 2012). In Africa, regional integration was generally a factor of de-colonization, continental unity and economic development. Its objectives were to maintain independence and political stability, set up economic and monetary union and to establish a common defence policy. In America, integration was mainly through the Mercado Comun del Sur (MERCOSUR) – South American Trade Block and NAFTA and was fuelled by the desire to eliminate the economic barriers and spread liberal democratic governance within the region. The United States of America (USA) and Canada remain the anchor states and the main drivers of the Continental American Integration (CAI) (Shiraishi and Okamoto, 2012).

It is observed that the main purpose of regional integration is for the survival and prosperity of the integrating states. This survival is the national interest as argued by the realist's school of thought. The nature and manner in which states pursue their national interest has a great influence on the integration process (Shiraishi and Okamoto, 2012). In East Africa, states came together to form the East Africa Community (EAC) for purposes of maximizing their potential and economic development (EAC, 1999). The EAC has existed in two distinct periods. The first EAC was inaugurated in 1967 but collapsed in 1977 and the second one was established in 2000. In this study the first and second EACs will be referred to as the East African Community One (EAC I) and the East African Community Two (EAC II) respectively. Members of EAC I were the Republic of Kenya, the United Republic of Tanzania and the Republic of Uganda. The collapse was attributed to several factors especially the pursuit of national interest by partner states. (Haas, 1976). The EAC II was inaugurated on 7th July, 2000 and has now six members namely Republic of Burundi, Republic of Kenya, Republic of Rwanda, Republic of South Sudan, Republic of Tanzania and Uganda.

The EAC II has experienced both challenges and prosperity since inception. This is due to the perennial pursuit of national interest by partner states and idiosyncratic differences of leaders. Challenges and advances are common in any regional integration scheme. Since the establishment of the EU, regional integration in Europe has experienced several hiccups because of competing national interests. In particular the EU is being undermined by the insistence on pursuit of separate national interest by some of its 27 member states including Britain which initiated the "Brexit", the withdrawal of United Kingdom from the EU on 23rd June 2016. Brexit decision was taken in order to protect and preserve Britain's sovereignty, political elitism and economic development which majority of British thought were being undermined by the EU

(Hunt, 2019). Equally in NAFTA, regional integration process is being undermined by the member states' pursuit of national interest particularly Trump's policy of "America First". ASEAN is also threatened by China's policies of economic expansion and pursuit of regional dominance which are its main national interest. In a positive note partner states of a regional integration scheme often benefit from the larger market, collective security and political stability which are synonymous with regional cooperation blocs.

As an anchor state in the EAC, Kenya's role in the integration process in the EAC region is very crucial. Its pursuit of national interest may in a significant way facilitate or undermine the process of regional integration. The study thus examined the impact of Kenya's behaviour and participation in the EAC on the process of integration.

1.1 Statement of the Problem

Clausewitz (1976) observed that a state's behaviour is motivated by its needs to survive and prosper. These needs are what constitute a state's national interest which includes but not limited to the pursuit of economic, political, security and cultural desires. Regional integration therefore provides a platform for partner states, especially the weaker ones to benefit from the advantages derived from the large economies of scale that arise out of states banding together. These benefits include larger market, stronger bargaining power and collective security arrangement.

Iyoha (2005) identified free trade among partner states as the critical feature of regional integration. He argued that free trade facilitates rapid economic growth. The economic growth imperative can be exemplified by the case of the EU where increased integration has produced

general growth in most of the partner states. Weaker partner states use regional integration to strengthen and increase their economic development, collective security and prestige while the stronger ones seek to extend their influence within the region and project their hegemonic power to dominate and manipulate issues in the global arena. However, to ensure success in any regional integration scheme, sovereign partner states are mutually required to surrender some of their sovereign rights to facilitate widening and deepening cooperation. Sovereign states have *to die a little* - seek and pursue collective interests for the sake of regional integration rather than pursue and gain separate national interest.

In Africa, several attempts at regional integration have been made over time but these efforts have in most instances either fallen short or proven to be largely ineffective except for the promising case of ECOWAS. In the case of EAC I, factors that were either idiosyncratic or fundamental slowed the integration efforts and eventual collapse in 1977 (Ojo et al., 1985). Uganda and Tanzania felt that Kenya, whose economy was relatively more developed, was benefiting more. EAC I was therefore perceived to serve the national interest of Kenya. However, the EAC II was established on 7th July 2000 to promote security, economic and political cooperation among its partner states (EAC, 1999). The EAC II has admitted three new partner states; Rwanda (2007), Burundi (2007) and the South Sudan (2016).

Recently, a “Coalition of the Willing” comprising of Kenya, Rwanda and Uganda was formed in the spirit of the principle of variable geometry to jointly undertake the development of the Lamu Port and Lamu Southern Sudan-Ethiopia Transport Corridor (LAPSSET). However, Uganda and Rwanda later pulled out in preference to a route through Tanzanian sea ports. This case demonstrates that while converging interests promote regional integration, divergent ones may undermine integration efforts. Therefore, Kenya's pursuit of national interest in the EAC has

various influences in the integration process. These influences may either promote or undermine the integration process. Thus there is a need to examine the extent to which Kenya's pursuit of its national interest has promoted or undermined integration process in the EAC given that Kenya is the core state in the region.

1.2 Objectives of the Study

1.2.1 Main Objective

The aim of this study is to examine the extent to which Kenya's pursuit of national interest has undermined or promoted integration process in the EAC region.

1.2.2 Specific Objectives

1. To examine the extent to which Kenya's protection of economic interest has promoted or undermined integration process in the EAC region.
2. To examine the extent to which Kenya's preservation of sovereignty and territorial integrity has promoted or undermined integration process in the EAC region.
3. To examine the extent to which Kenya's protection of national identity has promoted or undermined integration process in the EAC region.

1.3 Research Questions

1.3.1 Main Question

To which extent has Kenya's pursuit of national interest undermined or promoted integration process in the EAC region?

1.3.2 Specific Questions

1. To which extent has Kenya's protection of economic interest promoted or undermined integration process in the EAC region?
2. To which extent has Kenya's preservation of sovereignty and territorial integrity promoted or undermined integration process in the EAC region?
3. To which extent has Kenya's preservation and protection of national identity promoted or undermined integration process in the EAC region?

1.4 Justification of the Study

1.4.1 Academic Justification

The post-cold war era has witnessed a resurgence of regional integration efforts around the globe. This new development has in turn attracted a wave of scholarship focusing on different facets of regional integration. EU has been the focus with scholars writing on regional integration in Africa leading the way in making the case for the need for African states to learn from EU's story. However, these studies have not been exhaustive in regard to the case of the EAC. Most of the studies have focused on other issues such as public participation and challenges within the EAC among others. However none of these studies has specifically centred on how Kenya's pursuit of national interest has influenced integration process in the EAC region. It is against this background that this study intends to contribute to the literature in this area. This undoubtedly will prove useful to scholars as well as researchers of regional integration in their future endeavours to enhance knowledge base in this area.

1.4.2 Policy Justification

States are the primary actors in the international system and their national interest greatly determines the shape and direction of regional integration schemes. This study sought to provide government officials and policy makers dealing with the integration of EAC with an understanding on how national interest has over the years promoted or undermined regional integration efforts in the region. This understanding will help them to devise strategies that could help with strengthening the integration efforts and prevent future re-collapse, decline and stagnation which may arise from the influence of national interest of its partner states. The study identified a number of policy loopholes in the EAC Treaty (1999) where the members of the community organs are senior government officers in respective partner states. This results in conflict of interest between national interest and regional goals. Equally, being least developed nations, EAC partner states are most likely to enter bilateral agreements with developed nations for individual economic gains as the case of Kenya and EU on EPA. Therefore the findings and the recommendations made by this study formed a basis on which future policy reforms of the above policy documents will be carried out.

1.5 Scope and Limitation of the Study

This study covered two distinct periods; the EAC I which existed between 1967 and 1977 and the current EAC II which came into force in 2000. However, EAC II will be covered from 1999 to 2018. In line with its objectives, the study examined existing literature on the influence of national interest on regional integration process globally in order to identify any gaps, looked at the history of the regional integration in the EA region from pre-colonial period to 2018, identified the safeguards that the second EAC has put in place to deal with partner states'

separate interests and finally examined how partner states' interests affect regional integration process in the EAC with special focus to the Republic of Kenya.

1.6 Definition of Concepts

National Interest. The concept national interest is a contested term. However, according to realist's school of thought it is the survival of a state in the international system through protection of its territorial, economic, political and cultural interests against encroachment by other states. National interest also includes values, desires and interests which states seek to protect or achieve in relation to each other.

Regional Integration. Regional Integration has been variously defined. Nye (2012) states that regional integration is a phenomenon that can be triggered by several factors which can be historical, cultural, political, economic, security or geographical. According to Haas (1958) regional integration is the *“process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states”*. Regional integration is therefore a process by which a group of nation-states voluntarily have access to each other's markets and establish mechanisms and techniques that minimize conflict and maximize internal and external economic, political, social and cultural benefits of their interaction

Rules of Origin. Rules of origin is the criteria needed to determine the national source of a product. Their importance is derived from the fact that duties and restrictions in several cases depend on the source of the imports. The EAC rules of origin (2015) states that goods must come

from, be obtained or be produced from one of the partner states of the EAC so as to qualify for zero tariff/ duty under the EAC rules of origin.

Sovereignty. Sovereignty remains a contested concept in International Relations. Bodin (1955) is credited for giving the concept of sovereignty coherence and content. Sovereignty is the ideal absolute, natural and inalienable. The absolute power rested with the sovereign authority. As a type of authority relationship, it possesses both an internal and an external face. Internally, it defines the ultimate or highest authority within a state. Externally, sovereignty entails the recognition by other similarly recognized states that this entity is “one of them” and, thus, is an inherently social concept.

The Principle of Asymmetry. The principle of asymmetry addresses variances in the implementation of measures in an economic integration process for purposes of achieving common objective.

The Principle of Variable Geometry. This principle allows for progression in cooperation among groups within the community for wider integration in various fields and at different speed and level.

The Principle of Subsidiarity. According to article 5(3) of the TEU (1992) the principle of subsidiarity is a situation in the regional integration regime where powers are exercised as close to the citizen as possible. It guarantees a degree of independence of lower authorities (partner states) in relation to a higher body (regional organization).

1.7 LITERATURE REVIEW

1.7.1 Introduction

This literature review was done in line with the objectives of this study. It reviewed existing documents on the extent to which preservation of sovereignty and territorial integrity, economic interest and preservation of cultural identity had promoted or undermined regional integration process globally, continentally and in the EAC region. It also looked at different theories which explain regional integration as a concept. It reviewed the works of various scholars who have written extensively on how national interests have influenced regional integration process in different parts of the world. Scholarly writings on regional integration in Europe, Asia, Africa and America with particular emphasis on the EU, NAFTA, MERCOSUR, ASEAN, ECOWAS and SADC have been reviewed. This literature review aims at noting how the pursuit of national interest by partner states in various regional organizations had influenced regional integration process.

1.7.2 Imperatives and Stages of Regional Integration

Baregu (2005) outlined four imperatives or rationales behind the formation and sustenance of regional integration schemes. He defined imperatives as the category of factors that gave impetus or acted as drivers for integration among the partner states of an integration scheme. The imperatives were classified to belong to either the category of choice, or the category of necessity. He therefore identified affection, gain, threat and power as the main factors.

Affection imperative refers to a situation where states bond together into an integration scheme because they have a lot in common and feel some bonds of affection (Baregu, 2005). Affection

imperative is characterized by common language, historical ties, social identities and cultural affinities. It is not a strong driver of integration. Gain on the other hand goes with loss. The two form central aspects of the rational choice theory. Players in integration act in a manner that results in the maximization of gains and minimization of losses. It is considered to be a core driver of regional integration schemes. Perception of threat imperative forces states to enter into collective security arrangement by forming allies through some form of integration. This was very common during the cold war era. Threat could emanate from within the regional integration scheme or without it. Lastly power imperative which refers to a situation where a regional hegemony coerces neighbours into an integration arrangement. Hegemonic integration, the name for a power driven type of integration, involves the use of both incentives and sanctions to achieve. This is better illustrated by the formation of OAS in 1948 which was in line with "Truman Doctrine" otherwise known as "Containment Policy" meant to stop the spread of communism during the Cold War.

States in the East Africa region were colonized by Britain. They shared cultural practices, speak similar dialects and same ethnic groups live across borders. They also shared economic structures under the rule of British. Due to the aforesaid, it is observed that the EAC was founded on the basis of gain and affection imperatives. However, affection imperative was comparatively weak driver of an integration process therefore this was partly one of the causes for the collapse of the EAC I. Though gain imperative is a strong impetus in sustaining an economic integration process, it is mostly effective where economic development of partner states is nearly even.

Mazzeo (1984) outlined the five stages a successful regional integration scheme undergoes. These stages were processes and there was a spill over from one stage into the next one. The stages were the Preferential Trade Area (PTA), the Customs Union, the Common Market, the

Monetary Union, and last was the Political Union. Hartzenberg (2011) in similar vein asserted that the starting point of regional integration is PTA, followed by the Customs Union, the Common Market and lastly the Monetary and Fiscal integration which led to an economic union. It is observed that Hartzenberg did not consider the Political Union as the final stage of a regional integration scheme.

Crowley (2006) argued that Free Trade Area provided for the removal of trade barriers/tariffs while under the Customs Union tariffs and quotas were removed and an external tariff was put in place. In the Common Market stage there was free movement of factors of production, services and also goods. The Monetary Union was the introduction of a single currency and a single central bank within the integration scheme. Last was the Political Union which involves the creation of an effective democratic body at the supranational level. All these five stage were prerequisite for any regional economic integration scheme, EAC included.

1.7.3 Economic Integration

Candel and Biesbroek (2018) wrote on policy integration in the EU governance of global food security. They argued that the global food price spikes of 2007–8 and 2010 led to increased awareness of the complexity of food security/insecurity as a policy problem that crosscuts traditional sectorial, spatial and temporal scales. At the EU level, this awareness resulted in calls for better integrated approaches to govern food security. The authors addressed the extent these calls were followed by an actual shift towards better integrated EU food security governance. They addressed the above issue by applying a process based policy integration framework that distinguishes four integration dimensions: the policy frame; subsystem involvement; policy goals and policy instruments.

The authors found that policy integration advanced to at least some degree: The policy frame expanded towards new dimensions of food security; a wider array of subsystems started discussing food security concerns; food security goals diversified somewhat and there was an increased awareness of coherence and linkages with other issues; existing instruments, including internal procedural instruments, were expanded and made more consistent; and new types of instruments were developed. At the same time, significant differences existed between policy domains and policy integration efforts had come to a halt in recent years.

Candel and Biesbroek's study is a rich addition to literature on the subject of regional integration especially in the way they address the subject of continental-wide (EU) policy on food security. However, the work is beyond the scope of this study which other than narrowing to the EAC region, also does not go into subtle details to discuss EAC food security policy.

In 1996, the Commission on America's National Interest observed that the USA had security and economic interests in NAFTA as a regional integration. The stability of member countries was of crucial interest to USA. This could be seen in the Quebec threat to secede where separation from Canada would leave the USA with two northern neighbours therefore affecting USA interest. The separation might create a need to renegotiate NAFTA and the new state of Quebec could be weak therefore making it likely that the USA could improve the terms of that trade agreement for Americans. Again, this study is far beyond the scope of my investigation. My study concerns integration between states of almost symmetrical economic, social and even political situation.

Mansfield and Milner, (1997) studied the political economy of regionalism where they argued that in regional integration, states sought to push national interests for their own benefits and not

for regional benefits. The USA, for instance, pushed for deeper integration or that portion of deep integration that met America's agendas or interest for that matter. In the same vein, Hettne, (2005) wrote on regionalism and argued that national interest was viewed as stronger compared to regional interest. National interest was simply group specific or could be personal interest. Unilateral decisions of states indicated that states prioritize national interest over collective interests. The USA was considered to give unilateralism an upper hand and to this end the author stated that the USA's approach to regionalism was that regionalism had been subordinated by national interest. Regional integration in the American continent was motivated and driven by the national interest of the USA, the core state in the regions with an aim of spreading liberal democracy, stopping the spread of communism and promoting economic development in South America and Latin America.

Pena (2005) studied the Common Market of the South (MERCOSUR) and its future. He argued that the regional organization was founded on among other reasons, a strategic idea of founding a common ground among member states where political stability and democratic values would be entrenched in the region through common policies and economic preferences of competing and negotiating together in the global stage. This was a reflection of the dynamic and concrete national interests of the member states where their economic modernization and international trade ambitions were fused into a single idea where the small and large economies of the regional integration would reap equal benefits. Contrary to this abstract and ideal idea, the author noted that it was not always exactly the same for member states due to significant differences in their economic dimensions.

Caichiolo (2017) studied MERCOSUR and argued that the emerging common national interests among states were to be effectively solved through regional integration. Also in the formation of

regional integration organizations, the member states considered the interests of each state's private sectors. However, there were cases especially in the military rule era where vertical decision making was rife and therefore decisions were made on behalf of the private sectors. Such a state led integration process was observed in MERCOSUR.

States are the primary actors in the regional integration and it is through economic interests that the integration process moves forward. This study also noted that the most powerful states in the regional integration have national interest such as projecting their presence regionally and globally. Such ambitions could be stronger than meeting interests of weaker states within the regional integration. Caichiolo's analysis of the MERCOSUR is very insightful. It explained the challenges inherent in regional schemes and how the challenges hamper smooth transition to full integration. My study however, focuses on Kenya which is contextually different with MERCOSUR region. Kenya has enjoyed long periods of relative peace and stability unlike some of the states constituting the MERCOSUR.

Mathieson (2016) studied the political economy of regional integration in the EAC and noted that in some areas such as the transport sector, national interest has superseded regional interests as national level decision making and also interstate coordination took place independent of the EAC. In addition, the EAC II was incapacitated in terms of institutional capacity as member states were divided on the proposed institutional arrangements that give capacity to the regional body over national governments. Governments of partner states stand against any actions that appear to be limiting or reducing their unilateral capacity to decide. It was noted that some policies within the EAC II had been packaged as regional by Council members which had intentions of meeting their states national interests. In addition to this, the author noted that when EAC II policies were against national interest, informal connections in the national level of

partner states had been used to block the implementation of EAC II policies by partner states. Mathieson's study speaks to the region under focus by my study and provides a good basis of understanding the EA region. My study however, goes further and narrows on the case of Kenya and how its specific national interests are impacting on integration within the region.

Nying'uro (2005) wrote on the importance of the structure of the international political economy on integration in the EAC II. He noted that the advent of globalization, a term used by scholars to refer to the nature of the contemporary global political economy presents both opportunities and perils for the regional integration efforts in the EAC II. Particularly, he pointed out four main arguments. First, uneven integration of the EAC II member states into the world economy could come with problems of distribution of losses and gains among the members. Second, continued marginalization of the EAC II partner states in important global economic institutions casted doubts on the potentiality of the EAC II to in a significant way improve the economic fortunes of the member-states. Then, there was the argument of the metropolis-satellite relationship patterns. African countries belong to the latter category and thus not likely to benefit much from the globalization. Lastly, he noted that the uneven integration of the three EAC II partner states into the global economy reinforces inequality thus destroying the basis for promoting rather than driving the process of regional integration. Nying'uro's analysis is useful for understanding the influence of external factors on regional integration in the EAC II. My study however, differs from it with its focus on the internal factors particularly national interest.

Villarreal (2017) studied USA-Mexico economic relations and argued that the USA interaction with Mexico in the NAFTA was based on national interest and to this end the author stated that it was in the national interest of the USA to have a prosperous and democratic Mexico as a neighbour. Mexico is the USA's third-largest trading partner while the USA is Mexico's largest

trading partner. Mexico also ranks third in terms of USA imports. On the other hand, Mexico served as an export market for USA goods and services. The USA was the largest source of foreign direct investment (FDI) in Mexico. NAFTA had been in effect since 1994 and in this platform; the USA had met its national interests. The recently proposed renegotiation in NAFTA by the USA or a possible withdrawal has been identified as a source of loss of national interests of the USA. This decision could be considered unproductive as the ramifications of renegotiating or withdrawal from NAFTA could affect the USA economy and foreign relations with Mexico.

Villarreal also identified the possible loss of national interests due to withdrawal from the Trans-Pacific Partnership (TPP) as a regional integration scheme. The USA withdrawal from the TPP free trade agreement composed of the USA, Canada, Mexico and nine other countries could damage USA national interests which included competitiveness and economic leadership in the region. Villarreal's study highlighted integration from an asymmetrical perspective and the need for a powerful state to maintain stability in its backyard (USA). The case in NAFTA differs with that of EAC as NAFTA was composed of only three members, two of which are developed nations controlling huge economic resources and had diplomatic leverage globally.

Yoshimatsu (2000) studied regional economic cooperation and integration in East Asia delving into issues regarding the relationship between multinational corporations (MNC) evolving preferences for regional economic organizations and the national interests of states in regional economic cooperation. He argued that regional economic cooperation in the region could not be studied without regard for national interest of states which play a critical role in the economic development of states. This article also argued that the relationship between MNCs preferences and states' national interests remained complicated. The ASEAN Industrial Cooperation (AIC) arrangement which was introduced due to MNCs encouragement did not succeed much due to

the fact that states persisted on maintaining their national interests especially on increasing the benefits of their domestic firms. This could be seen from the tariff reduction under AIC scheme where countries became disinterested in reducing duties to external trade. The author concluded that inasmuch as ASEAN member states recognized the need and value of economic cooperation and integration in the region, practical operations were stalled by national interests. Again, Yoshimatsu focused on the influence of an external variable (MNC). My study is limited to internal variables that occur largely at the state level.

Vanheukelom et al (2016) delved into the political economy of regional integration in Africa. They state that the implementation of regional initiatives in the African continent could effectively take place if these initiatives were in line with the national interests of member states as outlined by the elites. The national interests especially on the economic front explain the overlap in membership to various regional bodies and it was in this rationale that states subscribe to several regional bodies. They concluded that regional agendas were overshadowed by the adherence to national sovereignty and interests. In addition, states adopted national interest as defined, perceived and projected by the ruling elite who also dictated the regional bodies to join and which regional policies to pursue.

Lastly, aligning of national interests in order to overcome failures experienced in coordination, was easier for smaller groups of states which gave rise to sub-regional coalitions within or without regional organizations in the process of pursuing regional agendas. They however, noted that compatibility of national interests among states was more ineffective as groups or number of states continued to increase within the regional integration body. In the same vein, European Centre for Development Policy Management (ECDPM) (2016) found out that implementation of regional cooperation and integration by states took place when it was in line with the key

national interests as stipulated by the ruling elite. It further stated that the regional agenda could largely be achieved when the pragmatic and immediate interests of member states were in sync with the regions visions. This study is a rich addition to the literature on the subject of integration. However, it covers the whole of continental Africa whereas my study is limited to the EAC region.

1.7.4 Security Integration

Ueki (2011) wrote on prospects for regional security cooperation in East Asia. He noted that in recent years there had been a growing interest in creating a multilateral regional security institution in East Asia. An absence of such an institution had been identified as one source of instability for the region. Thus to bolster peace and security in the region, there was an urgent need to create a multilateral regional security institution. He then went ahead to explain some of the security models the region could model its security architecture. The five models of regional security architecture were: a network of U.S. bilateral alliances; a league of democracies; the Six-Party Talks; an ASEAN based model such as the ASEAN Regional Forum (ARF); and the disaster relief model. His study found that each of the models had its merits and demerits, but the U.S. alliance model and the ASEAN based model were the most promising in realizing security cooperation. The former could provide capabilities to punish while the latter could decrease scepticism among members.

The key to bringing about regional cooperation was to build a network of different institutions that could be functionally integrated. It was important for the United States and its allies to understand the insecurity of rising powers like China and bind themselves to a set of mutually agreeable rules. It was also important to alleviate the anxieties of status quo powers, which in

turn would reassure potential revisionist powers. Ueki's study underscored the need for putting in place a multilateral security cooperation architecture to enhance cooperation between states in the ASEAN. My study borrows from his analysis and examines whether disharmony between the EAC II partner-states on how to organize security is a contributing factor to the EAC II integration or disintegration.

Joshi (2017) wrote on the prospects for EU-India security cooperation. He observed that Europe had four security dilemmas that its cooperation with India might help alleviate. However, India on the other hand had its own security dilemmas, a fact that puts it at odds with the EU. The EU security dilemmas were: Russian revanchist, Islamist terrorism, the migrant crisis, and the associated problems of civil war and state collapse in the Middle East and North Africa. For India, the environment looked very different. Its two most important security challenges were cross-border terrorism from Pakistan-based militant groups, often sponsored by the Pakistani intelligence services, and the steady growth of China's economic and military presence along India's land and maritime borders, including as part of the Belt and Road Initiative. These differing priorities risk pushing Europe and India in different directions. He noted that India's hope was that an improved US-Russia relationship would create a thaw in Europe, allowing all parties India, Europe and the US to focus on addressing China's rise. However there is little sign of such a shift at present.

Joshi concluded that there was considerable room for greater convergence on a range of issues, such as maritime security, Afghanistan and counterterrorism. Joshi's analysis was a useful addition to the literature on the subject of security cooperation. However, it looked at security cooperation for mutual gain between bilateral partners not co-joined in some form of regional

scheme. My study looks at the issue of security cooperation from the standpoint of a regional scheme.

Kacala (2013) analysis the EU as a system of collective regional security during the economic crisis. He argued that the implementation of the austerity measures was interfering with the provision of EU security needs. He went further to argued that one of the basic requirements for a potential system of collective regional security for Europe to be effective was the ability of the participating states to provide sufficient defence capabilities to support it. Maintaining such capabilities could only be achieved if defence budgets were sufficient, especially in areas such as defence procurement process and defence Research and Development (R&D). The overall size of the military spending in the European Union appears adequate to support cooperation within the system of collective regional security, especially in terms of potential peacekeeping and peace enforcement missions in the areas closest to the borders of the EU. However, while the amount of funds being spent was sufficient, the effectiveness of spending was far from desired, due to member states relying primarily on their individual procurement processes.

The article concluded by noting that there's need to address the risks that could occur as a result of economic situation as they had potential ramifications on security provision in the EU. Kacala's analysis drew attention to the centrality of an important facet to support security cooperation- financing. My study argues that the EAC has a choice to make. For security integration to be actualised, then the partner states must be willing to part with a portion of their budget to support the endeavour. Fragmentation of the procurement process results in duplication as well as limitation of the scale of the armament programmes.

1.7.5 Political Integration

Zormelo (1995) studied the political and social dynamics of ECOWAS. The study asserted that the interaction among countries especially the developed and developing brings out the main issue of national interests. The author stated that in the West African countries, there was no overwhelming desire to co-operate as member states did not have cosmopolitanism that put regional interests over national interests. ECOWAS member states therefore, had little ambition on regional development as compared to their national interests as decisions taken prioritize national while subordinating regional development. If regional interests infringe on the national security of a state and/or resources for implementing it were limited, regional goals are abandoned. The author however, candidly noted that if national and regional interests were at balance, then they are supported by member states. Again, like other previous studies, Zormelo's work centres on the influence of national interest but with a special emphasis of the ECOWAS. My study focuses on the EAC and specifically the influence of Kenya's national interest on integration in the EAC.

Lodompui (2010) argued that the collapse of the EAC I was as a result of Tanzania's pursuit of its national interest in EAC and also in the SADC. Further he stated that though the economic and political ties oriented Tanzania's effort to the south, the economic and geographical realities have continued to draw Tanzania back to the EAC. The country's national interest was likely to continue to determine the regional arrangements in the East African region. The author concluded that Tanzania's national interest to the South led to the collapse of the EAC I. Also the fact that national interests determine regional cooperation had ensured Tanzania cooperates in both the EAC and SADC. Siebert (2008) posited that in the conflict between national interests and multilateral rules, states have a tendency to define national interest according to their

conditions, political processes and preferences. In the history of economic agendas of countries, there have been clashes between national interests and multilateral rules which have caused serious setbacks to the world economy. This study focused on Tanzania which is not a core state in the SADC and the EAC whereas my study is on Kenya which is the anchor state in the EAC region.

Kayunga (2006) wrote on deepening political space in the EAC II. He asserted that the unilateral decisions by states in the name sovereignty had far reaching implications on a region's economy and politics. For instance in the EAC II, the three main countries (Kenya, Uganda and Tanzania) were not pulling together on security and foreign policy matters due to national interest. The states, driven by national interest were forging different paths. Uganda on one side pursued foreign policy objectives contrary to the other states. Further to this, the domestic problems preoccupying partner states weakened their commitment to regional integration.

Reith and Boltz, (2011) studied whether the EAC II remained an aspiration or reality. They noted that national interest dominate the executive branch in the make-up of the institution. In addition, the EAC experiences general mistrust among member states therefore, running the risk of being labelled a puppet of national interest. State interest, they asserted, often outweighs long-term cooperation gains for states. This could contribute to the fact that member states of two or more regional integrations negotiate deals that favoured them above regional interests. These authors concluded that a joint representation of interests can be advantageous while dealing with external states and therefore, coalescing common interests of members may lead to better representation.

Herrero and Gregersen, (2016) wrote on the EU as a regional integration bloc and argue that the EU's development had been hindered by the body's past approaches which have constrained

development and led to disappointing performances. Some structural and political factors have clouded development of the EU and one of which was the lack of political will as countries continue to pursue their national interests by joining various regional configurations and overlapping memberships to a range of regional bodies. However, the body had a potential to experience a paradigm shift that may lead to a better regional integration. This could be achieved through a comprehensive understanding of both regional and national interests. Further to this, the domestication of regional integration agendas in the national programming of individual state national interests will be of great importance.

Meanwhile Börzel and Risse (2009) studied the EU as a model of regional integration. The authors state that the EU's initiatives to export ideas of regional integration to international level were for the sole purpose of meeting its own instrumental interests. The interests included security, prosperity, stability and environmental protection. Further to this, the EU as a regional integration body tended to coerce member states into adopting ideas. The EU member states had no choice but to accept as they were forced through threats or physical violence. The member states were subjects to adopt ideas as they had an obligation to EU law as prescribed by case law of the European Court of Justice. It is noted that politics drive integration process in the EU. This study narrows to the EU, but my study is specific to Kenya.

Ba (2003) studied regional integration in Asia and delves into re-navigating relations between China and the ASEAN in the 21st century. China's national interest was previously in matters of influencing Southeast Asian developments by supporting the communist and Chinese groups in the 1960s. Further to this, China's national interest was met through regional integration where working with Thailand and other ASEAN states, it planned against Vietnam such as countering Soviet and Vietnamese influence in South East Asia. Further to this, China's national interest

based on expansionism had been well exploited through the ASEAN countries. China as a regional hegemony had intimidated smaller states and expanded borders in the South China Sea.

There had also been a keen national interest in regional stability where the military expenditure especially in the navy and maritime aspects of China had influenced a reorientation of the ASEAN member states. China had served its national interest in the material and historical fronts through the ASEAN regional integration. This ensured cultivation of closer ties and also given incentives for more influence and role in the region. China's policies towards ASEAN had been aimed at positioning China in the region at an advantage in terms of the domestic and global stages. Above all, China's interests laid in creating a stable environment for continued development of its economy and future economic growth. From the foregoing, states in the region join ASEAN to pursue and promote their economic interests and by extension security needs. Again, this study focuses on bilateral relations between a state and a regional scheme which in this case is the ASEAN. My study focuses on Kenya within the greater context of the EAC.

Frempong (2005) studied Ghana's executive and other state institutions in the process of articulating Ghana's integration policies. He argues that the executive branch of government has the main responsibility while crafting and implementing policies on regional integration. However, the complexity of matters regarding regional integration has made ministries and state institutions be involved in the process. The author notes that regional integration should be constitutionalized for purposes of guaranteeing stability of regional projects. This will also go far in the process of transferring state sovereignty to regional institutions in order to ensure that

change of leadership among member states does not undermine regional integration and agreements establishing it.

Focusing on the ECOWAS, the author states that the ECOWAS protocols that provide the legal and institutional framework that form the basis for higher and deeper levels of regional economic, social and political integration in the ECOWAS region. However, regional integration faces several challenges that include implementation and enforcement of ECOWAS decisions and policies at the national levels where national governments are in charge. It is also critical to note that implementation of regional programmes remains at the mercy of national governments. Statements made at sub-regional level lack practical commitment to regional integration. Also, there is the fact that national leaders ignore the fact that full integration entails the cessation of state sovereignty to the supranational authority. Frempong's analysis is insightful in the way it explains the essence of harmonization of regional protocols at state level to promote regional cooperation. It is useful to my study as it allows room for comparative analysis of different regional schemes.

Chingono and Nakana, (2009) studied the challenges to regional integration in Southern Africa. They asserted that national interests of states had been the major obstacle to regional political integration in the Southern African Development Community (SADC). The member states of the regional body engaged in actions that contradict regional co-operation and unity by pursuing policies promoting their own national interest at the expense of member states. Further, they argued that the parochial interests of the ruling elite shadow the general interests of the masses within the region. The authors also argued that the virulent nationalism within SADC hampers the development of common regional values and Pan-Africanism. The divisive nature of nationalism has overridden a regionally unifying ideology and so long as nationalism is the

driving force, progress within regional integration initiatives remains limited. The political and economic systems of countries which they pursued to great extents continue to create a diversion which denies the states the opportunity to achieve cohesion and a common purpose which weakens the sub-regional body.

1.7.6 Cultural Integration

Attuquayefio (2009) studied the role of the youth of Ghana in acceleration of regional integration in West Africa. He noted that ECOWAS as a regional body has attained significant success in conflict management in the region but minimal achievements had been met compared to the objectives set by the organization. This could be attributed to the political will that stems from competing domestic considerations and also the overlapping membership of states to other regional organizations. The author concluded that the member states have failed to look beyond national interests in the process of achieving sub-regional goals. The states however, are rational actors and calculate the cost-benefit analysis which results in the convenient selection of courses that bring immediate benefits to the state. Further to the above, regional integration in West Africa had failed to take root due to leaving out of some stakeholders and interest groups in the policy making process. Attuquayefio's study is relevant to the issue under investigation by my study. However, like other aforementioned studies, it is beyond the scope of my investigation.

Jönsson (2010) wrote on the twin-issues of regional integration and regional identity-building in Southeast Asia. She analysed the quest for regional identity by relating the efforts of integration to the issues of multi-ethnicity, national identity-building and multicultural societies in times of globalisation. She based her explanation around three broad themes intending to capture the complexity of regional identity-building: regionalism and regional cooperation; tensions by diversity; and dilemmas of regional identity-building in multi-ethnic societies illustrated by Laos

and Burma/ Myanmar. She concluded that without an accommodating, inclusive and pluralistic society, the creation of a common regional identity would remain an elitist political project. Jönsson's study is a rich addition to the literature on determinants of regional integration, except that it focused on Southeast Asia which has different races and little common cultural practices whilst my study is limited to the EAC region which has people of common culture and share similar historical background.

1.7.7 Conclusion

It is clear that there exists a number of works by different scholars touching on the subject of regional integration. From the literature review, there is evidence that pursuit of national interest by partner states in a regional integration scheme either promoted or undermined integration process.

1.8 Theoretical Framework

1.8.1 Introduction

Regional integration is a multi-dimensional phenomenon thus a single theory may not offer adequate explanation. Many theories have therefore been advanced to understand, describe and explain the concept. These theories are broadly classified as economic and political theories of regional integration. Theories of economic integration were developed by liberal economic thinkers like Haas (1976), Mitrany (1966) and Lindberg (1963). They focused on the removal of restrictions on the movements of products, labour and capital. Theories of political integration were developed by different schools of integration movements which included both political scientists and economists such as Gunnar Myrda (1956), Karl Deutsch (1957), Hoffman (1966), Morgenthau (1962) and Waltz (1976). Therefore theories of realism and liberalism with their respective approaches of intergovernmentalism and functionalism and neofunctionalism were

used in this study. However, during the literature review, it was noted that there is little theoretical literature on the African integration. Functionalism and neofunctionalism which are the main approaches of regional integration are euro centric while intergovernmentalism has realist underpinning. Integration process in Europe is mainly a consequence of gain, threat and power imperatives while in Africa affection and gain impetuses drive the process. Affection is a very weak imperative in sustaining an integration process. The historical, cultural, economic and political factors in Africa are different from those in Europe thus some explanations from the integration theoretical perspectives may not be applicable to the EAC.

1.8.2 Realism

Realism in international relations remains one of the most influential theories that situates national interest at its core. Proponents of the theory such as Morgenthau (1962), Carr (1939) and Waltz (1998) conceptualize the concept of national interest in terms of power. Morgenthau argued that there is no escape from power which is ubiquitous to the concept of national interest. Further, he stated that “Interest is the perennial standard by which political action must be judged and directed because the objective of foreign policy must be defined in terms of national interest”. He acknowledged that at any point in time, national interest is informed by the political and cultural context within which foreign policy is formulated. He further argued that the formulation of national interest in terms of power helps in overcoming the problem of subjectivity. National interest of a state is defined in terms of the strategic and economic capabilities as international politics is basically a struggle for power among nations. However, Morgenthau noted that power may change over time. It may evolve from economic to military to cultural without any order. In formulating national interest, morality cannot be used as a basis and should be detached from any political and ethical perspectives.

Morgenthau (1962) argued from classical realist's perspective, that "national interest of great powers measures the method by which it is secured and is impervious to ideological and institutional changes". Waltz (1998) conceptualized national interest as a personal responsibility of political leaders. It is an automatic signal commanding state leaders of when and where to move. Jackson and Sorensen (2011) argued that this neorealist perspective differs from classical realism. Classical realist scholars look at national interest as a basic guide of foreign policy. It is moral and must be defended and promoted by the leaders who are duty bound. On the other hand neorealist scholars argue that leaders conduct national interests more or less automatically. According to Jackson and Sorensen (2013) national interest is the final arbiter when judging the foreign policy of a state. National interest of a state is pursued selfishly and other states can never be relied upon in this aspect. Further, international agreements are conditional and states may cease observing them at one point. Therefore, in the process of meeting national interests; treaties, customs, rules, laws and conventions between states may be set aside in case they are in conflict with national interest of a state. Advancement of national interests remains the primary duty of any statesman, and by extension a state.

Realist theory promotes intergovernmental approach towards regional integration. The major assumption of this approach according to Stanley Hoffmann (1966) is that states are the basic units of the international system and their objectives are to promote their national interest. Intergovernmentalism argues that regional integration is based on the states' interest channelled through regional organization. This approach complements the realist assumption that states are the primary actors in the international system and they pursue their national interest in relation with other states. Kenya thus as a state in the EAC region, is guided primarily by the desire to

always maximize on its national interest. Kenya in its relations with other EAC partner states, has stressed on the need to ensure its core national interest reign supreme.

Realism thus remains relevant to this end. However it does not appreciate the fact that states also for the sake of mutual existence, need to encourage increased trade-off their national interests for the greater good of promoting the spirit of regionalism. Regional arrangements can break down national-level barriers to commerce and provide regional-level governance that represent interest groups and individuals. This is the point liberalist theory comes in to explain the gap in realist perspective.

1.8.3 Liberalism

Liberalist theory is attributed to the philosophy of Locke (1823) and the works of scholars such as Niebuhr (1932), Inkberry (2001), Lindberg (1963) and Wilson (2017) among others. Liberalist theory postulates that there is mutual interdependence between people and governments. Jackson and Sorensen (2013) observed that what happens elsewhere affects people in other places and to this end, actions in form of national interest of states affect their counterparts. Further, they opined that transnational relations among states lead to higher levels of interdependence which is encompassed in the modernization process. Under the interdependence strand of liberalism, modernization increases the level and scope of the interdependence among states. National interests of states merge due to complex interdependency which makes transnational actors increasingly important as they spread cooperation among states in international relations. Therefore liberalism advocates for institutions, in this case the EAC through institutional liberalism. It argues that it is through

cooperation in international institutions that national interests of states can be met. These institutions promote cooperation and alleviate trust issues by reducing states fear for each other.

Under the liberal school of thought, the broad ties that characterize today's international system make it difficult to define what national interest is. It notes that the states acknowledge the fact that use of military power outweighs its benefits and therefore, it is in the national interest of states to cooperate. Employing economic and social power is more crucial to states which have different primary national interests. Various primary national interests of states are fostered through international rules and organizations which are great forms of cooperation among states.

Liberalists argue that international cooperation brings absolute gains to states and it is in the state's national interest to cooperate and maximize on the absolute rather than relative gains (Elman and Fendius Elman, 2003). Thus the EAC provides a good platform for the partner states, Kenya included to realize their interests which are myriad in nature and include trade and security cooperation among others.

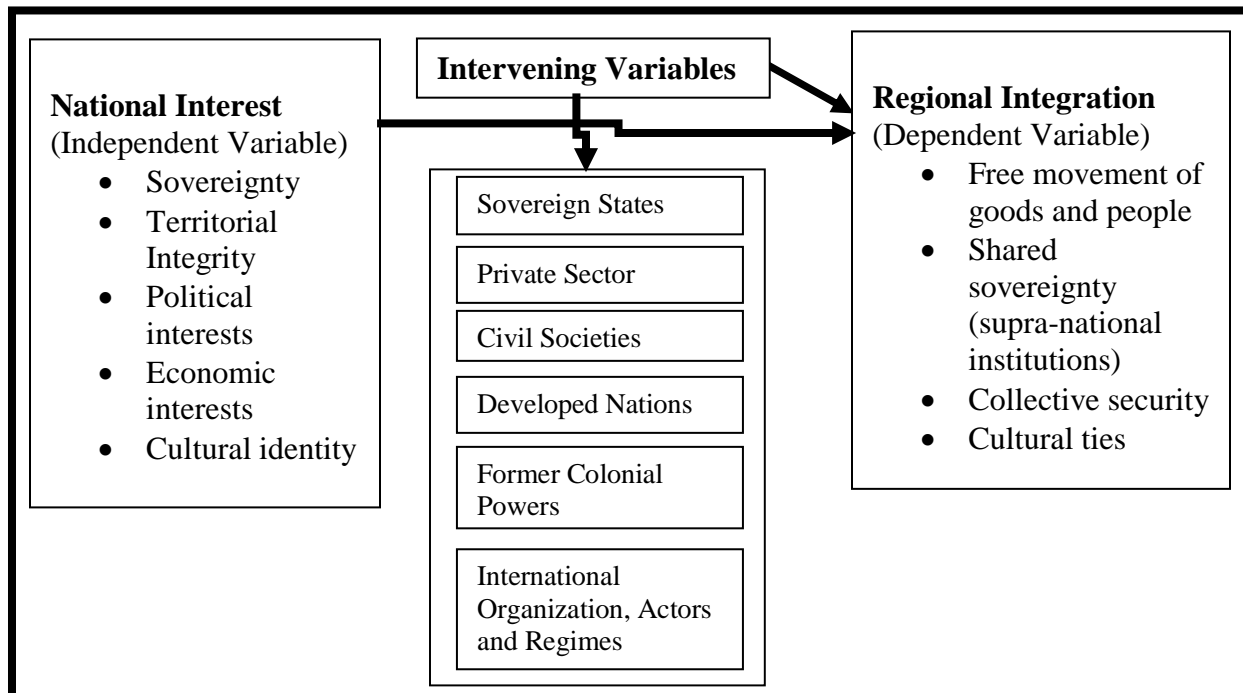
Liberalism favours both functionalist and neo-functionalist approaches to regional integration. Functionalist approach is associated with the works of David Mitrany (1966) which states that cooperation among states should be organized by a team of experts and technocrats and not politicians. It holds a non-state centric viewpoint. Mitrany believes that the technical experts, in various functional fields like finance, trade, transport and many others would provide solutions to common problems affecting partner states. The benefits from economic and technical cooperation among the states would motivate the citizens to transfer their loyalty from states to the super national organization.

Neo-functional approach on the other hand is associated with the writings Haas (1976). Neo-functionalists place a major emphasis on the role of non-state actors and social interests as dynamic forces for integration. In Intergovernmental Organizations (IGOs), for example, neo-functionalism perceives the Secretariat as the ultimate power behind full-fledged political integration. The Secretariat allows an IGO to be governed separately from its member states. While member states remain an important part of the integration process, they do not yet influence the direction and extent of changes. The Secretariat thus remains the core organ in deriving the integration agenda. This is the very much the nature of the EU. The EAC has had a *lame-duck* Secretariat as a result of pulling and pushing in different directions by the partner states.

The weakness of liberalism is that it places too much faith on the ability of states to forgo their national interests for the sake of regional collective benefits which might not be easy to define, let alone be agreed upon by the partner states. This thus leaves room for the simultaneous application of both realism and liberalism in explaining the national interest imperative in regional integration.

1.8.4 Conceptual Framework

Table 1.1 Conceptual Framework



In the conceptual framework (Table 1.1) national interest is hypothesized to influence regional integration. National interest is operationally defined as preservation of sovereignty and territorial integrity, protection of economic interest and preservation of cultural identity. Regional integration is characterized by shared sovereignty, collective security, free movement of goods, persons, labour, capital and services, having common currency and single central bank and sharing a single supra-national institution. This conceptual framework postulates that preservation of territorial integrity, protection of economic and political interests, and preservation of historical and cultural identity by a partner state of a regional organization directly influences shared sovereignty, collective security, free movement of people and goods, common trade and development and historical and cultural identity. This relationship may be modified by other sovereign states, private sector, vibrant civil society, former colonial powers, developed nations, international organizations (IOs), international actors and international regimes which have interest in the region.

1.9 Research Hypotheses

This research tested the following hypotheses:

H0: Kenya's pursuit of its national interest has no influence on regional integration process in the EAC region.

H1. Kenya's pursuit of its national interest has influence on the integration process in the EAC region.

1.10 Research Methodology

1.10.1 Introduction

In this section, the procedures used to answer the research questions are described in details. These include description of the research method, research design, sampling techniques, and data analysis techniques. This study largely used qualitative approach though limited quantitative approach was applied to give statistical significance to qualitative data.

1.10.2 Research Design

This study used descriptive longitudinal research design. Descriptive design provides the answer of who, what, when, where and how associated with research problem over a period of time. It is used to obtain information concerning the current status of the phenomenon and describe what exists in respect to variables in a situation (Bowen, 2003). For longitudinal research design, data is gathered for the same subjects repeatedly over a period of time which can extend over years even decades (Bowen 2003). The issue here is to examine to what extent Kenya's pursuit of national interest has promoted or undermined integration process in the EAC region. The national interest of Kenya and EAC regional integration are the subjects providing data between the period of 1967 and 2018. The outcome is fit for making generalizations with regards to the topic under investigation. This design further employed the qualitative approach in gathering data from the relevant institutions and documents.

1.10.3 Data Collection Methods

This study employed qualitative method and non-probability sampling. Purposive sampling was applied to select those who have dealt with issues of EAC or currently working in or dealing with EAC for interview. It was also used to identify institutions and organization from which relevant documents were collected for analysis. Specifically, the study applied discussion and interview, and documentary methods for data collection. The choice of these tools has been determined by the type of data to be collected and the objective of the study.

1.10.3.1 Interview Method

This study was carried out mainly in institutions dealing with EAC issues in Nairobi Kenya and to a limited extent, those at EAC headquarters in Arusha Tanzania. The study interviewed those who are either working or worked in the relevant institutions in the government of Kenya that make policies and implement programs related to EAC. These include the ministries of EAC, Foreign Affairs, Defence, Interior, Trade, Tourism, Youth and Sports, Education and the office of the Attorney General. Embassies of partner states in Nairobi, non-governmental organizations like Law Society of Kenya (LSK), Kenya Manufacturers Association (KMA), Civil Societies, NGOs, scholars who have researched on EAC and officials from the EAC Secretariat based in Arusha were also interviewed. A total number of 22 people were interviewed as categorized in table 1.2.

Table 1.2 Distribution of Respondents

Serial Number	Designation/Organization	Frequency
1.	Ministries/ Government Departments	7
2.	Kenya Association of Manufacturers (KAM)	2
3.	Embassies of Relevant States	6
4.	EAC Secretariat	2
5.	Scholars/ Researchers	2
6.	Inter-Governmental Organizations	3
TOTAL		22

Source: Researcher, 2019.

Face to face interviews were used to obtain data which can neither be observed nor available in the documents such as perceptions, experiences, opinions, attitudes and feelings (Bell, 1993). Semi-structured tools were employed in data collection. This provided an opportunity to balance between the quantitative and qualitative data obtained. This also allowed for more in-depth information to be obtained. Since respondents were largely literate and experts in their respective fields, discussions, interviews and questionnaires were ideal instruments for data collection.

1.10.3.2 Documentary Method

The study analyzed the following documents: the EAC treaties, protocols, MoUs, Kenya government's policies on the EAC, EAC's strategic development plans, speeches by officials, minutes of EAC's meetings, bilateral agreements between the EAC partner states, sectoral reports among many others. These data were on foreign policies, socio-political and economic regimes, defence and security cooperation, freedom of movement of people and goods and development among many other issues.

1.10.4 Ethical Consideration

When conducting any research, respect for human dignity is always observed, therefore a study must always state how ethical issues are handled. These ethical issues include informed consent, privacy and confidentiality, anonymity and researcher's responsibility among others.

This study deals with governmental and supranational institutions which are very bureaucratic and secretive, NGOs which functions on the support of donors and officials who have sworn oaths to protect state and international institutions, therefore the major ethical issues of concern are privacy and confidentiality. Accessing valid and reliable sample provided policy based data that drive the functions of the regional integration and requires protection as this could be violation of privacy and confidentiality. Accessing these confidential data through document analysis, interviews and questionnaires was the only way to construct a sample frame and produce a representative sample. The respondents were at liberty to decide which documents to avail and select which questions to respond to.

Among the limitations experienced in the course of collecting data for the study was the inaccessibility of some key respondents to respond to the study questions because of their busy

schedules. This challenge was overcome by the researcher relying on the available secondary information to fill the knowledge gaps.

1.11 Organization of the Study

This study is organized into five chapters. Chapter one discusses the background of the study and defines the problem the research intended to solve. Further, it sets the objectives, reviews the available literature, formulates hypotheses, outlines the significance of the study and finally indicates how the study was done- methodology. Chapter two discusses the "Evolution of Regional Integration in East Africa" by examining the origin, progressive development and functions of the EAC. It also highlights major events and outlines their contributions to the integration process. Chapter three examines EAC Policy on the national interest of its partner states and how the various organs of the EAC are organized in terms of policy framework to handle national interests of its partner states. Chapter four looks at "Influence of Kenya's National Interest in the East African Community" by identifying and analysing the national interest and attempting to determine its influence in the integration process. Finally, chapter five makes a summary of findings, conclusion and recommendation.

CHAPTER TWO

EVOLUTION OF REGIONAL INTEGRATION IN EAST AFRICA: IN PERSPECTIVE

2.0 Introduction

Integration among various societies living in East Africa (EA) region dates back to pre-colonial times. Various communities were engaged in barter trade with one another as a matter of traditional economic interdependence. During colonization of Africa which peaked in the 18th century, the colonial powers brought together the same societies under the same territory for ease of administration and resource sharing thus forming a larger market. The same trade continued during post-independence period and efforts have been sustained by the current leaders to ensure that the integration is not only maintained but is enlarged to include the neighbouring states. During its existence, integration in EA has faced several challenges arising from the pursuit of interest of individual societies which in many ways either promoted or undermined the integration process. This chapter therefore examines historical development of regional integration in the EA region during pre-colonial, colonial and post-colonial periods.

2.1 Integration in the Colonial East Africa

In the pre-colonial period, the area currently identified as the EA region was occupied by different communities who practiced either centralized or decentralized form of political administrative system (Tordoff, 1997). The people shared common historical and cultural background. Common exchange of goods and services through barter trade were done as there were no restriction on the movement of people and goods. Regional trade therefore started during the first millennium Anno Domini (AD) and was mainly done in villages among the

communities with an intention to strengthen the existing social bonds though incidentally it resulted into huge economic profits.

The regional barter trade gave rise to long distance trade as the traders had to move over long distances exchanging goods with various communities with the aim of making profits and strengthening social bonds. The Kamba, Yao and Nyamwezi were famous for their long distance trades. Subsequently, prominent rulers like Mutesa of Baganda Kingdom, Mirambo of Unyamwezi Kingdom, Mkwawa of Uhehe Kingdom among others were able to conquer and rule their weak neighbours. Different political administrative systems which were being practiced by various communities did not hinder movement of people and goods within the region. Some centralized systems mainly Kingdoms, levied taxes and tariffs on goods from other communities (Ochwada, 2004). Other communities like Maasai and Sukuma, Baganda and Bunyoro, Luo and Kisii among others were engaged in other forms of trade which led to inter-ethnic marriages which further resulted into deepening and widening integration (Bennan, 2017).

The extension and consolidation of the kingdoms through increased long distance trade made them wealthy and powerful. The inter-communities' long distance trades were aimed at achieving and sustaining the individual community's interest and not the group interest. This is a similar practice where states pursue national interest through regional integration. This therefore demonstrated that the pre-colonial EA societies used regional long distant trade for their individual survival and prosperity. National interest has thus been a core imperative of regional integration right from the beginning of the human society. Similarly, regional integration schemes have always provided an avenue through which states, societies and communities strive for prosperity and survival.

During the scramble for Africa and its eventual partitioning by the European powers between 1881 and 1914, Kenya and Uganda were colonized by Britain and were known as British East Africa Protectorate. On the other hand, Tanganyika, Burundi and Rwanda were colonized by Germany and were known as the German East Africa. After losing the First World War, Germany renounced its rights to all its colonies under Article 119 of the Peace Treaty of Versailles to the Principal Allied and Associated Powers. Subsequently Britain was appointed by the League of Nations to exercise mandate over Tanzania while France took over Burundi and Rwanda. Tanganyika joined Kenya and Uganda thereafter. Article II of the Mandate Agreement for Tanganyika expressly allowed Britain to incorporate the territory into the existing custom, fiscal and administrative unions under the British rule. In 1917, a Custom Union was created between Kenya and Uganda where Tanganyika was incorporated later in 1923. Prior to 1921, Tanganyika joined the Currency Board. In 1927 the three territories introduced free movement of foreign goods. Tanganyika joined Postal Union in 1933 (Ndegura, 1968).

Integration in British Protectorate (Uganda and Kenya) started when Britain found it convenient to coordinate services together in the two territories. It began in 1902 with the construction of the Kenya-Uganda Railways (KUR) which was run by the common administration. In 1905 and 1911, East African Currency Board and Postal Union were established respectively to issue bank notes and provide postal services to the two territories (Delupis, 1970). British Colonial Office (BCO) wanted a deeper integration among the three EA territories through common services and economic integration.

In 1924 an all-party British Parliamentary Committee called “Ormsby-Gore Commission” was formed to see how closer coordination of policies on matters of transportation, cotton growing and the control of human, animal and plant diseases should be jointly considered. The

commission found little evidence to support immediate political federation but recommended that the Governors of the three territories and the Central African territories (Nyasaland and Northern Rhodesia) should hold regular conferences to tackle common issues and explore avenues of deep cooperation. Further, the commission recommended that a closer coordination of research, complete custom union, harmonization of commercial laws on companies, bankruptcy, patent, design and trademark, the establishment of the research institute in Amani in Tanganyika and finally the reorganization of Voi-Kahe railways to be operated by KUR (Ghai and Mc Auster, 1969).

As recommended by the Ormsby-Gore Commission, the first Governors' meeting was held in 1926 in Kenya and a permanent secretariat which was based in Nairobi was formed. It recommended that three more research centres be established. A special railway secretariat was formed to set up the administration of the lines. The Port of Mombasa which was under the government of Kenya was also transferred to KUR Administration assuming the new name of Kenya-Uganda Railway and Harbours Administration (KURHA). The Governors of Central Africa territories later pulled out of the governors' conference which left the Governors of Kenya, Uganda and Tanganyika to coordinate common issues in EA region jointly through the conferences.

Britain was determined to have a political federation among the EA countries. Between 1928 and 1929, it commissioned Hilton-Young Commission to see whether either by federation or some other forms of closer union more effective cooperation between different governments in Central and Eastern Africa may be secured. The commission reported that time was not yet ripe for any change but it advocated for a closer union and a central authority to deal with such matters as railways, harbours, roads, aviation, post and telegraph, custom, defence and research.

It suggested that a Governor General should be appointed for East Africa to coordinate all these services. The commission concluded that future union should be between the northern territories of Kenya, Uganda and Tanganyika while the southern territories would require a different arrangement.

A joint parliamentary committee was formed in 1931 to look at the Hilton -Young report and it concluded that the natural grouping of Nyasaland and Northern Rhodesia in some form of Central African Consultative Organization (CACO) leaving Kenya, Uganda and Tanzania to form their own common services. Many of the recommendations were implemented. In 1937 income tax was introduced in Kenya and in 1940 it was extended to both Uganda and Tanganyika. A joint EA income tax board was thus created the same year to handle tax collection. The Governors' conference which was then composed of the three Governors of the EA territories established a joint economic council to coordinate cooperation in the region. It allowed the three countries to operate as one composite economic and commercial unit. On defence cooperation, a joint East African Supply Board, War Supply Board, the Industrial Management Board among others were established to coordinate manpower and economic issues during the Second World War (Ingham, 1963).

It was noted that the Governors' conference which was running common services in the EA region did not have a constitutional authority but worked through consultative arrangement. Tanganyika was still a mandate and therefore including it in a political federation would go against mandatory rules. Britain came up with a colonial paper number 191 and modified proposals in 1945 which created an East African High Commission (EAHC) and a Central Legislature, a single custom and exercise department and a single Railway and Harbour Administration for the three territories in the EA region. This paper reflected the opinion in

Britain that the three EA territories represented unsatisfactory economic unit and therefore had to be transformed into a comprehensive economic entity. This was the interest of Britain upon which the three territories depended. It was realized later that the colonial paper had given the Central Legislature and the EAHC more power which had to be reduced through a modified proposal in 1947. The Europeans in EA also raised concern of inadequate representation in the senate. The modified proposal addressed all these issues and was accepted by the territorial legislature of the three territories (Ingham, 1963).

Upon formation of the United Nations Organization (UNO), it was agreed to convert most of the mandates into trusteeship territories and Tanganyika was converted through article 5 of the Trusteeship Agreement which authorized the administrative authority to “constitute Tanganyika into custom, fiscal and administrative union or federation with adjacent territories”. This article prohibited inclusion of Tanganyika into a political federation with other adjacent territories as it would violate the Trusteeship terms (GAR 224 III, UN Dec. A/810, 1948).

EAHC came into operation in January 1948. It was made up of the Governors of Kenya, Uganda and Tanzania with the Governor of Kenya being the chairman. Its secretariat was based in Nairobi. The EAHC was not a true international organization as its members were not independent states and it was heavily controlled by Britain. The EAHC had its origin in the British Order of Council that provided that “the EAHC and the Central Legislative Assembly to be established should carry out their works according to the Royal Instructions”. Any law passed by the Inter-Territorial Organizations could be disallowed by Britain.

EAHC was composed of a Commission and the Central Legislative Assembly. The Commission was to be a corporate entity while the Central Legislative Assembly legislated on issues common to the three colonies with its competence limited to certain subjects listed in the Order of Council. The EAHC also had the power to legislate with the power and consent of the Assembly in respect of matters common to the three territories. The EAHC activities were concentrated to the administration, income tax, custom and excise duties, communications and social services among others. The EAHC was funded from the contribution of its members.

As the three territories prepared for independence, it became clear that the EAHC which was run through Governors' conference would not survive as the newly independent states would have their leaders as either Heads of States or Heads of Government. Tanzania became independent on 28 December 1961, Uganda on 9 October 1962, and Kenya on 12 December 1963. Subsequently, the East African Common Services Organization (EACSO) was formed in 1961 as a replacement of EAHC. It was composed of "The East African Authority" which was the supreme organ and comprised of the Presidents of the three countries. The Central Legislative Assembly continued to operate as in the days of EAHC. The Administrator of EAHC was replaced with the Secretary General in the new arrangement. Four Ministerial Committees were also formed to assist the Authority in running the EACSO. Apart from these structural changes, the other organs remained similar to EAHC.

The operations of EACSO were funded from a distributable pool fund similar to that of EAHC, except for Railways and Harbours, and Postal and Telecommunications which were self-contained (ECOSA Constitution, 1961). EACSO faced numerous problems as the newly independent states were not keen in forming a federation for reasons ranging from sovereignty issues particularly on the citizenship, foreign policy, foreign relations and distribution of

industries. A meeting which was held in Nairobi Kenya on 5th June 1963 to discuss if the three countries would form a federation did not bear any fruits. Equally a meeting was held in Kampala in April 1964 to come up with ways to correct trade imbalances by immediate re-allocation of certain major industries which also did not bear fruits. All these efforts were frustrated by positions taken by partner states on respective national interest. Kenya was keenly interested in attracting foreign investments and more factories were built in the country contrary to EAC I Treaty (1967). This position taken by the Republic of Kenya was in support of its primary national interest which is economic development.

2.2 The East African Community I

European rule of Africa had a lasting impact on the socio-economic and political context of the African countries. Crawford Young ((1995) noted that the “overall colonial legacy cast its shadow over the emergent African state system to a degree unique among the major world regions”. The implication of this is that Africa can neither be explained nor understood without first unravelling the continent’s colonial experience. Most of the EA states attained independence at the turn of the 1960s. On 26th April 1964, the Republic of Tanganyika and Zanzibar united to form the United Republic called Tanzania. By 1965 Tanzania started to put some trade restrictions in EACSO. The EA Authority consulted the UN for an economic adviser to provide necessary proposal.

In May 1965 an adviser Professor Kjeld Philip, a former Danish Finance Minister working with a ministerial group from the three countries presented a report “The Philip Report”, which became the foundation document that formed the basis of East African Cooperation. This report was adopted in total and became the Treaty of the East African Community which established the

first EAC I. The EAC I Treaty was signed on 6th June 1967 and went into effect on 1st December 1967 (EAC, 1967). EAC I was like EACSO but with wider powers in various fields. After independence, the EA Authority realized that the EA countries as sovereign states needed a more robust and powerful regional integration more than EACSO to cater for emerging issues thus a new organization was necessary. That is the main justification for the formation of EAC I as a post-independent regional integration entity (Kennedy, 1961).

The structure of the first EAC I heavily resembled the one of EACSO except that in the former some minimal modifications were made to improve service delivery. Unlike EACSO which had representatives in the Ministerial Committees, EAC I had a single minister in each partner state who was in charge of its affairs. This separation was meant to prevent any conflict between EAC I and national loyalties. The main organ of EAC I was the EAC Authority which was composed of the three Presidents of partner states. This was the supreme organ whose main function was to approve policy issues. It was similar to the one of EACSO. Secondly, the EALA was composed of seventy seven members appointed by respective members. This differs from EACSO Central Legislative Assembly which had Ministerial representatives who mainly propagated their own countries' agendas. Other organs like the East African Ministers, the Councils (the Common Market Council, the Communication Council, the Economic Consulting and Planning Council, the Financial Council and the Research Council) were also similar to those of EACSO. (EAC Treaty, 1967)

By the time EAC I was formed in 1967, the East African Central bank and the common currency had collapsed in 1966. However, EAC I faced several challenges ranging from economic, political to idiosyncratic issues. The purpose of EAC I was to promote economic development in the EA region. The acquired economic gains and benefits were to be equitably shared among the

three partner states. However Kenya whose economy was relatively more developed was perceived to benefit asymmetrically. The common external tariff imposed on the foreign goods at the common market stage favoured Kenyan manufacturing sectors whose goods were selling in the entire EA region. This subsequently denied the other two partner states tariffs from import duties, which in response demanded for policies to address the trade imbalance which was not readily available (Reith and Boltz, 2011).

Lack of political will was a major impediment in the integration process of the EAC I. From independence, Kenya became a capitalist state with strong ties to Western Europe particularly Britain, its former colonial power and the USA. Tanzania was a socialist nation with Uganda having a mixed system. Tanzania being a socialist nation, the state took over economic responsibilities and the private investment was discouraged. With this prevailing political situation, the growth of private sector and civil societies which is critical for the success of a regional integration was sacrificed. This largely contributed to the demise (death) of EAC I.

Several events preceded the collapse of the first EAC I. In 1967, Arusha declaration outlining the principles of Ujamaa in Tanzania was made making the country a socialist state and politically, economically and ideologically aligned to the East. Kenya remained capitalist with heavy foreign investment which created both economic growth and political stability. On 23rd January 1971, Idi Amin came to power in Uganda. Consequently President Nyerere refused to share the same table with President Amin. This technically brought the cooperation of the EAC I to a halt. The reasons for the collapse of the first EAC I is summarized as lack of strong political will, lack of strong participation of civil society and private sector, disproportionate sharing of the economic benefits among the partner states and weak policies to address distributions of economic gains and benefits. On the failure to involve the private sector and civil society in the

affairs of EAC I, Nyerere remarked “We made a mistake; we did not involve the public at all. The civil society and the business people should push the bureaucrats” (Nyerere, 1977).

The common services of the EAC I collapsed in 1977. The border between Tanzania and Kenya had been closed and Tanzania and Uganda were involved in cross border conflict which led to a full scale war in 1978. Uganda was defeated in 1979 and the former president Obote was reinstated as the President of Uganda after Idi Amin fled the country. From the foregoing a combination of factors led to the demise of EAC I. Among them were competing political interests, different economic realities, persistent economic disputes, the latter cited to have greatly contributed to generating mistrust between Nairobi on one hand and Dar-es-Salaam and Kampala on other hand, effectively sounding the death knell to the integration process.

2.3 The East African Community II

2.3.1 Introduction

The collapse of the EAC I had serious consequences in regards to the EAC integration efforts. Inter-state railways, postal service, airways and trade ceased. The border between Tanzania and Kenya was closed. Hostilities between Uganda and Tanzania climbed sharply. Common debts and liabilities were not being serviced. The three countries lived so much apart that they were not able to talk to one other (Umbricht WB Archives, 1987). Subsequently in 1984 the three East African countries formed EAC Mediation Agreement to divide and share assets and liabilities of the EAC I. Under the agreement, the parties agreed to explore areas of future cooperation in Article 14/02 and to work out arrangements and to make concrete steps for such arrangements (EAC Mediation Agreement, 1984).

During the Commonwealth meeting in Harare Zimbabwe in October 1991, the Heads of State of the three EA countries held a meeting together and agreed to revive the EAC. Subsequently, in 1996, a tri-partite working group to develop modalities of renewed cooperation was formed. The first meeting of Heads of State of Kenya, Uganda and Tanzania took place in 1991 in Nairobi, Kenya where they issued a formal communiqué on the revival of the cooperation. This was followed by a meeting of Foreign Affairs Ministers in 1992 in Nairobi to come up with pragmatic programmes to restart the cooperation and identify spheres of common interest. Consequently the Permanent Tri-partite Commission for East African Cooperation was established in November 1993 to become the policy making organ of the group. The process resulted in creation of a Secretariat of the Tri-Partite Commission on 14th March 1996 in Arusha, Tanzania which marked the beginning of the operational phase of the cooperation. The Secretariat thus formulated a strategic plan to steer the cooperation in a logical and systematic manner. The first East African Development Strategy (EADS) which covered 1997-2000 period was launched on 29th April 1997 by the three Heads of States. The main focus of this strategy was the establishment of the EAC II. During this period the Tri-Partite Agreement was transformed into a Treaty of EAC which was signed on 30th November 1999 and became effective on 7th July 2000.

While drafting the Treaty for the EAC II, the experts took into consideration lessons learnt from the collapse of the EAC I. These included but not limited to improving the management of the cooperation by setting up permanent institutions; greater attention to be paid to the fair and equitable distribution of benefits of the cooperation by providing transitional custom regulations. These were carefully designed to protect Tanzania and Uganda economies which were relatively weaker than the one for Kenya. Civil societies and private investors were also considered and

given opportunities to play key roles. It was noted that all major decisions affecting the community must be taken by consensus (EAC Treaty, 1999).

2.3.2 Establishment of East African Community II

Article 2 of the EAC Treaty (1999) established the Community with a Custom Union and Common Market as transitional stages to an integral part of the Community. Article 4 of the EAC Treaty (1999) provides the objective of the community as “development of policies and programmes aimed at widening and deepening cooperation among partner states in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs. It further states that the partner states undertake to establish a custom union, a common market, subsequently a monetary union and ultimately a political Federation” (EAC, 1999).

In the integration schedule and timelines, the Custom Union was to be achieved in 2005, the Common Market in 2010, the Monetary Union in 2013 and the attainment of the Political Federation was to follow after successful accomplishment of the three stages of integration. As per Article 7 of the EAC Treaty (1999), the operational principles that were to guide the achievement of the set objectives includes having people centred and market driven cooperation, provision of conducive policies and infrastructures by the partner states and establishment of export oriented economies in which there shall be free movement of goods, persons, labour, services, capital, information and technology among others (EAC, 1999). Further EAC II focuses on promotion of sustainable growth and equitable development of the region by strengthening and consolidating political, economic, social and cultural ties.

Since its inception in 2000, the EAC II has been formulating a four year development strategies to guide its development programmes and so far five have been developed. The first development strategy was formulated in 1997 and covered the period between 1997 and 2000. It was basically about the establishment of the EAC II which was successfully achieved in 2000. The second development strategy covered the period between 2001 and 2005 and this laid foundations and implementation of the Custom Union. The third development strategy was from 2006 to 2010 and its focus was the Common Market implementation. The fourth development strategy covered the period from 2011 to 2016. Its focus was to monitor the implementation of the common market and laid foundation for the creation of Monetary Union which was to be achieved by 2013 as per the EAC integration schedule. It was also to monitor the functioning of the Custom Union, provide guidelines on cooperating with other regional blocks like EU, NAFTA, ASEAN and other emerging economies like the BRICS. It also dealt with the inclusion of Burundi and Rwanda as members.

Finally, the fifth development strategy was produced in 2016 and covered a period between 2017 and 2021. Its focus is to pursue widening and deepening ties within the Community. Its goal is to build a firm foundation for transforming the EAC II into stable, competitive and sustainable lower-middle income region by 2021. Its theme is to accelerate people centred and market driven integration. This development strategy clearly steers away from attaining Monetary Union which was the next stage for the EAC II regional integration process after attainment of the Common Market.

2.3.3 The Organs of the East African Community II

The organs of the EAC II as provided for in Article 9 of the Commission's Treaty (1999) are: the

Summit; the Council; the Coordinating Committee; Sectoral Committees; the East African Court of Justice (EACJ); the East African Legislative Assembly (EALA); and the Secretariat. The Summit is empowered by the article to create organs to perform any special functions. These organs function and act within the limits of the powers conferred upon them by the Treaty (EAC Treaty, 1999).

The Summit which consists of the Heads of State or the Heads of Government of partner states is the supreme organ of the community. Its main function is to give general direction and impetus as to the development and achievement of the objectives of the Community. The Summit meets once in a year to consider progressive reports and other issues submitted by the Council of the Ministers. The Council consists of Ministers responsible for EAC II affairs in each partner state, any other minister of partner states as each partner state may determine and the Attorney General of each partner state. The Council is the policy organ of the community. According to Article 14 of the EAC Treaty (1999), it shall “Promote, monitor, and keep under constant review the implementation of programmes of the community and ensures the proper functioning and development of the community in accordance with the treaty”. It meets twice a year one of which is immediately after the meeting of the Summit.

The Coordination Committee consists of the Permanent Secretaries responsible for EAC II affairs and it meets at least twice each year subject to direction given by the Council. Its major function is the submission of reports and recommendations to the Council either on its own initiative or upon the request of the Council, on the implementation of the Treaty. The Sectoral Committees are established as recommended by the Coordinating Committee to the Council to perform a specific tasks and may meet as often as necessary. Their functions are preparation and

coordination of comprehensive implementation of programmes and the setting out of the priorities with respect to its sector.

According to Article 23 of the EAC Treaty (1999), the East African Court of Justice (EACJ) ensures the adherence to law in the interpretation and application of and compliance with the Treaty of the EAC II. It consists of two divisions; the First Instance Division, whose main function is to hear and determine, at first instance subject to the right of appeal to the Appellate Division under Article 35(a) any matter before the Court in accordance with the Treaty of EAC II. The Appellate Division has jurisdiction on matters referred to it which has passed through the First Instant Court. The court is composed of a maximum of fifteen judges nominated by the partner states and approved by the Summit and not more than ten of whom shall belong to the First Instant Division while not more than five shall belong to the Appellate Division as provided for by Article 23 of EAC Treaty (1999). The EALA is the law making body of the commission. It consists of fifty four elected members, nine from each partner state, eight ex-official members consisting of the Minister responsible for the EAC affair from each partner state, the Secretary General and the counsel to the community (EAC, Art 8, 2007).

The National Assembly of each partner state shall elect not from amongst its members, nine members of the assembly. According to Article 66 of the EAC Treaty, the Secretariat is the executive organ of the community. It is headed by the Secretary General who is appointed by the Summit upon nomination by relevant Coordinating Committee under the principle of rotation. The Secretary General serves for a fixed period of five years. Other members of the secretariat are Deputy Secretary General, Counsel to the community and any others as may be deemed necessary by the Council. Other autonomous bodies of the EAC II include the East African Development Bank (EADB), Lake Victoria Fisheries Organization (LVFO), Inter

University Council for East Africa (IUCEA) and other institutions which may be established by the Summit as necessary.

2.4 Conclusion

This chapter has succeeded in bringing out how the process of integration in the EA region has travelled a long journey. The process started in the pre-colonial period with barter trade being conducted by long distant traders and intensified during the colonial period when Tanzania, Kenya and Uganda respectively began implementing common services to make the region economically viable. However, the post-independence period saw a decline in the integration process leading to the collapse of the EAC I in 1977 due to differing partner states' interests and idiosyncratic differences. These points of differences carried into the future and continue to hamper the process of achieving "full" integration in the region. However, despite the aforementioned challenges efforts were subsequently made to revive cooperation among the partner states, and this produced EAC II. Unfortunately competing national interest among the partner states have slowed the process of advancing the integration efforts. Timelines in implementation of key steps for instance Monetary Union which was to be in force by 2013 still lags behind the schedule.

From the foregoing, it is clear that the intervention of the national interest, especially that of Kenya has played a key role in slowing down the process of regional integration in the EAC. In most parts of the EAC I, Kenya's pre-occupation with reaping the larger portion of the pie (economic dividends) latently produced a zero-sum arrangement that did not sit well with the other EAC states, eventually generating the catalyst for EAC's disintegration. Further, the economic disputes were not helped by the political differences between the leader of Kenya

(Jomo Kenyatta) and the leader of Uganda (Idi Amin), especially on Amin's provocations to annex part of Kenya. Some of these grey areas have carried on to the current EAC II, with political differences between Kenya's Uhuru Kenyatta and Tanzania's John Magufuli playing out over boundary breaches among other contentions. Tanzania has severally accused Kenya of breaching its territorial integrity with Kenyan pastoralists crossing into Tanzania.

Thus, in order to foster a strong integration, the EAC partner states must not only show willingness to cede part of their sovereignty, to accept the cooperation as a reality and develop it for mutual benefits. The EAC Treaty (1999) has sufficient provisions to balance the national interest of the partner states and the collective interest of the Council. This will, in no doubt positively steer the integration process in the region and deter similar fate that befell the EAC I.

CHAPTER THREE

THE TREATIES OF EAST AFRICAN COMMUNITY AND THE NATIONAL INTEREST OF THE PARTNER STATES

3.0 Introduction

Many factors have been advanced by different scholars and political actors as the possible causes of the collapse of EAC I. Consequently, the EAC II in its Treaty (1999) has put in place appropriate policies to address national interest of its partner states. Delupis (1970) argued that the major cause for the collapse of the first EAC I in 1977 was lack of political will which was a consequence of partner states not willing to cede part of their sovereign rights. Partner states concentrated on the pursuit of their separate interests as opposed to the collective interests that would benefit all and promote regional integration process in the EAC I. In the lead up to the establishment of the EAC II, the leaders looked at the factors that caused the collapse of the EAC I and endeavoured to address them in the Treaty of the EAC II with a view to avoid the re-collapse or decline of the regional integration.

The EAC Treaty document of (1999) and other EAC II documents like the Protocols, Development Strategies, Minutes of Meetings, and Agreements among many others identified attempts to address the issue of national interest of the partner states owing to their unique circumstances economically, politically and culturally. These issues were only broadly addressed in the previous Treaty establishing EAC I.

Further, based on the lessons learnt from the collapse of the EAC I, the Treaty of the EAC II contained specific provisions in its principles, objectives and institutions that address issues of national interest of its partner states in order to promote widening and deepening integration

process. Principles of equitable distribution of benefits, complementarity, variable geometry, subsidiarity and asymmetry make the EAC II more inclusive and comprehensive and involve a cross section of actors like civil societies and private sectors which were not included in the Treaty of the EAC I (1967). Equally, the organizational structure of the EAC II provides more permanent structures divorced from national institutions of its partner states which focus more on collective interests as opposed to partner states' separate individual interest.

This chapter thus addresses three main things. Firstly, the conditions for joining the EAC II and how this differ with those of EAC I. Secondly, the principles anchoring the community, and lastly the organs of the current EAC.

3.1 Conditions for Joining the Community

Article 3 of the EAC Treaty, (1999) provides six conditions to be fulfilled by a foreign state which desires to join the Community. All the six conditions are based on liberalist perspective and seem to promote deepening regional integration process in the Community. The first condition is “acceptance of the Community as set out in its Treaty”. In Article 2 of the Community's Treaty (1999), “the contracting parties shall establish an East African Customs Union and common market as a transitional stage to an integral part of the Community”. By accepting to comply with the provision of article 2 of the Treaty (EAC Treaty, 1999), at the Customs Union stage, the partner states agree to remove trade barriers and tariffs, allow free movement of goods, services, labour, capital and persons. Similarly at the common market stage, the partner states shall adopt a common tax and duty system that bars third parties from directly dealing with each partner state on terms different from those set by the EAC II. Uniform tax system applies in the region and this makes partner states to surrender part of their economic sovereignty to the EAC II integration scheme as a supra-national institution. Partner states raise

national revenue from taxation on trades with other states. The revenue raised is used for national development which is a critical component of national interest. This provision thus provides the foreign states intending to join the community with a clear terms of reference and condition for being a member. Hence, this is the starting point in regional integration process.

The second condition deals with the “adherence to universally acceptable principles of good governance, democracy, rule of law, observance of human rights and social justice”. These are the basic operational variables of a democratic system of government. The Community requires partner states to embrace democratic principles, which again is a major tenet of theory of liberalism. Kant observed “Democracies do not go to war with one another”. Democracies share same international institutions, laws and regimes, trade together (economic interdependency), share similar tenets and have common structures of solving any dispute that may arise among nations.

Rhodes (1996) observed that good governance refers to various ways through which social life is coordinated by governments. It is used in the international literature to describe how public institutions conduct public affairs and manage public resources. It is a process of decision making and a means by which decisions are either implemented or not implemented. The Council of Europe outlined the principles of good governance as fair conduct of election, responsiveness, observing rule of law, effectiveness and efficiency, ethical conduct, competence and capacity, sustainability and long term orientation, innovative openness and change, cultural diversity and social cohesion and accountability. These are what Weber (1994) refers to as the "ideal type" of governance. East African states are mostly unstable politically except the United Republic of Tanzania. Many may not satisfy these conditions though the principles are the best practices globally.

The third condition is to practice social justice by partner states. Berlin (1958) argued that social justice involves distribution of wealth, opportunities and privileges within a society. It is a morally justifiable distribution of wealth. It is both a political and philosophical concept which holds that all people should have equal access to wealth, health, wellbeing and opportunities. This condition lays ground for fair and equitable distribution of economic benefits created within the community by the partner states and therefore collective interest as opposed to individual state's interest should guide sharing and distribution of wealth created collectively. Further, observance of human rights by the partner states provides a conducive environment for a strong civil society and a vibrant private sector to prosper within EAC II. The two entities are critical non-state actors in any successful regional integration schemes.

The EAC I collapsed partly because private sector and civil society were not actively involved in the integration process. Human rights is a wide concept covering all issues for the well-being of humans. The UN puts it as all rights inherent to all human beings. It includes the right to life and liberty, freedom of expression, freedom of movement, peaceful assembly and participation in public affairs among others. These rights sometimes go against the operations of states particularly in the provision of security and welfare services. However, though occasionally they contradict national interest, states are encouraged to observe them. The last four conditions of Potential contribution to the strengthening of the integration within EAC, geographical proximity and interdependence between the partner states, establishment and maintenance of market driven economy and social and economic policies comparable with the community, are all aimed at making partner states to surrender part of their sovereignty for the progress of the Community.

3.2 Principles of the Community

The Treaty of the Community in article 7 provides for eight operational principles which govern the achievement of its objectives. The main objective of the Community is to "develop policies and programmes aimed at widening and deepening cooperation among the partner states in political, economic, social and cultural field, research and technology, defence, security, legal and judicial affairs for the mutual benefits" (EAC, Treaty, Art 5, 1999). All the eight operational principles adequately address national interest concerns of the partner states. Some of the principles have already been discussed and therefore this section focuses on how the principles of subsidiarity, variable geometry and asymmetry address the national interest issues of the partner states in the EAC II.

3.2.1 The Principle of Subsidiarity

The principle of subsidiary is used by many large and complex organizations to part manage their affairs. Article 7 1(d) of the EAC Treaty (1999) provides for the principle of subsidiarity with emphasis on the multi-level participation and the involvement of a wider range of stakeholders in the process of the integration.

One of the factors that contributed to the collapse of EAC I was that it was purely intergovernmental. Other stake holders were not adequately accommodated. After the collapse, President Nyerere said, "we made a mistake; we did not involve the public at all. The civil society and the business people should push the bureaucrats". Failure to involve the wider stakeholders especially the Private Sector and the Civil Society in a regional integration violates the tenets of both functionalism and neofunctionalism approaches which are the main liberalist's theories of regionalism. In an effort to accommodate this principle, chapters 22 of EAC II Treaty

(1999) “*Enhancing the Role of women in Socio-Economic development*” provides avenue for women to actively participate in the integration process. Equally in chapter 21 “*The Private Sector and the Civil Society*” encourages the partner states to provide an enabling environment for the private sector and civil society to take full advantage of the community. The principle of subsidiarity therefore requires states to recognize and give chance to non-state actors to participate in the integration process. Though this violates the realist assumption (intergovernmentalism approach), shared sovereignty is a strong operational variable of a successful regional integration scheme.

3.2.2 The Principle of Variable Geometry

Article 7 II of the EAC Treaty (1999) provides for the Principle of Variable Geometry which is used in the EAC II regional integration process to balance the delicate issue of national interest of partner states and collective interest of the EAC II. It has been applied severally by a group of member states to satisfy their national interest at the same time widening and deepening the integration process in the EAC II. For example, when the United Republic of Tanzania and the Republic of Burundi delayed the signing of the Common Market in 2009, the Council sought the EACJ interpretation on the application of variable geometry Vis-a-Vis the provision of decision by consensus by the Summit. The EACJ delivered a judgement that the principle allows for cooperation among a group of member states for speedy implementation of the same programmes under the EAC II integration. Subsequently, applying the same principle, Kenya, Rwanda, Uganda and later South Sudan formed “*a coalition of the willing*” a Trilateral Agreement on mainstreaming EAC II projects and programmes under Northern Corridor Integration Projects (NCIP) in June 2013 leaving out the United Republic of Tanzania and Burundi.

In 2014 Kenya, Rwanda and Uganda agreed to use national identity cards as the authentic document for cross border crossing. This is part of the Common Market implementation programme, though Tanzania and Burundi declined. Equally, Uganda and Tanzania have also entered a bilateral agreement to build oil pipeline to ferry Ugandan crude oil as part of the EAC II project leaving out other partner state. Burundi and Tanzania have also entered bilateral agreement on the management of Tourism Sector under EAC II programme in exclusion of other partner states.

States join regional integration schemes to pursue and attain their national interest. This principle thus offers flexibility for states to balance the pursuit of their national interest while fostering widening and deepening integration process in regional cooperation schemes. However this principle works well in regional integration with many members' states which have different levels of economic development like the EU. For smaller regional schemes like the EAC II, its application may conflict the Principle of Solidarity and consequently cause division among the partner states hence undermine integration process in a regional body.

3.2.3 The Principle of Asymmetry

Article 7 1(h) of the EAC Treaty (1999) provides for the principle of asymmetry in the implementation of the Commission's programmes. This principle contends that Kenya is relatively more economically developed than other partner states which seek to boost in the incompetitiveness in the integration. It is therefore adopted in the Treaty to assist other less economically developed partner states in the equitable distribution of economic gains and benefits. It forms the foundation of equity which is one of the objectives of the EAC II as articulated in Article 5 3(a) of the Treaty which states that "the community will ensure

attainment of sustainable growth and development of the partner states by the promotion of a more balanced and harmonious development of partner states”.

The principle encourages core states in an integration scheme to provide a favourable treatment to the weaker members. This can be exemplified in NAFTA where USA gives concession to other members and in EU where Germany and France provide asymmetric treatment to other members. In COMESA, the Republic of South Africa often exercises this principle. Currently Namibia and Swaziland are benefitting from given concession based on asymmetry principles (Bheenick, 2003). Odhiambo (2005) argued that the principle of asymmetry in a regional integration scheme is founded on the recognition that similar treatment of unequal partners with differing conditions is fundamentally inequitable and is likely to create internal tension which can derail the community building effort.

In the EAC I, inequitable sharing of economic benefits among the partner states was advanced as one of the causes of its collapsed in 1977. The EAC II, considered the causes of the collapse as the lessons learnt to improve integration policies with a view of preventing a re-collapse and decline. Consequently, it is acknowledged that where there are benefits accruing from a regional integration, unequal distribution of economic gains and benefits brings declines in many integration schemes, EAC II included (EAC Development strategy, 1997-2001).

Kenya was perceived by other partner states to be economically benefitting more at other partner states expenses in the EAC I. Applying the principle of asymmetry in the EAC II, Kenya should be making more concession to other partners in all economic sectors (Ahmed, 2003). It is recognized that the six partner states of EAC II are at different levels of economic development and thus have unequal comparative advantages. Article II of the East African Community

Custom Union Protocol (2004) provides for transitional measures of the elimination of tariffs. Kenya, the core state in the EAC II was required to eliminate its tariffs on imports from Uganda, and Tanzania on the day the protocol became effective. However, charges in gradually declining taxes remained for some goods originating from Kenya to both Tanzania and Uganda. These taxes were to gradually reduce from 5% from the time the protocol became effective to 0% by 2010 based on the principle of asymmetry.

Articles 19 and 36 of the Custom Union Protocol (2004) provide safe guard measures in the event of serious injury to the economy of partner states following the application of this protocol. The Council is authorized to approve the appropriate measures to be taken. Odhiambo (2005) argued that despite the provision of safeguard measures, the EAC II Treaty is silent on the joint ownership yet ownership of EAC II is communal. This means that in the event of a collapse, there would be a minimal need for asset distribution. Further, this Protocol through Articles 14, 16 and 18 respectively provide for rules of origin, anti-dumping measures and countervailing measures. According to realists perspective, states join regional integration schemes to attain their national interest. Equitable distribution of economic benefits balances both partner states' desires and the collective interest in regional integration schemes. The principle of asymmetry thus assists in promoting integration process in regional cooperation schemes.

3.3 The Organs and Institutions of the Community

Article 9 of the Community's Treaty (1999) provides a list of the EAC II organs and further authorizes the Summit to establish any institution as it may deem fit. These organs are involved in decision making that run the affairs of the Community. Reith and Boltz (2011) observed that "the autonomy of regional organizations is judged by the independence of its organs and

corresponding freedom from partner state's influence". They argued that most of the Community's institutions are strongly interstatal thus national interest of its partner states drives decision making process. This in turn weakens the integration process in the EAC II. This section therefore examined the eight organs of the EAC II as contained in Article 9 of the Community's Treaty and assessed how they address the issues of national interest of the partner states in both their organizational structure and functions. The organs are the Summit, the Council of Ministers, the Coordinating Committees, the Sectoral Committees, the East African Court of Justice (EACJ), the East African Legislative Assembly (EALA) and the Secretariat.

3.3.1 The Summit

Chapter four of the EAC Treaty (1999) in Article 10 provides for the Summit which is the highest organ of the Community. It is composed of the Heads of State or Heads of Government of partner states. It is charged with giving general directions and impetus as to the development and achievement of the objectives of the community. The Summit has a sole responsibility of appointment of judges of EACJ, approving admission of new members of the EAC II, granting of observer status to foreign countries, consider annual progress reports, review the state of security, peace and good governance, approve the appointment of the Secretary General and assent to bills among many functions. The decision of the Summit is by consensus.

A Head of State is the top foreign policy maker in a country. Foreign policy is basically about the pursuit of national interest in relations with other states. The Heads of States who are members of the Summit are first and foremost expected to represent and pursue their national interest in the EAC II region. Since the decision of the Summit is by consensus, the Coordinating Committee of a partner state can almost block all the EAC II operations by voting

no. This is what the Heads of State of the United Republic of Tanzania and Republic of Burundi did in 2009 by not approving twice the EAC II Common Market Protocol. This prompted Heads of State of Kenya, Rwanda and Uganda to apply the principle of variable geometry by forming “the coalition of the willing” to undertake the NCIP. Waltz (1998) stated that national interest is the personal responsibility of political leaders. He argues that it is an automatic signal commanding them of when and where to move. When it comes to a situation where the Summit is to assent to bills, make appointment and give general direction, Heads of State may favour only those decisions that are of national interest to their respective countries.

Nyaribu (2006) argued that new efforts towards cooperation should begin by exploding the myth that the politicians should have the monopoly in integration process. Heads of States dominate politics by manipulating national resources as a base where patron-client networks are built for political control and legitimacy. This results into the transformation of state into a self-entity which produces personalization of leadership and authoritarianism. Further, he argues that the new wave of cooperation would have to include other actors in the political arena. This is not the case in the EAC II where the Summit is supreme with the Heads of State being the key political actors. Similarly the EAC I collapsed due to lack of political will by the Coordinating Committees of the partner states and due to their idiosyncratic differences of the political actors. It can therefore be argued that the Summit may, to some extent be an impediment to the regional integration process. Personal relations and political goodwill are the key drivers of the integration in the EAC II just like the EAC I where the Heads of State are the members of the Summit.

3.3.2 Other Organs of East African Community

Other organs which include the Council of Ministers, the Coordinating Committee, Sectoral Committees, the Judiciary and Legislative Assembly are heavily inter-statal. Their operations particularly the approval and implementation of decisions is done by the Summit and by extension the partner states which are basically guided by national interest. The Council of Ministers which is composed of Ministers responsible for EAC II affairs in the six partner states are also Government Ministers appointed by a Head of State of respective country. The Council is the main decision making organ of the community. Its main function is to support and monitor the implementation of the Council's decisions in the partner states' context. It also prepares draft legislation for the EALA and appoints members of Sectorial Committees. Like the Summit, the Council is intergovernmental in character and function thus it advances and protects the national interest of respective states in the EAC II. Similarly, the Coordinating Committee which is composed of the Permanent Secretaries responsible for the affairs of the EAC II in the partner states is also intergovernmental in nature and represents the national interest of their respective countries.

The EACJ is a major organ of the EAC II whose main function is to ensure adherence to law in the interpretation and application of and compliance with the Treaty (Article 23 of EAC Treaty 1999). The judges of the EACJ are directly appointed by the Summit upon the nomination and recommendation of partner states. Further the judges still retain their positions at the court of respective partner states which can lead to conflict of interest. This subsequently affects their independence and impartiality which are critical operational and empirical variables of any judiciary system.

The EALA is the legislation organ of the Community. Its members are elected by National Assemblies of each partner state and ex-officials whom among them are the Ministers responsible for the affairs of the EAC II in each partner states. In this arrangement therefore, the Ministers are appointed by the Heads of State of the partner states and are likely to protect and advance their states' national interest. Equally, the members of the Assembly are elected by the national assemblies of each partner state and therefore lack legitimacy and input from members of the Civil Society and the Private Sector.

The partner states of the EAC II are at different levels of political maturity. Burundi and South Sudan are authoritarian and their members of EALA are selected by their Heads of State as opposed to their National Assemblies. In Kenya, the nine members are elected by the National Assembly based on the strength of political parties represented in parliament upon nomination by their political parties. The political parties more often select party loyalist and those close to party leaders. It is merely a personal reward system dogged by favouritism. Equally the majority political party may choose to reject a nominee from a minority political party. This in turn affects internal democracy and the value of representation in the EALA. The bills from EALA must be assented to by the Summit. This therefore affects the separation of powers and makes EALA an instrument of the executive thus EALA is not independent.

The Secretariat is the executive organ of the Community (Article 66 of EAC Treaty, 1999). Its function is to plan and support all the EAC II programmes and performs administrative duties. The Secretariat is headed by a Secretary General who is appointed by the Summit after nomination by a partner state as provided for in Article 66 of the Treaty (1999). In its function, the Secretariat is responsible to the Council through the Coordinating Committee. The Treaty

failed to expressly give the Secretariat decision making role. Being the executive organ, the Secretariat needs to be given some decision role in the commission.

Goldstein (2003) argued that for a regional integration to function successfully, partner states need to transfer some of their national power to the supra-national institution. This supports and complements an integration process which basically refers to a process of replacing national institutions by a supra-national body. In the EAC II, the Secretariat is a lame duck which is largely confronted by the inter-statal bodies. The Secretary General is nominated by the Coordinating Committee and appointed by the Summit. The nominee must be accepted by the nominating partner states' government and by extension the Coordinating Committee. The nominee is therefore likely to be biased and would tend to favour own nominating authority. Since there is no vetting of the nominee by independent non-governmental bodies, the members of the Summit often tend to go with the choice of their fellow nominating partner state. Under these circumstances therefore, the Secretary General is likely to give preferences to the issues of partner states' interest as opposed to the collective interest of the Community.

The Secretary General is responsible to the Council through the Coordinating Committee both of which are inter-statal bodies whose major aim is to advance and protect the national interest of their respective countries. Weak Community's institutions were one of the reasons advanced for the collapse of the first EAC I. In the EAC II, the Community's organs are strong on paper but dominated by the partner states which are unwilling to implement the Community's collective interest due to preference to own separate national interest (Reith and Boltz 2011).

3.4 Conclusion

States join integration schemes in order to pursue and attain their national interest. That is the realist perspective. The organizational structure of the EAC II as provided for in its Treaty (1999) is purely inter-statal. Members of the major organs of the Community are either national officials of partner states or appointed by the Heads of State of the partner states. Therefore the community's institutional structure and functions are dominated by national interest of its partner states. This may either promote or undermine the integration process in the EAC II region.

CHAPTER FOUR

KENYA'S NATIONAL INTEREST AND REGIONAL INTEGRATION IN THE EAST AFRICAN COMMUNITY

4.0 Introduction

This chapter has examined the extent to which Kenya's pursuit of national interest has either promoted or undermined integration process in the EAC region. First, it has identified major issues which are critical to Kenya for its own survival and prosperity. Then, it has established the extent to which Kenya's behaviour and participation in the EAC has influenced the integration process in the region. Kenya is the core state in the EAC region. Kenya's economy has been relatively the most developed in the regions since the colonial era. This makes economic interest the fulcrum upon which Kenya interacts with the other partner states in the EAC region. Economic development thrives in a politically stable and peaceful environment therefore it is in Kenya's national interest to ensure that the EAC region remains politically stable and peaceful for trade to take place successfully. Therefore Kenya has been in the frontline in organizing conflict resolutions in the troubled neighbouring countries which have been involved in civil wars. Being a regional hegemony, Kenya has been contributing troops to both UN and AU PSOs in Somalia, Burundi and South Sudan.

The current EAC II partner states have amongst themselves huge economic variances caused by many factors. Nye (1958) argued that some of the differences between the economies of the three EA countries date back to the decisions made early in the colonial period. Uganda which was regarded as unsuitable for European settlement was mainly developed by peasants through cultivation of cotton and coffee. In the case of Tanzania, cultivation was mainly through plantation agriculture around Mt Kilimanjaro and Lake Victoria which involved sisal, cotton and

coffee. In Kenya, the agriculture was dominated by Europeans through “White Highlands” large scale commercial plantations which saw the growth of light manufacturing industries. Kenya often exploits the market for its manufactured products which has always been readily available within the EAC region. Consequently, this made Kenya’s economy more buoyant than those of the other partner states. Economic development through trading with the EAC partner states has been Kenya's primary national interest in the region. Economic gain has been identified as major imperatives which drives integration among the partner states in the EAC region (Baregu, 2005).

Rosenau (1976) observes that international organizations are rationally ordered instruments for the achievement of set goals and that they are created to assist states to perform certain tasks. This in turn gives rise to cooperation towards collective objectives in which partner states pursue separate but convergent goals. However, the pursuit of national interest in a regional integration scheme is likely to either promote or undermine the integration process. Reith and Boltz (2011) argued that regional integration not only creates trade, but also changes the overall economic, social, political and security structures of a region. These changes may cause uncertainties which in some cases may have either positive or negative consequences. In order to achieve its economic interest in the EAC region, the Republic of Kenya seeks to ensure that the region remains peaceful. In a nutshell therefore, Kenya’s national interest in the region revolves around economic, political, social and security imperatives.

4.1 Competing Economic Interests and Regional Integration in the East African Community

The broad goal of the EAC is to widen and deepen cooperation in all areas for the mutual benefits to the partner states, especially economic benefits. This is pursued and sustained

through the Community's vision which is to "create wealth, raise the living standards of all people of East Africa and enhance international competitiveness of the region". These are all operational variables of economic impetus which aim at enhancing the economic integration in a regional cooperation (The Second EAC Development Strategy, 2001).

The current EAC II, unlike the previous EAC I that had only three member states (Kenya, Tanzania and Uganda) comprises of six countries with a total population of approximately 181 million people (World Bank, 2016). Kenya's population is about 48.46 million people, thus accounts for only 27% of the entire population of the EAC II partner states. The detailed population of EAC II partner states is found in Table 4.1. The larger population of EAC II partner states offers a big market for Kenya's goods and employment opportunities for citizens, especially in line with the ratified free trade area protocol which basically opens the borders for free movement of both goods and services. In the latter instance, service providers like doctors are free to set up clinics in any of the member-states without any obstacles in the host state. However, despite the positive steps made since the ratification of the Customs Union Protocol, fears of Kenyans "back-washing" all the opportunities to borrow from Balassa (1973) which predates EAC I still lingers and significantly still affects the perception of Kenyans by its neighbour states. This view is reinforced by an official from the Ministry of EAC-Kenya (2019) who stated: "Tanzania still requires EAC citizens to produce their passports upon arriving in its territory, despite that requirement being wavered by the EAC's Custom Union Protocol. Further, confusion still exist on documentation and processes required to set up business in the partner state."

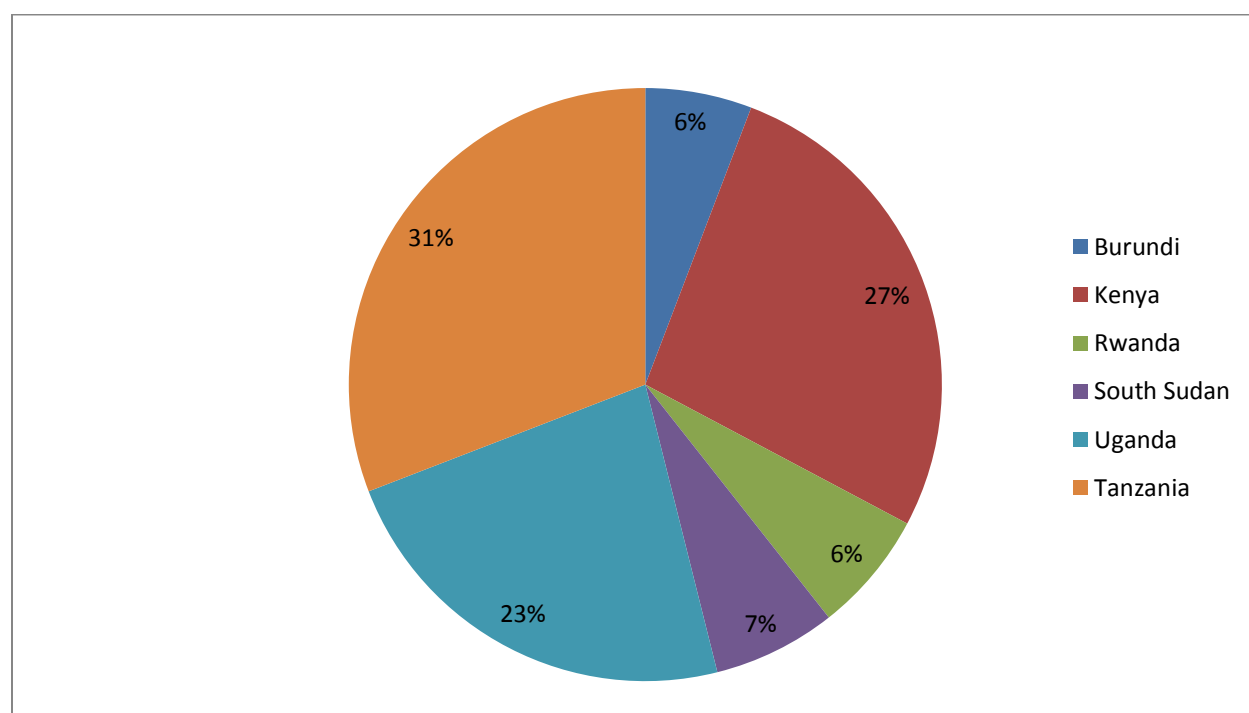
Table 4.1: Population Distribution of EAC II Partners State as at 2016

S/No	State/Organization	Population (M)	Population (%)
01	Burundi	10.52	5.8
02	Kenya	48.46	26.9
03	Rwanda	11.92	6.6
04	South Sudan	12.23	6.7
05	Uganda	41.49	23.0
06	Tanzania	55.57	30.8
07	EAC	180.19	100.00

Source: The World Bank Group, 2016.

Table 4.1 is aptly depicted in the pie chart below. It shows the distribution of population across the East Africa Community in 2016. Each country population is represented as a percentage of the EAC total population.

Figure 4.1 EAC Population Distribution in 2016



Source: Author, Computed based data from World Bank- World Development Indicator

The population of the EAC partner states has been fast growing at an average rate of 2.9% annually. This fast population growth ensured a steady increase of large consumers of supply and services thus an increase in trade volume among the partner states. Table 4.2 shows the details of growth for 11 years between 2005 and 2015 of the six EAC II partner states.

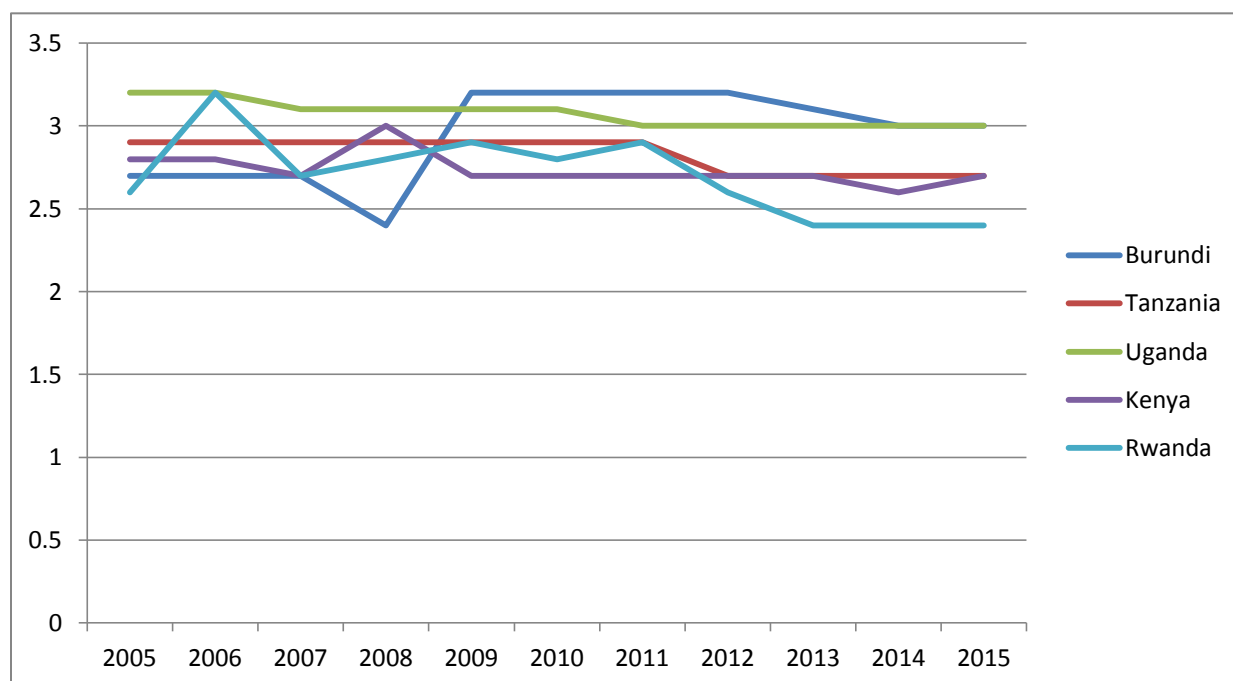
Table 4.2 Annual Population Growth Rate (%) of the EAC II Partner States from 2005 to 2015

Partner State/Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Burundi	2.7	2.7	2.7	2.4	3.2	3.2	3.2	3.2	3.1	3.0	3.0
Tanzania	2.9	2.9	2.9	2.9	2.9	2.9	2.9	2.7	2.7	2.7	2.7
Uganda	3.2	3.2	3.1	3.1	3.1	3.1	3.0	3.0	3.0	3.0	3.0
Kenya	2.8	2.8	2.7	3.0	2.7	2.7	2.7	2.7	2.7	2.6	2.7
Rwanda	2.6	3.2	2.7	2.8	2.9	2.8	2.9	2.6	2.4	2.4	2.4
East Africa											2.9

Source: EAC Facts and Figures, 2019.

Table 4.2 above is presented in figure 2 below through a line graph. It shows the annual percentage population growth recorded in the EAC between 2005 and 2015.

Figure 4.2 Annual EAC Population Growth Rate (%)



Source: Author, Computed based data from EAC- Fact and Figures

In addition, Kenya and Uganda were colonized by Britain while Burundi, Rwanda and Tanzania were initially German protectorates. After the First World War in which Germany was defeated, Tanzania was placed under the British rule as a mandate while Burundi and Rwanda were

mandated to France by the League of Nations. Consequently, the three British territories (Kenya, Uganda and Tanzania) were economically managed by the British Colonial Office (BCO) through common services.

Kenya which is endowed with a combination of geo-strategic resources such as the seaport, good weather, fertile and arable land, and long coastal shores was identified as suitable for European settlement. Subsequently it became a settler colony and a home to many European settlers who were involved in large scale agricultural production. These European settlers developed infrastructures and light industries to support their agricultural activities. This disproportionately positioned Kenya to host bulk of the industries by the 1950s, 474 companies in Kenya to only 70 in the other two states combined (Nsubuga, 1988). Some of these industries established in Kenya were supposed to be built in other EAC partner states as provided by the EAC protocols. For instance, in the early 1970s, Firestone, a multinational corporation, expressed a desire to establish a tyre firm in Kenya. According to the protocol, tyre firms were supposed to be established in Tanzania. However, President Kenyatta allowed it to be established in Kenya. Kenya was looking at its national interest because employment would be generated for its citizen. Subsequently, this undermined regional integration interest.

Between 1969 and 1978, Kenya controlled close to half of the total intra-EAC trade scheme, with favourable terms within the scheme (Adar and Ngunyi, 1994). No doubt this formed a basis for the distrust of Kenya by the other partner states. The settlers used Tanzania and Uganda as satellite economies to support their industries in Kenya. European involvement in Kenya resulted into the national economy being integrated into the international capitalist economy as the primary agricultural products were shipped to Europe to support industrialization mainly in Britain. This made Kenya's economy relatively more developed than that of the other partner

states, a factor that launched it as the region's hegemony. This fact is illustrated in Table 4.3 below.

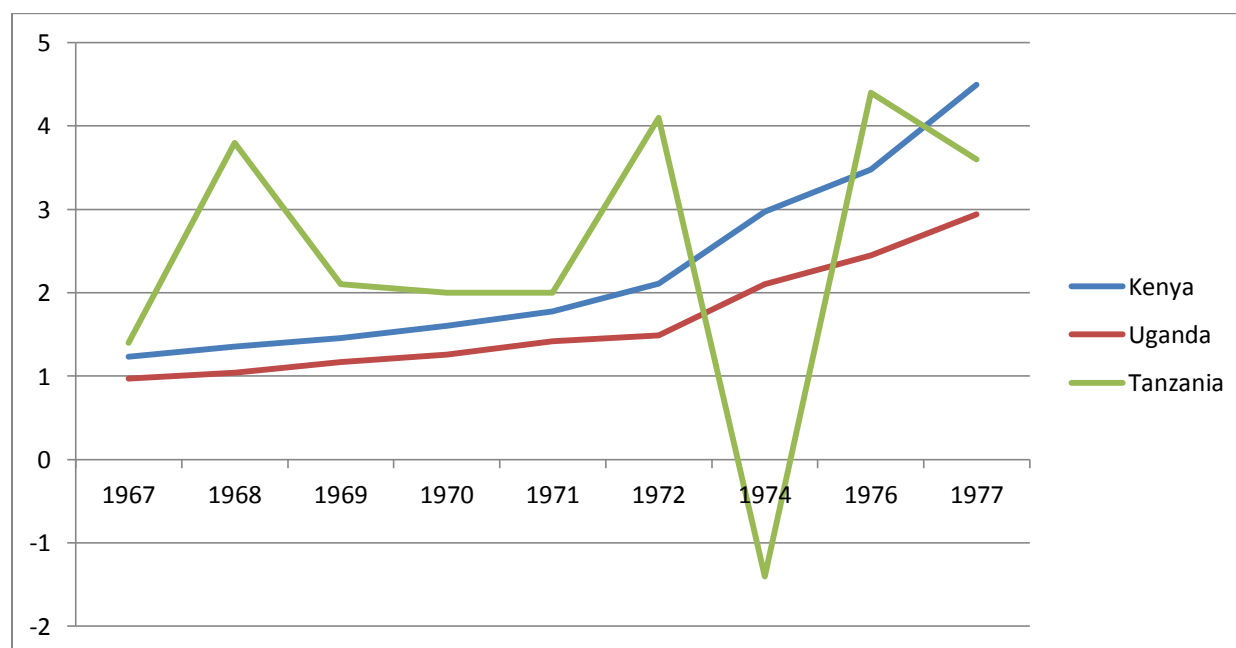
Table 4.3 GDP of EAC I Partner States from 1967 to 1977

Year	Kenya	Uganda	Tanzania
1967	1.233	0.968	1.4
1968	1.353	1.04	3.8
1969	1.458	1.17	2.1
1970	1.603	1.26	2.0
1971	1.778	1.42	2.0
1972	2.107	1.49	4.1
1973	2.502	1.70	4.6
1974	2.973	2.10	-1.4
1975	3.259	2.34	-1.2
1976	3.475	2.45	4.4
1977	4.497	2.94	3.6

Source: The World Bank Group, 2016.

Trends in table 4.3 above are presented in the line graph below. Generally, there is a steady increase in GDP of the EAC Partner states between 1967 and 1977.

Figure 4.3 Line Graph showing GDP of EAC I Partner States from 1967 to 1977



Source: Author, Computed based data from World Bank - World Development Indicator

Further to this, at the establishment of the EAC I, the GDPs of Uganda and Kenya were more or less the same. However, as the integration progressed, the economy of Kenya grew rapidly to the extent that by the time the EAC I collapsed in 1977, the GDP of Kenya was nearly twice that of Uganda. However, this variance was not only due to great economic gains arising from the regional integration but the misrule of Uganda during the reign of President Idi Amin also contributed to the economic decline. The case of Tanzania is very interesting, Nyerere's economic vision which aimed at making Tanzania economically self-sufficient also failed to achieve its intended objectives which made Kenya's economy to register a stronger growth compared to Tanzania. Consequently, the concern that other partner states had that Kenya was benefiting more from EAC I integration scheme can thus be justified by the variance in the GDPs of the partner states.

It is observed that the rate of economic growth of both Kenya and Uganda remained relatively steady during the entire duration of the EAC I while the one of Tanzania was found to be erratic and sometimes registering negative margins particularly in the year 1974 and 1975. This negative growth was partly attributed to the introduction of "*Ujamaa*" in Tanzania in February 1967 through the Arusha Declaration. *Ujamaa*, a Kiswahili word for family-hood was a political ideology and concept that formed the basis of Nyerere's socio-economic policies in post independent Tanzania. *Ujamaa* was centred on the collective agriculture as performed under a process called *vilagization* and nationalization of banks, industries and an increments in self-reliance at both individual and national level (Nyerere, 1967). *Ujamaa* system had a huge negative economic growth in Tanzania. Tanzania was not able to attract foreign investment from the capitalist countries as *Ujamaa* was a socialist system. Most of the foreign investors moved to Kenya which was a strong ally of the west in the region.

After the collapse of the EAC I, the countries in the East African region continued to trade on bilateral basis until the EAC II was established. The trade between Kenya and Uganda increased

in large volumes and Uganda became number one consumer of Kenya's goods and services. Over the years, the infrastructure and manufacturing sectors in Kenya have continued to register rapid development compared to other states in the region. This coupled with rising Foreign Direct Investment (FDI) that was estimated at about Ksh 300 billion by the United Kingdom's reputed Financial Times positioned Kenya to remain as the region's economic hegemony. The economic performance of Burundi, Kenya, Rwanda, Tanzania and Uganda between 1980 and 2000 is illustrated in table 4.4 in terms of GDPs.

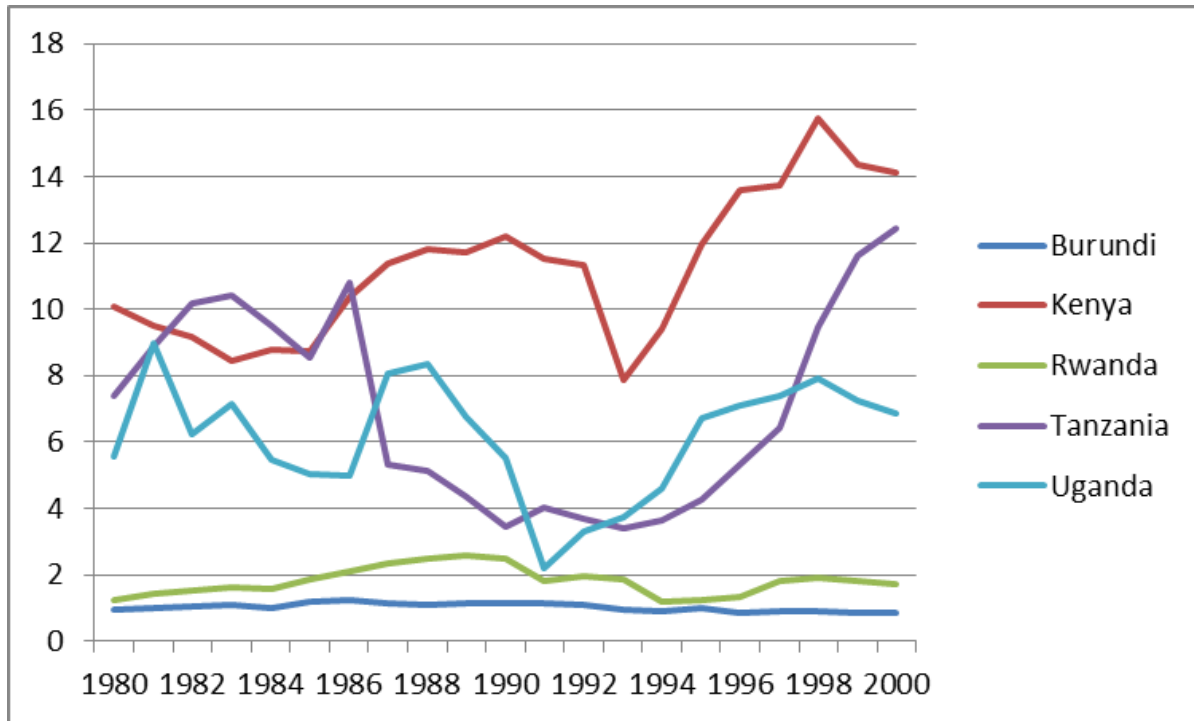
Table 4.4 The Gross Domestic Product (GDP) in USD (Millions)

Year	Burundi	Kenya	Rwanda	Tanzania	Uganda
1980	0.951	10.099	1.259	7.412	5.55
1981	0.989	9.513	1.429	8.865	8.986
1982	1.045	9.159	1.525	10.178	6.235
1983	1.106	8.47	1.629	10.425	7.132
1984	1.006	8.788	1.56	9.485	5.486
1985	1.17	8.746	1.853	8.558	5.02
1986	1.233	10.387	2.1	10.82	5.002
1987	1.161	11.387	2.331	5.331	8.065
1988	1.088	11.806	2.495	5.124	8.355
1989	1.131	11.705	2.605	4.343	6.774
1990	1.131	12.18	2.491	3.43	5.525
1991	1.167	11.501	1.837	4.031	2.208
1992	1.082	11.327	1.95	3.7	3.315
1993	0.938	7.869	1.881	3.412	3.728
1994	0.924	9.422	1.195	3.627	4.602
1995	1	11.944	1.239	4.251	6.714
1996	0.868	13.565	1.343	5.311	7.079
1997	0.922	13.742	1.808	6.415	7.367
1998	0.893	15.726	1.93	9.454	7.91
1999	0.866	14.353	1.797	11.624	7.225

Source: International Monetary Fund, 2015.

The table above is well presented in figure 4 below. The trends depicted by the line graph indicate a general increase in GDP among the five EAC member states between 1980 and 2000.

Figure 4.4 Graph of EAC Member States GDP (US\$)



Source: Author, Computed based data from International Monetary Fund- World Development Indicator

By the time the EAC II was established in 2000, the GDPs of Kenya and Tanzania were almost at par. They were at USD 12.71 Bn and USD 10.19 Bn USD respectively. Uganda’s GDP was nearly a half of Kenya’s at USD 6.00 Bn. Rwanda and Burundi joined the Community in 2009 and have since registered increased economic growth. South Sudan got independence in 2011 after great assistance from the partner states of EAC II. It applied for membership and joined the Community in April 2016. Details of the GDPs of partner states of EAC II are found in table 4.5 below.

Table 4.5 GDP of EAC II Partner States from 2000 to 2016

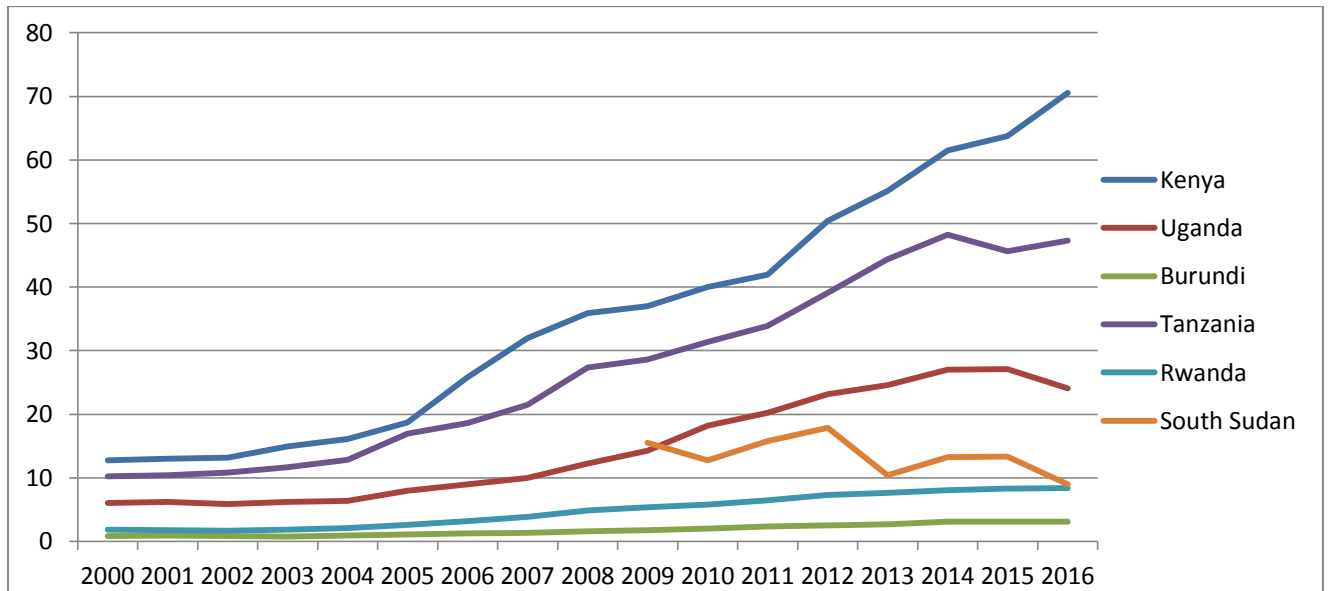
Year	Kenya	Uganda	Burundi	Tanzania	Rwanda	South Sudan
2000	12.71	6.00	0.870	10.19	1.82	NA
2001	12.99	6.20	0.876	10.38	1.73	NA
2002	13.15	5.84	0.825	10.81	1.68	NA
2003	14.90	6.18	0.784	11.66	1.85	NA
2004	16.10	6.34	0.915	12.83	2.09	NA
2005	18.74	7.94	1.12	16.93	2.58	NA
2006	25.83	9.01	1.28	18.61	3.15	NA
2007	31.96	9.94	1.36	21.50	3.82	NA
2008	35.90	12.23	1.61	27.37	4.86	NA
2009	37.02	14.24	1.74	28.57	5.34	15.53
2010	40.05	18.17	2.03	31.41	5.77	12.73
2011	41.95	20.18	2.36	33.89	6.49	15.73
2012	50.41	23.13	2.47	39.09	7.31	17.83
2013	55.10	24.60	2.71	44.38	7.62	10.37
2014	61.45	27.02	3.09	48.20	8.02	13.26
2015	63.77	27.06	3.06	45.62	8.26	13.29
2016	70.53	24.08	3.07	47.34	8.37	9.01

Source: The World Bank Group, 2016.

From the data displayed above, one notes that upon the establishment of the EAC II in 2000, there has been acceleration in economic growth of partner states. This is in line and consistent with the objectives and vision of the Community. During this period, the GDPs of Kenya has steadily increased by USD 3.4 Bn, Uganda USD 1.2 Bn and Tanzania USD 2.2 Bn per year. It is noted that the economy of Kenya has increased almost seven times from the GDPs of USD 12.71 Bn in 2000 to USD 70.53 Bn in 2016. At the same time the economies of Uganda and Tanzania

have also increased by about four times from USD 6.00 Bn to USD 24.08 Bn and four and a half times from USD 10.19 Bn to USD 47.34 Bn respectively. The trends are aptly captured in the line graph below.

Figure 4.5 Graph Showing GDP of EAC II Member States between 2000 and 2016



Source: Author, Computed based data from World Bank- World Development Indicator

It is observed that there are huge variances in GDPs. This demonstrates huge economic gains which the Republic of Kenya derives from the EAC II region. Pursuit of the economic interest is a primary national interest of the Republic of Kenya in the EAC II region and therefore it has a greater influence on the integration process. An official from one of the partner states' embassy in Nairobi argued that "This huge economic gain has made Kenya's economy relatively more dominant in the EAC II region".

Consequently, this has made some partner states to join other regional bodies where they can effectively "achieve" their economic interest. This has led to divided loyalty and is probably one of the reasons why the United Republic of Tanzania decided to join SADC despite being a

founding member of the EAC I and II. Double membership, or divided loyalty though based on the pursuit of national interest, incidentally undermines regional integration process. This demonstrates that Kenya's pursuit of economic interest has both positive and negative influences in the integration process in the EAC region. Variance in economic benefits was given as one of the causes of the collapse of the EAC I, however in the case of EAC II these variances are addressed by the operational principles of variable geometry, asymmetry, equity and solidarity (EAC Treaty, 1999).

The microeconomic convergence of the East Africa Community remains a bleak affair as the integration process has not shown positive steps. This study has established that progress in this sector is behind. Some EAC partner states have however, made progress towards convergence but most are a distant behind in meeting the criteria. This study establishes that this is notable in specific criteria such as the debt and current account balance. As indicated by the African Development Bank (2019) debt-to-GDP ratio of some countries exceeds the required target of 50%. This jeopardizes the match towards financial integration by the community.

According to ADB (2019) EAC scores highly in terms of trade integration and also on productive integration. The EAC region posted a high score of 17.3% in regional integration which is high when compared to the African average which stood at 16.6% of the total trade. These figures are propelled by several countries including Kenya, Uganda and Seychelles which recorded the highest performances regionally on the African Regional Integration Index. However, the EAC score remains low when compared to other developing regions such as East Asia where intraregional trade is 35% of the total trade.

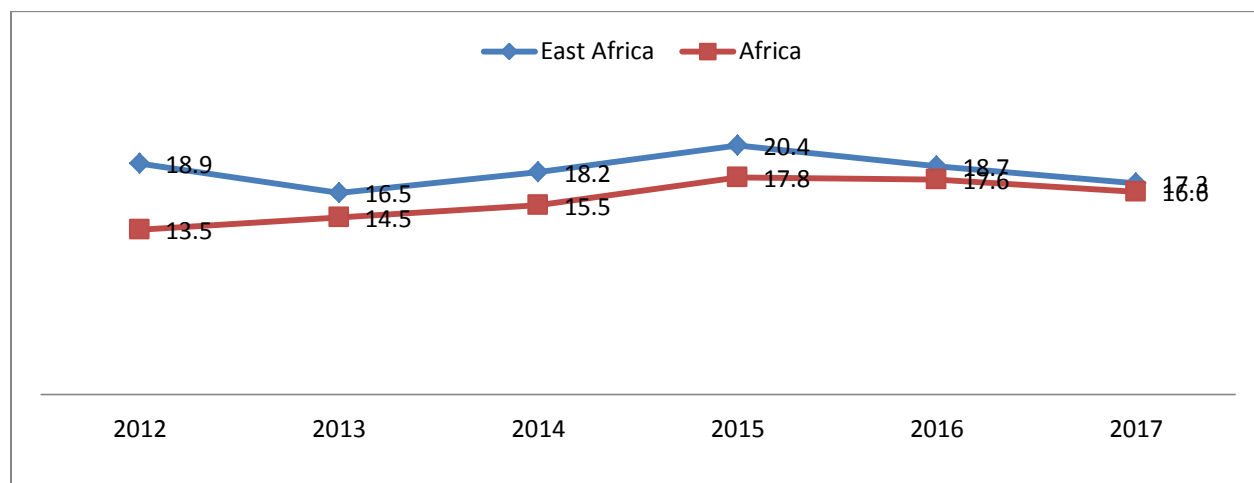
Table 4.6 Intraregional trade in East Africa, 2012–17 (% of total exports)

Region	2012	2013	2014	2015	2016	2017
East Africa	18.9	16.5	18.2	20.4	18.7	17.3
Africa	13.5	14.5	15.5	17.8	17.6	16.6

Source: African Development Bank, 2019.

This data is depicted in the line graph below:

Figure 4.6 Intraregional Trade in EAC 2012-2017



Source: Author, Computed based data from African Development Bank - Regional Development Indicator

From figure 6 above this study aptly reveals that the positive aura surrounding EAC intraregional trade compared to the African average should be closely relooked at. The line graph indicates that the regions score has been on a decline in the years between 2012 and 2017. This trend shows a decline in recent years

In terms of employment, the East Africa Community was a mobilizer of labour in the 1970s and 1980s. The governments employed for purposes of distributing income to public servants. In the 1970s and 1980s, the public sector in Kenya employed 40% of employment opportunities and this increased by 7.4% annually. The figures were higher for Tanzania and Uganda where public sector employment was over 60% (Anangwe, 1994). However, this study notes that in as much

as the government remains the main employer with security of tenure and benefits, there is a rising role of the private sector as an employer of choice. Current statistics indicate the East Africa region has high unemployment despite strong economic growth. Youth unemployment is a major economic issue and stands at 48.2%. This is a factor of a myriad of factors such as failure of these economies to structurally transform from the historical low productivity agriculture to high productivity non-agricultural sectors of the economy; high fertility and low infant mortality rates.

This study found out that despite the gains made in terms of the increase in the GDPs of the partner states, many milestones have not been fully realized. Implementation schedules in the customs union, common market and monetary union are lagging behind. It is however noted that these stages of regional integration process present both opportunities and challenges. Equally they may either enhance or threaten national interest of partner states in a regional integration scheme. Subsequently these stages are likely to face resistance or get support by the partner states which may eventually undermine or promote integration process in the EAC region. States get revenues from taxes and duties for national administration and development, and would therefore pursue avenues which increase and reject issues which reduce tax revenues. It was noted that Kenya's behaviour and participation in the EAC has had influences in each stage of the regional integration process particularly the Customs Union and the Common Market stages. Though the customs union is relatively in an advanced stage, disagreements on how to apply common external tariffs and internal tariffs exist. Whilst the Community has a protocol on the application of common external tariffs, most if not all of the partner-states still enforce their own internal tariffs. Custom Union only works well if there is harmony in terms of taxation of goods and services. Removal of tariffs, barriers and quotas, and putting in place of an external tariff at

the Customs Union level may deny partner states revenues which are critical for socio-economic development. Equally achievement of customs union stage facilitates free regional trade which may lead to greater economic benefits for the partner states.

The needs of states are complex and may not be wholly fulfilled within a region. States may enter bilateral agreements with other states or multilateral arrangements with donor agencies and development partners for their individual interests. Imposing regional tariffs against third parties may undermine both bilateral and multi-lateral arrangements which are in the national interest of states. An official of Computed based data from EAC- Fact and Figures that "Members of EAC II partner states, particularly Burundi and Tanzania are reluctant to allow goods and services from Kenya to access their markets despite having ratified the EAC Customs Union Protocol. They fear that the free access to their markets by goods and services from Kenya may not only deny them taxes for national development but also kill their industries".

This in a way undermines integration process in the EAC II region and continues to be a stumbling block in the regional integration process. However the EAC principle of variable geometry addresses such concerns by allowing willing members of the partner states to cooperate in areas of their interest leaving out others which are not ready at the same moment. As a result of all these experiences, Kenya has reacted by opting for bilateral deals with each of the respective member states, also Kenya has strived to look for other trading partners outside the community such as Ethiopia, DRC, Malawi, Gambia just to mention but a few. Kenya has also been at the forefront in pursuing its national interest in African and Asia.

The Common Market allows free movement of labour, goods and services. While it is in the national interest of partner states to find market for their goods and jobs for their citizens, this

stage offers opportunities for states to pursue their national interest. At the same time it may threaten the national interest particularly of economically weaker states which may not equally compete with other partner states at the same economic plane. Most states in the EAC II region face unemployment problem and would prefer to reserve job opportunities for their citizens. Equally, partner states prefer to promote local industries: as demonstrated by Kenya's economic development motto of "Buy Kenya, build Kenya". Which appeals to citizens to purchase Kenya's products.

Thus this study established that the integration process in the EAC is on track, even though few bottlenecks are holding realisation of certain aspects of the process. According to one official of the Ministry of EAC, Economic Affairs Division; "The common market is on track, but there remains certain grey areas in terms of free movement of goods and services. This includes technical challenges such as weighbridges, roadblocks, un-harmonised methods of ensuring quality and standards, un-harmonized academic quality assurance standards and un-harmonised tourist visa". Further, other challenges that militate against realisation of common market in the EAC II are multiplicity in terms of membership to several regional economic blocs. It has emerged that the Economic Partners Agreement (EPA) between the EAC II and the EU which was supposed to be signed and ratified by all partner states by October 2016 has not been concluded. EPA allows duty free and quota free access of EAC II products to the European markets. The pact requires all EAC II partner states to sign and ratified for it to be effective. Only Kenya has signed and ratified the agreement. Rwanda has signed but has not ratified while others have neither signed nor ratified the pact. Kenya which is the biggest exporter to the EU market requires the EPA to be concluded so that it can access the European free of taxation and

tariffs. At the moment Kenya has been allowed temporary access to the EU market under special arrangement (Anyanzwa – the East African – 26 Jan – 1 Feb 2019).

It is noted that Burundi, Rwanda, Uganda, South Sudan and Tanzania which are all classified as Least Developed Countries (LDC) have duty free and quota free access to the EU Market for all their products except arms arrangement. This therefore puts Kenya at a disadvantage. Subsequently, Kenya has asked other partner states to be allowed to deal with the EU under the Principle of variable geometry. However, this is viewed by other partner states as counter to the regional integration. Kenya's Principal Secretary in the Department of Trade stated that; "We have already signed and ratified this agreement, we do not have any problem. If other countries have issues then I think the Principle of Variable Geometry should apply so that those who are ready can sign and proceed but the proposal has to be endorsed by all partner states".

Some partner states particularly Uganda, is of the view that entering EPA with EU as individual states will comprise the Principle of Solidarity which requires that all partner states sign and ratify as one. It is also argued that applying Principle of Variable Geometry would weaken the principle of Rules of Origin and give rise to partner states operating on different trading regimes which may compromise efforts towards regional integration. Among the partner states of the EACII, Kenya exports more products to the European market. Denying Kenya this opportunity would be grossly against its primary national interest. An official from KAM confirmed that Kenya has won a timeless access to the EU market under the "Market Access Regulations" therefore the EAC II commitment to the EPA is no longer relevant to the regional integration process.

The EU applied the principle of variable geometry to give Kenya special access to its market since the other partner states of the EAC II already enjoy similar services based on their LDC status. It has also emerged that the operational principles of solidarity and variable geometry can produce opposing results which may promote or undermine regional integration process. In this case of the EPA between EAC II and EU, Kenya is eager to pursue its economic interest by entering agreement as individual by using the Principle of Variable Geometry while other partner states insist on using Solidarity Principle to protect their economic interest. They fear that Kenya would export more products under EPA and this is likely to reduce the volume of their exports. These Principles provide avenues and flexibility to pursue and satisfy national interest of the EAC II partner states while at the same time maintaining the collective interests of the regional integration scheme thus promoting integration process in the EAC II region.

It is noted that the Customs Union and Common Markets Protocols are facing some challenges. Several efforts have been taken to address these challenges to ensure deepening and widening integration process in the EAC II is achieved. During a meeting in Nairobi under United Nations Conference on Trade and Development, African e-Commerce Week in December 2018, the representatives of EAC II partner states agreed to make trade amongst themselves and with other states cheaper and faster. Burundi, Kenya, Rwanda, Uganda and Tanzania which are member of the EAC II Customs Union and Common Markets pledged to implement trade facilitation reforms (The East African 15 -21 Dec 2018). During the 20th Summit meeting in February 2019 in Arusha, the dark cloud of unresolved long standing trade spats, tariff and non-tariff barriers and crippling financial challenges hanging over the EAC II were discussed and referred to the Council for further deliberation. There are many trade issues that undermine the integration process in the EAC II bloc. Kenya and Tanzania talks on trade in sugar and tobacco stalled after

the EAC Secretariat failed to solve the issues. Poor relationship between Rwanda and Uganda on one hand and Rwanda and Burundi on the other hand also badly affect free movement of goods and people (The East African, 2-8 February 2019).

At the EAC Council of Ministers meeting in February 2019 it emerged that the EAC II only managed to implement 16 out of the 78 directives issued in 2018. This low performance is attributed to creeping lethargy in executing integration programmes by partner states” (EAC Secretariat, 2019). The challenges facing the full implementation of Customs Union and Common Market are being addressed by using various EAC II instruments in the Treaty, Protocols and Conferences and organs. The review of the issue of “stay of application” was launched to give priority to waiver request by the partner states. These interventions have reduced tensions among partner states and immensely promoted integration process in the EAC II region.

Another set of the Kenya’s national interest which derails the EAC integration process which this study found out was the issue of too many stop-over between the port of Mombasa and Busia or Malaba boarder points, it has been argued that between Mombasa and Malaba there are over 47 police road blocks. So many customs checks and weigh bridges on the Kenyan side, interference of the business people by the Kenyan Police Officers among others. The major reason as to why the republic of Kenya is doing all these is to ensure that there is no tax evasion, smuggling of goods and services, overloading which has got a negative effects of destroying the roads and highways and demonstrating to the other East African states that Kenya is the regional power. However, all these security checks and stop overs are being exploited by the rogue police officers to extort from the business people from other EAC partner states. It is these frustrations

which have made some EAC partner states such as Rwanda, Uganda and Burundi to consider using the Tanzanian Route.

Finally, Kenya has also a culture of imposing unnecessary inspection and certification procedures on the imports and exports from the neighbouring EAC partner states. These imports and exports procedures and certification procedures are normally conducted by different state agencies who in most cases do not speak with one voice as they seem to be performing the same roles which duplicate each other. The same challenge has been hampered by the absence of laboratories and forensic facilities at the entry and exit border points of Kenya. This issue has continued to frustrate business people from the EAC partner states. In fact it is one of the major complaints which the EAC partner states have against Kenya.

Monetary union stage has often proved to be a challenging phase for most of the regional integration schemes as some of the member states may not be willing to abandon their national currencies in favour of the regional one. National currency is one of the symbols of national identity. Various denominations bear different national symbols which a nation values and sentimentally identifies with. Mostly they bear portraits of sovereign figures and national heroes and heroines. These are matters of sovereignty which is the preserve of national interest. In the EAC II, the monetary union was signed on 30th November 2013 providing for its implementation within ten years. Six years have since elapsed without any positive efforts being made by the EAC partner states for its implementation. However as this study reveals the region has taken a step in the right direction in terms of economic integration as other regional integration schemes remain a distant behind. As indicated by a respondent in the Political Affairs desk in the Ministry of Foreign Affairs and International Trade: “The ratification of monetary union protocols by

EAC member states is an indicator of progress. This is important because macroeconomic convergence of the members is a prerequisite for advanced economic integration”.

In the EU the Euro is facing resistance from some of the member states particularly Britain and Norway which still use the Sterling Pound and Kroner respectively. An official from EAC secretariat argued that:“This stage may prove difficult to achieve for the EAC as most if not all partner states may not be willing to dissolve their central banks in favour of a single central bank which is not under their direct control”.

On a positive note the establishment of a common currency under a single central bank stands to stabilize the fiscal situation in the EAC region. It is also important in strengthening social bonds through shared identity by creating a sense of a common zone for all partner states like the “Euro zone” in the EU region.

4.2 Peace and Security

Economic growth and development requires a stable and peaceful political and social environment. Deutch (1971) argued that regional integration is not only for material gains but can also create secure communities. Kenya desires to have peace and political stability in the partner states of the EAC II region in order to achieve its economic interest. This is consistent with the assumption that political stability is a precursor to economic stability in any state. A peaceful EAC II region promotes trade among partner states. This was acknowledged at establishment of the EAC II and is highlighted in Article 5(1) of the Treaty (1999) which partly states that “*the objective of the community ensures the promotion of peace, security and stability within and good neighbourliness among the partner states*”.

The findings indicate that the EAC II partner states are currently well advanced in terms of co-operating in the areas of peace and security. The level of cooperation signals progress to a political federation which is the ultimate goal of the EAC integration process. Field data also indicates that regional peace and security form part of the pre-requisites to social and economic development within the EAC II. This is also vital for the achievement of the objectives of the community. In addition the partner states of the EAC II have agreed to foster and maintain an atmosphere that is conducive for peace and security to thrive with a view to resolving any disputes and conflicts that may arise among them as stated in Article 124 of the EAC Treaty – 1999. Equally the partner states of EAC II agreed to closely cooperate in defence affairs (Article 125 of the EAC Treaty – 1999). It is further noted that security cooperation among member states has been strengthened through the Defence, Peace and Security pact signed among partner states. This has improved security at border points within the region. Additionally, relations among member states have been strengthened due to the shared responsibility of protecting the community from external existential threats.

Chikwanha (2011) argued that the partner states of EAC II are facing a raft of insecurities that cannot be solved within the national context. The United Republic of Tanzania has enjoyed relative peace and political stability though in 1978 it went to war with the Republic of Uganda. Uganda has been politically unstable since Britain signed an agreement with Buganda giving it autonomy and turning it into a constitutional Monarchy in 1894. When it got independence in 1962, Obote became the Prime Minister but the Kabaka of Buganda became the ceremonial President and the Head of state. This was due to the autonomous nature of the Buganda kingdom. That was the cause that saw the monarchy being disported to the UK and the subsequent military coup which brought Idi Amin to power in 1971. In 1978, war broke out

between Uganda and Tanzania and Amin was defeated in 1979 and a new government was installed. During the reign of Amin, Uganda realized violent insecurities with many lives lost and strained relationship with its neighbours and the world as a whole. Between 1980 and 1985 there were several coup de-tats which changed governments severally. In 1986 the National Resistance Army (NRA) took over and installed President Museveni who put Uganda into Political recovery and stability. However, Uganda still experience insurgency from the Lord's Resistance Army (LRA) and rebel activities on the DRC boarder (BBC News online, 2001).

Since independence, Burundi and Rwanda have faced inter-ethnic conflicts which have been a source of insecurity to date. The relationship between the two countries has been hostile resulting into high political tensions which is witnessed currently. South Sudan got independence from Sudan in 2011 after decades of civil war. However, it has been engaged in civil war ever since. This has made economic development to backslide with its GDP declining annually. Kenya has been relatively stable politically apart from regular ethnic clashes which often occur during every presidential election. Other Kenya's neighbours particularly Somali and Ethiopia, also experience civil wars and this caused refugees and small arms to spill into the country. There is also a cattle rustling between the Pokot of Kenya and the Karamajong of Uganda, and between Borana and Turkana of Kenya and Toposa of Sudan. These are major causes of insecurity in the region. Of major magnitude has been the terrorist activities conducted within the country by the Al-Shabaab terrorist group based in Somalia.

The findings show that the main security threats faced by EAC partner states from within the region and externally include terrorism, drug and human trafficking, small arms and light weapons (SALW), and also cattle rustling. These threats have forced partner states to coalesce and approach these security matters from a single front through developing common strategies

such as common defence strategies. Other common interests strategized by the community are on intelligence sharing on matters of terrorism which has led to building and operationalization of counter terrorism centres in the EAC region. The regional counterterrorism centre is based in Kenya with partner states having liaison offices currently stationed at the centre. Further, there is a common surveillance apparatus put in place at border points of partner states to collect information and detect threat activities.

The findings also show that EAC partner states conduct joint trainings on crime investigation. This has been made easier and practical through establishment of a regional forensic centre in Uganda where investigations and forensic work of member states are conducted. The security pact also involves security's forum where security personnel of partner states often meet to deliberate on regional security matters. It was also established that there are exchange programmes among member states where security agencies conduct joint training and exercises. These efforts are facilitated by sectorial council meetings at higher levels which meet for interstate security matters. Notable however, is the fact that these security and defence processes are highly reliant on individual states interest.

It was established that acting together among partner states is critical for cordial relations and support of not only a single security front in terms of policies and institutions but also for a political federation in the long run. This is enhanced and delivered through a coordinated security by partner states. Further, it signals partner states' ambitions to form a central political authority in future. The achievement of several institutional mechanisms and organs including the Secretariat, Legislative Assembly, Court of Justice, and East Africa Development Bank among other institutions signal the possible achievement of a political federation.

Kenya is undoubtedly, the hegemony in the East Africa region. It plays a major role in peace and conflict resolution in both East Africa and Horn of Africa region. A peaceful East Africa region stimulates economic development and inter-state trade which is Kenya's primary national interest in the EAC. Therefore, Kenya often involves itself in supporting peace and conflict resolution efforts in Burundi, South Sudan, Somalia, Uganda and Rwanda. Besides having stronger economic development, Kenya's Defence Force (KDF) is relatively stronger than the militaries of the other EAC Partner States, having been ranked at number six in Africa by Global Fire Power Ranking (2018). Kenya also has diplomatic leverage in the region by being a member in numerous regional and interventional organizations. Using its stronger regional military and economic capability, Kenya actively participates and offers both economic and military support to regional peace and conflict resolution missions around continental Africa.

4.3 The Defence Cooperation

Article 125 of the Community's Treaty (1999) provides for cooperation in Defence Affairs in respect to the promotion of peace, security and stability within the region. Thus the partner states agreed to establish a framework for cooperation in Defence Affairs. This Article was operationalized on 28th April 2012 by the EAC Protocol on cooperation in the Defence Affairs (2012). The protocol in its preamble recognized the principles of strict respect for sovereignty, equality, territorial integrity, political independence, good neighbourliness, interdependence, non-aggression and non-interference in each partner states' internal affairs. These principles largely form operational variables of national interest which is the independent variable in this study.

Article 2 of the Protocol on Cooperation in Defence Affairs (2012) states that “*the partner states shall cooperate in all defence affairs and collaborate with international and regional organizations to promote peace, security and stability in the community*”. Thus, the partner states agreed to cooperate in military training, joint operations and exercises in technical field, visits and exchanging of information. The main objective of the cooperation in Defence Affairs is to develop, promote and pursue policies and programmes aimed at widening and deepening cooperation among the partner states in defence affairs for their mutual benefits (Article 3 (c) of the EAC Protocol on Cooperation in Defence Affairs – (2012).

While implementing policies, projects and programmes on the EAC protocol on cooperation in Defence Affairs, the partner states observe the operational principles of subsidiarity, variable geometry, complementary and asymmetry as stated in Article 5 of the EAC Protocol on Cooperation in Defence Affairs. It is noted that Military cooperation among EAC partner states has progressed relatively fast and steadily since the inception of the Community. For instance, in the on-going war against terrorism, most of the EAC partner states were at the forefront in deploying their troops to Somalia for the purposes of keeping peace and containing the Al-shabaab terrorist group from its source. In fact Kenya has made a big investment and huge sacrifices in as far as the Somali war is concerned. Again in the on-going maritime case between Kenya and Somalia, most of the EAC partner states have thrown their support behind Kenya since by the mere fact that they are landlocked states, they rely heavily on the port of Mombasa to carry out international trade. They are therefore willing to support the Kenya Defence Forces in protecting its maritime border. It is an area where the six partner states actively participate and equally share mutual benefits in military training, combined and joint exercises, cultural and sporting activities, visits and exchange of information.

4.3.1 Military Training

Article 6 of the EAC Protocol on Cooperation in Defence Affairs (2012) states that “*the partner states agree to cooperate in military training, and the Armed Forces of the partner states shall offer vacancies at each other’s Military Institutions and facilities, have joint military conferences and seminars, exchange military students and directing staff at their training colleges, undertake joint peace support operations training and when agreed conduct joint training exercises in disaster management, anti or counter terrorism and search and rescue operations*”. The Cabinet Secretary for Kenya Ministry of Defence, Raychelle Omamo stated that; “Kenya, and all the partner states have signed MOUs for exchange of students and directing staff in various military training institutions. Currently, Kenya offers training opportunities to other partner states of EAC II at the Kenya Military Academy (KMA), for cadet basic training, officer’s mid-grade staff courses at Defence Staff College (DSC) – Karen, National Defence College (NDC) for training of senior officers and government officials on strategic and national security. Equally, Kenya trains soldiers from other partner states of EAC II on skilled and professional programmes, technical, tactical administration and operational aspects in different military training institutions. PSO and conflict resolution training are offered at IPSTC at Karen”.

Tanzania also offers similar training opportunities as Kenya to other EAC partner states, Kenya included. It offers cadet training at Monduli Military Academy (MMA), officers’ staff courses at Defence Staff College at Duluti and Strategic and National Security Studies at the Defence National College in Dar-es-Salaam. Uganda, Rwanda and Burundi only offer staff courses for the training of mid-career officers to partner states of the EAC II. South Sudan is yet to develop military training institutions that can offer similar process. The Cabinet Secretary for Defence further stated that; “Kenya and other partner states of EAC exchange Directing State at DSC

level and instead the five partner states have their DS at DSC Karen and similar exchanges at DSC in Burundi, Rwanda, Uganda and Tanzania. South Sudan does not have DSC thus there is no exchange programme for DS. Kenya's military training institutions are the most established and advanced in the region. They attract many participants both regionally and internationally. Kenya's development partners also heavily support the military institutions by providing training aids and offering training opportunities for instructors in their advanced and prestigious military institutions. The Directing Staff from the Kenya Defence Forces are thus more resourceful and experienced. The regional "DSC and PSO institutions prefer to have them in the teaching faculty".

The partner states of EAC II have been conducting regular combined and joint field training exercises since 2005. In February 2005, a PSO field exercise, involving troops from Kenya, Uganda and Tanzania code named "**EXERCISE ONGOZA NJIA**" was held in Tanzania, "**EXERCISE TREND MARKER**", a counter terrorism field training exercise was held in Kenya in September 2006 and "**EXERCISE HOT SPRINGS**", a disaster management field training exercise was held in Uganda in September 2006. An elaborate combined and joint field training exercise was held in Tanzania in 2009 involving troops from the five partner states. The ex-code named "**EX-MLIMA KILIMANJARO**" 2009 was meant to practice and drill a combined and joint task force of over 1500 troops on the themes of PSO, Counter Terrorism (CT) and Disaster Management (DM) with a view to promote mutual understanding on how to handle such problems in a typical EAC situation (Mutabazi and Florian -2009).

On the emergence of Piracy in the western shores of the Indian Ocean, a maritime field exercise was jointly organized by the partner states of EAC II and United States African Command (USAFRICOM) in 2011 in Zanzibar. Piracy, conducted by ex-Somali fishermen was causing a

real threat to international shipping in the Gulf of Eden and the entire East African coastline and thus there was an urgent need to come up with strategies to eliminate it. In November 2018 another anti-piracy training exercise was held in Tanga–Tanzania.

Since 2012 the Partner States have been holding annual combined and joint military field exercises based on PSO, counter piracy, counter terrorism and disaster management themes. The major objective of these combined and joint military field training exercises is to evaluate interoperability among the troops of EAC II partner states, improve operational readiness of the regional Armed Forces and strengthen cooperation among the partner states' Armed Forces. Further it was to test and validate the logistic support system, exercise troops on the application of international humanitarian law and offers opportunity to exercise on command and control of combined and joint task force operations.

Kenya has taken a leading role in cooperation on Defence Affairs by the partner states by availing its military training institutions and providing logistic support and troops for the military field training exercises. These training activities are aimed at producing mission ready Armed Forces of the partner states which are capable of countering any regional threat in order to have a peaceful and stable EAC II region. This peaceful situation is critical for the achievement of Kenya's national interest which is economic development through regional trade.

4.3.2 Combined and Joint Military Operations

The EAC II region generally experiences a myriad of insecurities arising from political violence, ethnic rivalries, terrorism, piracy, drug trafficking, refugees, and cattle rustling among many others. Article 7 of the EAC Protocol on Cooperation in Defence Affairs (2012) provides for

joint operations by the Armed Forces of EAC II partner states in handling disasters, search and rescue, support of civil authorities, peace support operations, combating terrorism and piracy among other regional and global threats. The neighbours of most EAC partner states and some Partner States themselves have experienced civil wars and political instabilities for prolonged periods. Somalia has been a failed state since 1991 when civil war broke out which resulted in the overthrow of Siad Bare. This state of failed statehood has given rise to the growth of terrorism and piracy in the region which is conducted by Al-Shabaab militants. In support of the EAC Protocols for Cooperation in Defence Affairs objective as stated in Article 3(b) to promote peace, security and stability in the region and in order to guarantee the protection and preservation of life and property as well as creation of conditions conducive to sustainable development”. Combined and joint operations and training exercises by Task Forces composed of troops from EAC II partner states are conducted in line with these objectives.

In 1963, upon gaining political independence from Britain, ethnic Somali in the Northern Frontier District (NFD) of Kenya got involved in secessionist conflict known as “Shifta war” in an attempt to join their fellow Somali in the Greater Somalia. At the same period, the Somali in Ogaden region of Ethiopia also conducted war with a view to join their people in Greater Somalia. Kenya and Ethiopia entered a military pact to fight the common threat. The war ended in 1967 with both Kenya and Ethiopia winning. This military pact was meant to bring and maintain peace and stability in the region which is Kenya’s national interest - preservation of territorial integrity (Whittaker, 2008).

In February 1976, President Amin of Uganda claimed that the whole of former Western and Nyanza provinces and part of the Rift Valley in Kenya belonged to Uganda. This he claimed was based on a map and written agreements signed by the British Colonial Secretary (BCS)

transferring some parts of Uganda to Sudan in 1914 and to Kenya in 1926. He only backed down after the President of Kenya, Jomo Kenyatta issued a stern warning that Kenya would not part with “a single inch of its territory” and deployed troops and tanks along the Kenya – Uganda boarder. Amin resorted that he was merely informing the Ugandans of the facts without intention for war or boundary change. Once again, Kenya maintained protection and reservation of its territorial integrity and respect for its sovereignty which are core national interest. On 30th October 1978, President Idi Amin of Uganda declared war against Tanzania and sent troops to annex part of Kagera region which he claimed to be part of Uganda. Tanzania supported by Uganda exiles, counter attacked and the war ended after five months on 11th April 1979 with the overthrow of president Amin. Kenya remained neutral observing the principle of non-interference of internal affairs of its neighbours.

The Armed Forces of the EAC partner states, in meeting the Community’s objectives of widening and deepening integration process in the region prepare annual calendar of activities for the entire year. These activities are coordinated by the EAC Secretariat and all partner states participate. The calendar of event for the year 2019 was prepared in October 2018 and is being implemented as per schedule. A copy of the calendar of event is found in table 4.7 below.

Table 4.7 EAC II Defence Sector Calendar of Activities for 2019

S/No	Meeting/Activity	Objective	Expectations
1	Concept Development Conference <i>USHIRIKIANO IMARA</i> 2019 for EAC CPX	Enhance wider Cooperation in Defence and Confidence Building among Partner States Joint Military Training and Capacity Building for EAC Armed Forces	Increase and strengthen sustainable peace and security in East Africa Human Capacity Building on Peace and Security, Command and Control, Enhance and Strengthen Cooperation in Defence

2.	Execution and Planning Conference and Hosting for EAC Military Games and Cultural Event 2019	Enhance wider Cooperation in Defence and Confidence Building among Partner States	Increase and strengthen sustainable peace and security in East Africa
3	Meeting of the Chiefs/Directors of the Health Services of the EAC Partner States Armed Forces	Implementation of the EAC Protocol on Cooperation in Defence Affairs	Create strategies and measures to mitigate the health threats to the EAC Partner States' Armed Forces
4.	Meeting of the Commandants of Military Schools	Implementation of Defence Programmes pursuant with the EAC Protocol on Cooperation in Defence Affairs	Operationalise Defence Cooperation in Training
5	Meeting of the Sectoral Council on Cooperation in Defence Affairs	Implementation of the EAC Protocol on Co-operation in Defence Affairs	Implementation of the EAC Protocol on Co-operation in Defence Affairs
6	Meeting of the CEO's of Military Industrial Facilities availed for Shared Utilization	Capacity Building for EAC Armed Forces	Operationalization of the Sharing of Facilities availed for shared utilization among the EAC Armed Forces
7	To participate in RDF CIMIC activities to mark the RDF Armed and the 2 nd EAC Armed Forces CIMIC Activities Week in Rwanda.	Enhance wider Civil – Military Cooperation and Confidence Building among Partner States	Increase and strengthen sustainable peace and security in East Africa

Source: EAC II, 2019.

4.4 Social and Cultural Identity

It was noted that the establishment Treaty of the EAC (1999) recognized that Burundi, Kenya, Uganda, Rwanda, and Tanzania share a historical background, language and culture which provide the partner states with a unique dynamic that embeds the integration process. This is reflected in the Motto of the EAC II “*one people one destiny*”. These traditional and cultural ties support affection imperative which is a major factor in the establishment and sustainment of a regional integration scheme. Partner states of the EAC II regularly engage in a broad based integration covering trade, investments, industry, fiscal matters, infrastructure and other services

such as science and technology, human resource, agriculture, environment, resource management, tourism, health and also socio-cultural activities (Mwasha, 2011).

The social advancement of the EAC II is critical in catalysing transport and communication across borders of member states. Development of ICT in the region has spread rapidly due to a common socio-cultural sphere which the partner states share. This is critical in the process of fertilizing growth in economic development and politics. The EAC II has taken steps towards this through the Tripartite Agreement on Road Transport (TART) whose objective is to facilitate interstate transport. The duration for documentation processes of people and vehicles at borders has been greatly reduced; license, customs, and immigration requirements have also been streamlined. This has also applied to the classification and issuance of work permits in the region. It is also noted that achievements have been made in the several social sectors especially in sports, education, movement of goods and people, and provision of medical services within the region. Reith and Boltz (2011) note that the socio-cultural togetherness has also shaped the community's sporting and educational programs which are in harmony across the region. This predisposition has helped in handling the conflicts and also preventing others. Article 5 of the Community's Treaty (1999) guarantees for the development of policies and programmes for developing and widening cooperation among the social and cultural fields where there is mutual benefit for the member states.

The study noted that Article 119(a) of the EAC Treaty (1999) states that partner states shall promote close cooperation amongst themselves in culture and sports with respect to *"the promotion and enhancement of diverse sports activities"*. This has been operationalized by Article 5(2) of the EAC Protocol for cooperation in Defence Affairs which partly states that *"The Armed Forces of the partner States shall cooperate in sports competitions in order to*

enhance cooperation and the spirit of comradeship". Hence since 2005, partner states have been holding Military Games and Cultural Events (MGCE) annually on rotational basis. The main objective of these games is to contribute to the confidence building and esprit de corps among members of the partner states' Defence Forces. Further it facilitates widening and deepening integration process in the EAC II region.

Peace and Security has been acknowledged as critical to the creation of the right environment upon which integration in all aspects can be fostered. In this regard, therefore, the MGCE has contributed in pushing the integration agenda forward towards realization of the aspirations of the Protocol on Cooperation in Defence Affairs. This is achieved by elaborate programmes that have been put in place towards confidence building and solidarity of EAC II Armed Forces.

Since the inception of the EAC MGCE in 2005 a total of eleven events have been held in different partner states as shown in table 4.7. The MGCE includes Football, Basketball, Netball, Handball and Cross-Country. Finally, it culminated in cultural tours in order to understand the different cultures of the people of the EAC region.

Table 4.8 The 11 Editions of Military Games and Cultural Events

Serial No.	Year	Host Nation	No. Participants	Remarks
1.	2005	Uganda	330	All participated
2.	2006	Kenya	330	All participated
3.	2007	Tanzania	330	All participated
4.	2008	Uganda	330	Rwanda and Burundi were observers
5.	2009	Rwanda	550	All participated
6.	2011	Burundi	440	All participated
7.	2013	Kenya	550	All participated
8.	2014	Tanzania	550	All participated
9.	2015	Uganda	550	All participated
10.	2016	Rwanda	440	Burundi did not participate
11.	2017	Burundi	440	Rwanda did not participate

Source: EAC II, 2019.

This data is shown in the bar graph below which shows the number of participants in the EAC military games between 2005 and 2017.

Figure 4.7 Bar Graph showing the Number of Participants in the EAC Military Games



Source: Author, Computed based data from EAC- Fact and Figures

This study notes that the military games are supposed to facilitate cooperation and comradeship among the troops of EAC II Partner States' Defence Forces however, this is not the case. Burundi did not attend the event which was hosted by Rwanda in 2016. Equally Rwanda also did not attend the games which were hosted by Burundi in 2017. This is due to the poor relationship between the two partner states. Burundi has severally accused Rwanda of sponsoring Burundian dissidents to overthrow the government of President Nkurunziza. Poor relations hit the climax on 13th May 2015 when General Nyombare led a section of Burundi Army to revolt against the government. The coup de tat was crushed by loyal members of the Burundi Armed Forces. The relation is still tense however, whenever the event is held in other partner states both Burundi and Rwanda always attend and even play against each other in the spirit of *“one people one Destiny”* and *“friendship through sports”*. Indeed this demonstrates that sporting and cultural events are great instruments for peace and cohesion which are vital for widening and deepening integration process in a regional cooperation particularly the EAC region. The next EAC MGCE will be held in Kenya in August 2019 and all partner states have confirmed attendance including

both Burundi and Rwanda. Both have agreed to participate against each other in the principle of solidarity. This peaceful co-existence among the Partner States of EAC is a major national interest of Kenya.

Article 102 of the EAC Treaty (1999) outlines the measures to be undertaken by member states to promote cooperation in Education and training within the community. These measures include co-ordination of their human resources development policies and programmes, strengthening existing and where necessary establishment of new common research and training institutions, co-operation in industrial training, developing such common programmes in basic, intermediary and tertiary education and a general programme for adult and continuing education in the Partner States as would promote the emergence of well trained personnel in all sectors relevant to the aims and objectives of the Community.

The harmonisation of curricular, examination, certification and accreditation of education and training institutions in the Partner States through the joint action of their relevant national bodies charged with the preparation of such curricula, revival and enhancement of the activities of the Inter-University Council for East Africa, encourage and support the mobility of students and teachers within the Community, exchange of information and experience on issues common to the educational systems of the Partner States, collaborate in putting in place education and training programmes for people with special needs and other disadvantaged groups, encourage and support the participation of the private sector in the development of human resources through education and training and identify and develop centres of excellence in the region including universities (EAC Treaty, 1999).

In the EAC Vision 2050, education is considered as an enabler to attainment of the key pillars through harmonization of education strategies and system to prepare people to pursue the goal of economic transformation and development and institutionalization of early childhood education. Focus will also be on improved access to education and completion rates (EAC Vision 2050, 2015). A number of students study across the borders of the East African Community Countries. The popularity of mobility is due to few vacancies in the existing universities or schools in particular member state, similarity in education systems, lower tuition fees or perceived better quality of education. The mobility of students especially in higher education enables students to interact with students from other member states and as a result build cohesion and integration to different environments and diverse cultural setups.

In 2016, more than 16,000 foreign students studied in Uganda with majority of them coming from Kenya (ICEF Monitor, 2017). 4,000 to 5,000 foreign students study in Kenya annually most of the coming from East African Countries. In Rwanda, the number of foreign students seeking international degrees rose from 524 in 2012 to 1391 in 2017 (UNESCO, 2018). These interactions have enhanced cohesion amongst the students studying in the different countries.

Researcher mobility involves the physical movement of researchers from one country to another as well as shared use of research facilities, research funding and joint research publications. These researchers include doctoral students, post-doctoral fellows and other senior researchers. Such may lead to increased quality of research, higher impact factor of publications and concentration on specific areas of specialization. This is enhanced through collaborations between universities. The adoption in 2010 of the EAC Common Market protocol which sought free movement of student, labour and capital in the region increased the scope of the EAC and a

common higher education area was identified as a means to facilitate the mutual recognition of higher education and training systems in the region.

In April 2017, there was attempted harmonization of Education systems in the EAC with the presidents of the six member states pledging to harmonize higher education and training systems to facilitate comparability, compatibility and mutual recognition of higher education and training systems and the qualifications attained within EAC. The implementation of most of the EAC harmonization efforts has been delegated to the Interuniversity Council for East Africa (IUCEA) which comprises of 116 member universities and other degree granting higher education institutions. This harmonization is expected to improve the students' mobility across the partner states with facilities such as standardised credit transfer system amongst education institutions allowing students to complete studies in any member states hence providing movement of labour and students across the region. The education has contributed to an empowered workforce in the region. However, Kenya's population is relatively more educated compared to that of other partner states. This means that Kenya has a more diverse and educated workforce, which in economic terms lessens the cost of production. Therefore the country does not need to rely on hiring expatriates who in most cases are relatively more costly.

Universities have moved from one country to another through Branch Campuses, joint or double degree programmes which provide a number of benefits such as enhanced prestige due to international profiles, mobility opportunities for students, international experience for staff and relationships with foreign institutions and governments which enhance opportunities for research collaboration. For example Mount Kenya University has campuses in Rwanda and Kampala International University has a campus in Kenya. Exchange programs have also been used as a means of enhancing integration e.g. Between 2011 and 2013, over 90 students from East African

universities have benefited from the exchange training programmes in Peace and Conflict Resolution, Good Governance and Human Rights under the EAC Nyerere Centre for Peace Research. These programmes equip young people with skills and confidence to eventually play an active role in the integration process as well as offer a platform for young people in institutions of higher learning to learn more about the EAC Region.

Sports and cultural activities have also been used to enhance integration in the EAC. The East Africa secondary schools games bring together students from the six member states coordinated by the Federation of East Africa Secondary Schools Sports Association (FEASSSA). The games are held in August annually with the hosting being rotational. The inaugural games were held in Nairobi in 2002. The main objective of the games is integration through sports.

Since August 2012, the EAC Youth Ambassadors have been engaging and empowering students to enhance their contribution to the EAC integration agenda, through effective peer training and establishment of EAC Youth Clubs in Universities across the Partner States. The success of the clubs at the universities led to the establishment of the EAC Secondary Schools clubs aimed at further building a formidable structure of sensitisation activities, which coordinates and promotes youth dialogue, sensitisation and awareness creation on the EAC Integration process, right from the secondary to the university levels. The clubs have been launched in different schools in Kenya, Uganda, Burundi, Rwanda and Tanzania.

The formation of the Community was aimed at improving the social welfare of the citizens of EAC II partner states through social and cultural integration. The wider interests by member states to pursue common interests have been improved by a common cultural predisposition that

the East African people share. This has highly contributed to the mutual interests of integration within the community (Mazrui, 1994).

4.5 Political Interest

Political Union is the last stage of regional integration process. It is often the ultimate objective of a regional cooperation in most cases. In the case of the EAC II, the main objective is also to attain a political federation. Article 5(2) of the EAC Treaty (1999) partly states “*the partner states undertake to establish among themselves a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation*”. It is noted that EAC II has implemented the Customs Union and the Common Market stages of the regional integration process with reasonable amount of success. However, the Monetary Union stage is behind schedule and there are no signs that it may take place soon. Without successfully implementing the first three stages of the regional integration, attaining a political federation may be a mirage. The political Union stage presents both losses and gains to partner states' interests. It makes states to surrender part of their sovereign authority to the supra-national body. This played out in the period preceding EAC I, where Uganda refused to support the idea of joining Kenya and Tanganyika in a federation arrangement for fear of losing its autonomy to take own political decisions.

According to Austin (2015), sovereignty is inalienable and indivisible. It is the central concept that is the connotation of a state, without which there is no state. To the contrary, this stage offers opportunity for collective security which is beneficial particularly to weaker partner states. It also provides a platform for powerful states to project their hegemonic power which is central to the national interest. However, it is noted that no regional integration scheme has ever attained a political union, even the EU which is perceived to be largely successful. The EAC II, with its

ambitious integration schedule of attaining monetary union within ten years from 2013 is yet to fully implement the custom union and the common market amongst its partner states. Attaining a Political Union, is only possible after successful completion of the Monetary Union. Therefore, as issues stand now, it may take a while before EAC II attains the Political Union.

It is noted that the major organs of the EAC II are composed of political leaders of the partner states contrary to the EU which has independent officials to run its organs. The summit whose members are the Heads of State or Heads of Government of partner states is the supreme organ of the EAC II as provided for by Article 10 of the EAC Treaty (1999). The Summit considers issues referred to it by the Council which is the policy organ of the Community and composed of “*the ministers responsible for the EAC affairs in each partner states*” (Article 13 and 14 of EAC Treaty 1999). Though the Secretariat of the EAC II is the executive organ of the community, it works under the direction of the Summit and supervision of the Council. This shows that the functioning of the EAC II is determined by how cohesive the Summit is. The collapse of EAC I was attributed to the lack of political will and idiosyncratic differences among the Presidents of the partner states particularly the hostile relations between Nyerere and Amin. This situation is slowly emerging in the EAC II. The 20th Summit meeting for 2018 had to be postponed twice due to lack of quorum because the President of Burundi or his representative failed to attend the meeting because of his strained relationship with the President of Rwanda. There must be full representation of all the partner states of the EAC II in order to have a quorum. This is in accordance with rule 11 of the Rules of Procedure of the Summit of the EAC Heads of State which states “*quorum is made of all partner states presentations which is in consonance with decision making by consensus under article 12 of the Treaty*”, (EAC Secretariat -1st December 2018).

The EAC II regional integration process has encountered challenges that have slowed the attainment of the fourth stage. One of the main stumbling blocks is the capability of some partner states to meet their obligations to the integration scheme. A case in point is Burundi which has failed to meet its financial obligations. This has been stifled by the low economic activities in the country which has a relatively low GDP compared to other partner states. Further, the country's political environment remains volatile and tumultuous which has kept the President away from Summit meetings. Additionally, partner states remain suspicious and mistrusting to each other which put the future of the EAC II on a balance. Member states infighting continues to rock the community and states such as Burundi and Rwanda have key political wrangles that deter and prevent partner engagements. There have also been key issues concerning the levels of commitment by partner states. Tanzania is a member of South EAC and SADC which shows divided loyalty. Tanzania has also been notorious on pending issues for far too long particularly in ratifying protocols and agreement. A case in point is the Protocol on foreign policy coordination which the country has shelved since 2012. This may lead to conclusions that commitment towards the EAC II may be surpassed by its interest in SADC.

There are cases of competing coalitions among EAC II partner states which derail regional integration efforts. Burundi and Tanzania have previously opposed and systematically worked against the LAPSSSET. Kenya, Rwanda, South Sudan and Uganda also formulated the coalition of the willing to carry out the development in the Northern Corridor leaving out both Burundi and Tanzania. Both parties justified their actions on the application of the Principle of Variable Geometry which in most cases undermine the Principle of Solidarity. The Principle of Solidarity is the founding impetus of any regional integration without which there is no regional cooperation. The study's findings also show that young nations such as South Sudan remain

behind both politically and economically. However, the spirit of EAC II regional integration remains positive and the recent application by Somalia is a testament to the slow but gradual positive steps. This progress in the EAC II regional integration represents a force at global platform.

Since late 2018 tensions have been mounting dangerously between Rwanda and Uganda. The two countries have been closely linked with each other playing a key role in the others political development. Both countries have been trading accusations which has been rising to a high level and resulted in closing of common borders particularly at Kigatumba. Rwanda is accusing Uganda of supporting renegade forces opposed to the Kagame regime. Similarly Uganda is also accusing Rwanda of backing rebels who are fighting Museveni's government.

On 5th March 2019 the Foreign Affairs minister of Rwanda held a press conference where he accused Uganda of arresting Rwandese, disrupting regional trade and providing support and space for anti-Rwanda groups such as Rwanda National Congress (RNC) and Democratic Forces for the Liberation of Rwanda (DFLR). He briefly closed the boarder and advised Rwandese living in Uganda to leave immediately. During the Annual Rwanda National Leadership Retreat (ARNLR) held on 11th March 2019, the President of Rwanda, Paul Kagame remarked on the simmering relations with Uganda "you (Uganda) can attempt to destabilize our country, you can do us harm, you can shoot me with a gun and kill me, but there is one thing that is impossible. You cannot bring me to my knees. Men and women of my country, you should never accept to be brought to your knees. You are much better than that" Kagame (2019).

Political observers believe that for many Ugandans, Rwandans are part and parcel of the Ugandan community and for Rwandans, both at home and Uganda, were born in Uganda.

Therefore, *“there is nothing like poor relations between the two countries. The problem is at the top, between Museveni and Kagame based on opposing idiosyncratic variables”*. Anon. While Museveni sees himself as the political bull of the region, Kagame want Museveni to acknowledge that he is the President of a sovereign nation. A political science scholar from Rwanda’s Butare University argued that *“Rwanda’s success as a well-organized and corruption free nation has made Museveni jealous. In Uganda official corruption is rife. The country is crime ridden and so disorganized that it cannot even manage its garbage”*. He further argued that it is evident that the rising profile of Kagame in the region is worrying Museveni. Kagame is emerging as a stronger leader in the region and being younger than Museveni, he is seen by the West as a possible replacement for Museveni.

The current tense relations between the two countries are likely to continue as long as the two leaders stay in power. However, as members of the EAC II, their bilateral disagreements may be overshadowed by the regional protocols. With the planned East African political federation, differences between Uganda and Rwanda or between other member states, namely Kenya, Tanzania, Burundi and South Sudan, are likely to be of little or no significance. It is therefore in the national interest of the Republic of Kenya to have peace and political stability in the EAC II region for the free trade to flourish. The president of Kenya, Uhuru Kenyatta recently met with the two leaders and may help to mediate them. It is lack of political will and idiosyncratic differences between Nyerere and Amin which contributed to the collapse of EAC I. Though the same scenario is emerging between Kagame and Museveni on one hand and Kagame and Nkuruziza on the other hand, war is unlikely and there is hope that the tension will soon be reduced through the intervention of regional and global leaders.

Findings indicate that member states have already adopted a political confederation. This transition model was adopted in 2018 to aid in attaining a full federation in the near future. In the current model, the political confederation allows for cooperation but in a limited sense where partner states cooperate on specific areas but maintain their state sovereignty. This step was however, noted to be a threat to full federation as states are keen to keep their sovereignty intact. Further, partner states are in the process of writing a constitution and experts have been appointed who are currently working on the constitution with their first meeting held in September 2018. This signals tangible positive steps geared towards achieving a political federation.

4.6 Conclusion

From the foregoing, it is quite evident that national interest impacts either positively or negatively on regional integration. Though evidence in support of the latter is profound, it denies partner states the full benefits of integration by restricting trade as much as it boosts the economic standing of others. It also undermines the independence and autonomy of regional institutions as partner states of the EAC fail to comply with the set rules and regulations. This in turn, undermines the spirit and letter of the EAC Treaty and the objectives it seeks to advance. On the other hand intense mutual cooperation among the partner states of EAC II has been found to have more benefits than loses and this explains why the EAC II has endured since 2000 and incidentally still growing strong. The economic benefits and collective security that all the partner states enjoy are driving forces of the integration process in the EAC region

The EAC II partner states, Kenya included ought to honour their commitments to ensure regionalism reigns over nationalism as was the case during EAC I. Key steps taken by Kenya in

the EAC II are arguably informed by its national interest but this is pegged on benefits accrued through cooperation with other partner states.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This chapter summarizes this study by specifically responding to three tasks. The first task is the recapitulation of the core objectives of this study; evaluating the extent to which they have been met. The second task is to anchor the conclusion of this study by firming up its central theses and then finally recommendations are made and discussed for the future adoption of reforms and how best national interest can be harnessed to promote regional integration in the EAC II.

5.1 Summary of Findings and Conclusion

From this research regarding "The Influence of Kenya's National Interest on Regional Integration: The case of Kenya in the East African Community", this study makes the following findings:

5.1.1 Economy and Regional Integration

The study noted that there has been an enthusiasm by states around the world to pursue regional integration despite the obvious challenges associated with it. This is being done by forming new schemes, strengthening weak ones and reviving defunct ones like in the case of EAC I. In East Africa, regional integration is one of the options for survival in the contemporary globalized world where small economies may not effectively compete and could easily be swallowed up into the international political economy if they go it alone. Regional integration in East Africa is therefore a matter of necessity and not a choice.

In addition, the study established that EAC II presents enormous potential and opportunities for the region's states, Kenya included. There has been increased free trade within the region much as it has enhanced the economic standing of the EAC II partner states, a trend likely to continue into the future. Trade between Kenya and Uganda have particularly been on an upward trajectory in as much as intra-regional trade volumes within the EAC have gone slightly down. Further, EAC II, comprising of six countries with a population of 181 million, continues to be fast growing (at an annual average rate of 2.9%). This is a positive sign as it ensures the region has a steady increase of workforce as well as market that increases trade volume among partner states.

On the downside, Kenya's, and of course other EAC's states' decision to pursue bilateral trade arrangements have reduced inter-regional trade volumes, and further generated more mistrust and suspicion between the member states. This is trend that needs to be relooked if EAC II is to survive.

The economic standing of Kenya as the most dominant economy in the region has raised fears and suspicions that the integration scheme disproportionately benefits Kenya at the expense of the other partner states. This concern has resulted into other states, Tanzania in particular to join SADC. Such a move results into divided loyalty by partner states and might benefit one regional scheme at the expense of the other. Further these concerns and fears have partly contributed to the slow implementation of protocols and resolutions agreed upon by partner-states. The slow implementation is largely attributed to the lack of political goodwill and strong institutions in EAC II capable of enforcing laws and obligations under the EAC Treaty (1999).

Further, slow implementation of the Customs Union Protocol has produced some stumbling blocks to free flow of goods and services. Kenya's culture of imposing unnecessary inspection, and certification procedures of the imports and exports from the neighbouring EAC partner states has in the past angered the other partner states. These import and export procedures and certification procedures are normally conducted by different state agencies who in most cases do not speak with one voice, because they seem to be performing the same roles which duplicate each other.

5.1.2 Political Sovereignty and Regional Integration

The study established that the national interest particularly preservation and protection of political sovereignty and territorial integrity are indispensable to the realisation of Kenya's strategic objectives in the EAC II region. Kenya's national interest has both impeded and played in favour of the process of regional integration in the EAC I and II. However, overall, it has been a greater source of integration than division in the EAC region. As such in order to make EAC II integration process a success, then the partner states needs to work to harmonise their competing national interests to make it a source of strength and not let be a potential source of fissure for the Community's integration process.

In the EAC I, leaving decision making to the Authority of the Heads of the State, which had leaders who could hardly meet made it difficult to take key decisions to move the Community forward. The same situation has played out in EAC II, where competing political priorities between the heads of States have prevented the Summit Meetings from taking place in the past two years. Further, the approach of decision making, which is consensus and not voting as is the case with the EU has further complicated the process of decision making, especially given that President Nkurunziza of Burundi due to volatile political situation in his country has not been

able to travel outside it to take part in the Community's affairs as the Heads of State annual Summit meetings. In addition, the study established that the recent political events around the world have called into question the future of regional economic integration. The 2017 Brexit vote in the United Kingdom, the election of Donald Trump as USA president and the rise of parties of the Right and Left that are sceptical about economic integration whether at the global or regional levels have all challenged the previously common assumption that globalization had become the natural and normal state of international economic affairs (Frieden, 2018). The continuation of current trends is not inevitable. However, the events of past five years have set in motion developments that will be difficult to reverse. The future of regional integration is likely to be substantially different from its recent past. The implication of such a trend is that it might further slowdown the wheels of regional integration in places such as East Africa. It therefore means that more needs to be done in order to harmonise the contending national interest of the EAC II partner states in order for the integration process to progress smoothly.

5.1.3 Defence Cooperation

The EAC's collective security concept has largely created secure environment by providing avenue for conflict resolution and pacific settlement of disputes within the region by partner states. EAC II partner states are advanced in terms of co-operating in the areas of peace and security. This signals progress to achieving a political federation as member states have strengthened integration through a Defence, Peace and Security pact. Regionally, Kenya has a stronger military and economic capability therefore, Kenya takes lead role and actively participates in peace and security initiatives and institutions. On the social and cultural identity aspect the EAC member states have developed joint programs and initiatives in culture, sports and education that widen and deepen the integration process. A common cultural predisposition

has further helped in binding the regional integration agenda. Political union as the ultimate objective of a regional cooperation has experienced tangible positive steps through cooperation by partner states on specific areas. Member states have however maintained their national sovereignty. However, Kenya has derailed achievement of a political federation as she prioritizes national interests over regional gains.

5.1.4 Social and Cultural Identity

The study found that the establishment Treaty of the EAC (1999) recognized that Burundi, Kenya, Uganda, Rwanda, and Tanzania share a historical background, language and culture which provide the partner states with a unique dynamic that embeds the integration process. This is reflected in the Motto of the EAC II “*one people one destiny*”. These traditional and cultural ties support affection imperative, which is a major factor in the establishment and sustainment of a regional integration scheme. Partner states of the EAC II regularly engage in a broad based integration covering trade, investments, industry, fiscal matters, infrastructure and other services such as science and technology, human resource, agriculture, environment, resource management, tourism, health and also socio-cultural activities (Mwasha, 2011).

The social advancement of the EAC II is critical in catalysing transport and communication across borders of member states. The EAC II has taken steps towards this through the Tripartite Agreement on Road Transport (TART) whose objective is to facilitate interstate transport. The duration for documentation processes of people and vehicles at borders has been greatly reduced; license, customs, and immigration requirements have also been streamlined. This has also applied to the classification and issuance of work permits in the region. It is also noted that achievements have been made in the several social sectors especially in sports, education,

movement of goods and people, and provision of medical services within the region. Reith and Boltz (2011) note that the socio-cultural togetherness has also shaped the community's sporting and educational programs which are in harmony across the region. This predisposition has helped in handling the conflicts and also preventing others. Article 5 of the Community's Treaty (1999) guarantees for the development of policies and programmes for developing and widening cooperation among the social and cultural fields where there is mutual benefit for the member states.

The study noted that Article 119(a) of the EAC Treaty (1999) states that partner states shall promote close cooperation amongst themselves in culture and sports with respect to "*the promotion and enhancement of diverse sports activities*". This has been operationalized by Article 5(2) of the EAC Protocol for cooperation in Defence Affairs which partly states that "*The Armed Forces of the partner States shall cooperate in sports competitions in order to enhance cooperation and the spirit of comradeship*".

5.2 Conclusion of the Study

From the above findings, the study notes that Kenya's pursuit of its economic interests, political sovereignty and cultural (national) identity have both facilitated and at the same time undermined the integration process within the EAC. The facilitative role is premised on the argument that regional integration is one of the options for survival in the contemporary globalized world where small economies may not effectively compete and could easily be swallowed up into the global economy if they go it alone. It is thus a matter of necessity and not choice. On the other hand, national interest has been argued to sow distrust and antipathy by some members of the EAC thus slowing down the integration process. From the foregoing

Kenya needs to strike balance between its national interests and the collective good gained from banding together in order for the EAC project to progress forward.

5.3 Recommendations

Based on the findings of this study, both policy and academic recommendations are made as follows:

5.3.1 Policy Recommendations

First, political will is key for striking a balance between national interest and collective interest. Realisation of group interests has often been jeopardized by national interest of an individual state. This challenge can be overcome by a great deal of political will which is essential in pushing actors to shelve their national interest to accommodate collective interest of the EAC. Additionally, the political goodwill is key for success of the efforts to reform the Treaty establishing the EAC II.

Second, integration should be approached from a stage-by-stage basis. The EAC experience has demonstrated that paper agreements do not necessarily translate into actionable political initiatives. Some of the partner states are hesitant in implementing the provisions of the Custom Union, Common Market and Protocols which have been in force for more than a decade now.

5.3.2 Recommendations for Further Research

First, partner states of EAC II are all third world countries. They mainly depend on the developed nations for economic support. In most cases, they enter bilateral trade agreements with these developed nations in pursuit of own national interest against the spirit of integration schemes. Therefore, there is a need to carry out further research on the impact of bilateral

agreements on regional integration schemes between developed nations and dependent states particular when all the partner states are dependent.

Second, most of the states in Africa, the EAC II partners states included, have same ethnic groups living cross border. These cross border communities share similar cultures and traditions whose characteristics fall within affection imperatives that scholars have identified as the weakest behind the formation and sustenance of regional integration schemes. It is noted that these imperatives and theories of regional integration were developed using EU model yet the social circumstance in Europe is different. Europe is mainly made up nation states while Africa has multi ethnic states with different cultures. Thus, there is a need to examine and analyse regional integration schemes in Africa with a view to develop suitable imperatives and theories that better explain the African regional integration situation. Scholars like Clark (2001) have written on “Realism, Neorealism and Africa’s International Relation on Post-Cold War Era” to try to demonstrate that indeed Africa’s situation requires different approach due to its uniqueness particularly the colonial history.

Third, the operational principle of variable geometry is largely applied in regional integration schemes to allow some partner states to implement integration programmes at different paces. The states within an integration arrangement are allowed to move forward with integration activities while leaving others to join later. This is a common practice in the EU and ASEAN where membership is large and some individual states' interests vary through convergence and divergence. In the EAC, Tanzania has used this principle to justify its double membership in both EAC and SADC. Similarly, Kenya has used it as a reason to enter bilateral economic agreements with USA, UK and EU by signing and ratifying EPAs against the wishes of other EAC partner states. Though the principle of variable geometry offers opportunity to balance the

delicate relationship between national interest of partner states and collective interests of the regional integration schemes, its applications, in most cases violates the tenets of the principle of solidarity, a critical principle of a regional cooperation. In the EAC, decisions on key issues affecting the Community is made through consensus which again abhors the principle of variable geometry. The principle of variable geometry has various effects on the regional integration process particularly those made up of few members who are all dependent nations. There is a need to investigate its impact and influence in the regional integration process, more so the smaller and satellite ones like the EACII.

Forth, affection is identified as one of the imperatives of a regional integration process. It mainly contains socio-cultural variables one of which is language. The motto of the EAC II is "one people one destiny" which connotes people of the same culture. The people of the EAC II widely speak Kiswahili as a common language. Though English is used as official language in Kenya, South Sudan and Uganda while Rwanda and Burundi use French as official language. Kiswahili which is the official language of Tanzania is widely used in the EAC II region as the defacto mode of communication among the business community particularly the commodity traders. It is therefore important to examine the impact of Kiswahili on the regional integration process in the EAC II.

BIBLIOGRAPHY

- ADB, NEPAD, UNECA & WB (2018). Meeting the Challenges of Regional Integration, Intra-African Trade and Economic Growth in Africa Retrieved on 16th February, 2018 from <http://siteresources.worldbank.org/EXTPARTNERSHIPS/Resources/PolicyBrief-RegionalIntegration.pdf>.
- Attuquayefio, P. (2009). The Role of Youth Organizations in Accelerating the Pace of Regional Integration in West Africa: The Case of Ghana. In Stiftung, F. E. (2009). Ghana in Search of Regional Integration Agenda. *Accra: FES*.
- Ba, A. D. (2003). China and ASEAN: Re-navigating Relations for a 21st Century Asia. *Asian Survey*, 43(4), 622-647.
- Baregu, M. (2005). The African Economic Community and the EAC: Any Lesson from the EU?. *The Making of a Region: The Revival of the East African Community, Midrand, South Africa: Institute for Global Dialogue*.
- Bodin J. (1955). Six Books of the Commonwealth. Oxford: Alden Press.
- Börzel, T. A., and Risse, T. (2009). *Diffusing Regionalism. The EU as a Model of Regional Integration*. Risse//Working Paper KFG.
- Börzel, T., and Risse, T. (2009). The Rise of (Inter-) Regionalism: The EU as a Model of Regional Integration.
- Bull, H. (2012). *The Anarchical Society: A Study of Order in World Politics*. Palgrave Macmillan.
- Business Dictionary. online. (2018). Retrieved from <https://www.merriam-webster.com/dictionary/national%20> on 31 January 2018.
- Caichiolo, C. R. (2017). The Mercosur Experience and Theories of Regional Integration. *Contexto Internacional*, 39(1), 117-134.
- Candel, J. J., and Biesbroek, R. (2018). Policy Integration in the EU Governance of Global Food Security. *Food Security*, 10(1), 195-209.
- Carr, E. H. (1939). The Twenty Years' Crisis 1919-1939: An Introduction to the study of International Relations. London. Printing Press.

- Chanona, A. (2006). Regional Integration and Security: A Comparative Perspective of the European Union and North America. *Norteamérica. Revista Académica del CISAN-UNAM*, 1(1).
- Chingono, M., and Nakana, S. (2009). The Challenges of Regional Integration in Southern Africa. *African Journal of Political Science and International Relations*, 3(10), 396-408.
- Delupis, D. I. (1970) East African Community. Oxford: Oxford University Press.
- Deutsch, K. et al, (1957). Political Community and North Atlantic Area: International.
- Deutsch, K. W. (2015). *Political Community and the North American Area*. Princeton University Press.
- Development Bank of South Africa (2012). South Africa's National Interest and BRICS Towards Bandwagoning or Balancing? Policy Brief No. 4 1-12.
- Dyke, V. V, (1966), International Politics, Appleton: Century-Crofts.
- EAC. (1999). The Treaty for the Establishment of the East African Community. 30 November, 1999. Arusha, Tanzania.
- EAC. (2015). Custom Union (Rules of Origin) Rules. January 2015. Arusha, Tanzania.
- EAC. Custom Union Protocol
- EAC. Common Market Protocol
- EAC. Defence and Security Protocol
- EAC. (1997). The EAC First Development Strategy, 1997-2000. January 1997. Arusha, Tanzania.
- EAC. (2000). The EAC Second Development Strategy, 2001-2005. July 2000. Arusha, Tanzania.
- EAC. (2005). The EAC Third Development Strategy, 2006-2010. June 2009. Arusha, Tanzania.
- EAC. (2011). The EAC Fourth Development Strategy, 2011-2016. August 2011. Arusha, Tanzania.
- EAC. (2017). The EAC Fifth Development Strategy, 2017-2021. December 2017. Arusha, Tanzania
- ECDPM. 2016. Regional Integration Journey in Africa. GREAT Insights Magazine - Volume 5, Issue 4. July/August 2016*

- George, A. and Keohane, R. (1980). The Concept of National Interest: Uses and Limitations. In Presidential Decision Making in Foreign Policy: The Effective Use of Information and Advice.
- Gunnar, M. (1956). *An International Economy*. London: Routledge.
- Haas, E. B. (1968). *The Uniting Europe* Stanford: Stanford University Press.
- Haas, E.B. (1976). *Turbulent Fields and the Theory of Regional Integration*. Journal of International Organization.
- Herrero, A., and Gregersen, C. (2016). Prospects for supporting regional integration effectively.
- Heywood, A. (2013). *Politics*. Cambridge: Cambridge University Press.
- Hill, C. (2003). *The Changing Politics of Foreign Policy*. New York: Palgrave.
- Hoffmann, S. (1966). *Obstinate or Obsolete? The Fate of the Nation- State and the Case of Western Europe in Conditions of World Order*. New York: Clarendon Press.
- Iglesias, E. (1997). *The New Face of Regional Integration. Trade: Towards Open Regionalism, World Bank, Washington DC*.
- Iglesias, E. V. (2000). *Twelve Lessons from Five Decades of Regional Integration in Latin America and the Caribbean*. Inter-American Development Bank, Integration and Regional Programs Department.
- Ikenberry, J. (2001). *After Victory*. New Jersey: Princeton University Press.
- Jackson, R. and Sorensen, G (2013). *Introduction to International Relations: Theories and Approaches*. Oxford: Oxford University Press
- Jackson, R. H. (1990). *Quasi-states. International Relations, sovereignty and the Third World, Cambridge: Cambridge University Press*.
- Jönsson, K. (2010). Unity-in-diversity? Regional Identity-Building in Southeast Asia. *Journal of Current Southeast Asian Affairs*, 29(2), 41-72.
- Joshi, S. (2017). The Prospects for EU–India Security Cooperation. *European View*, 16(2), 271-279.
- Jowett, B. (Ed.). (1885). *The politics of Aristotle* (Vol. 1). Clarendon.
- Kacała, J. (2013). European Union as a System of Collective Regional Security During the Economic Crisis. Influence of Austerity Measures on the Defence Spending of France,

- Germany, Italy, Spain and the United Kingdom. *Kwartalnik Naukowy OAP UW" e-Politikon"*, (6), 231-248.
- Kayunga, S. S. (2005). Deepening Political Integration of the EAC Countries: The Uganda Case. *Deepening Regional Integration of the East African Community. Addis Ababa: DPMF*, 149-226.
- Keohane and Nye, Jr. (1977). *Transnational Relations and World Politics*. London: Harvard University Press.
- Krasner, S. D. (1999). *Sovereignty: organized hypocrisy*. Princeton University Press.
- Lindberg, L. N. (1963). *The Political Dynamics of the European Economic Integration*. Stanford: Stanford University Press.
- Locke, J. (1823), *Two Treaties of Government ed Rod Hey*. London Mc Master University Press.
- Lodompui, J. (2010). Tanzania's national interest and the collapse of East African community. *Nairobi: UoN*.
- Madyo, M. R. (2009). *The importance of regional economic integration in Africa* (Doctoral dissertation).
- Mansfield, E. D., and Milner, H. V. (Eds.). (1997). *The political economy of regionalism*. Columbia University Press.
- Mansfield, E. D., & Solingen, E. (2010). Regionalism. *Annual Review of Political Science*, 13, 145-163.
- Maruping, M. (2005). Challenges for regional integration in Sub-Saharan Africa: Macroeconomic convergence and monetary coordination. *Africa in the World Economy: The National, Regional and International Challenges (FONDAD The Hague 2005)*, 129-155.
- Marx, K. and Engels, F. (1848). *The communist Manifesto*. Moscow: Progress Publishers.
- Mathieson, C. (2016). *The Political Economy of Regional Integration In Africa The East African Community (EAC)*. Retrieved on 16th February, 2018 from <http://ecdpm.org/wp-content/uploads/ECDPM-2016-Political-Economy-Regional-Integration-Africa-EAC-Report.pdf>
- McDougal, M. S., Lasswell, H. D., & Reisman, W. M. (1966). The world constitutive process of authoritative decision. *J. Legal Educ.*, 19, 253.
- Merke, F. (2015). Neither balance nor bandwagon: South American international society meets Brazil's rising power. *International Politics*, 52(2), 178-192.
- Milward, A. (1992). *European Rescue of Nation-State*. London: Psychology Press.

- Mitrany, D. A. (1966). *A Working Peace System*. Chicago: Quadrangle Book.
- Morgenthau, H. J. (1962). *Politics among Nations: The Struggle for Power and Peace*, 3rd edn. New York: Knopf.
- Mutai B.K (2000). *How to write Quality Research Proposal: A Complete Simplified Recipe*Pune: Dream and solutions. p. 184.
- Neibuhr, R. (1932) *Moral Man and Immoral Society: A study in Ethics and Politics*. Westminster: John Knox Press.
- Norris, R. (2004). *Serving the National Interest: Canada's Decision to Enter OAS 1989-1990*. (University of Alberta Dissertation)
- Nye, J. (2012). *African Regional Integration Arrangements: History and Challenges*. European Center for Development Policy Management (ECDPM). *Organization in the Light of Historical Experience*. Princeton: Princeton University Press.
- Nyinguro, P. O. (2005). *The EAC'S prospects on the Global Stage. The Making of a Region: The Revival of the East African Community*. Midrand, SA: Institute for Global Dialogue.
- Nyong'o, A. (1990). *Regional Integration in Africa*. Nairobi: Academic Science Publishers.
- Nzewi, O., and Zakwe, L. (2009). *Democratising Regional Integration in Southern Africa: SADC National Committees as Platforms for Participatory Policy Making*.
- Oso, W. Y. and Onen, D., (2016). *A General Guide to Writing Research Proposal and Report. A handbook for beginning Researchers* Nairobi:Ramco Printing Works Ltd., p.75.
- Peña, F. (2005). *Understanding MERCOSUR and its Future. The European Union and Regional Integration: a Comparative Perspective and Lessons for the Americas*, 235-246.
- Proudhon, P, J. (1863). *The Principle of Federation and the Need for Reconstitute the Party of Revolution*. Translated by Vernon, R. Cambridge: Cambridge University Press.
- Reith, S., & Boltz, M. (2011). *The East African Community Regional Integration: Between Aspiration and Reality. Kas International Reports*, 9(10), 91-107.
- Rosamond, B . (2000). *Theories of European Integration*. London: Macmillan Press.
- Sanusi, H., and Gyamfi, S. A. (2017). *Ghana's Foreign Policy: Some Regional and National Interests. Journal of Human Sciences*, 14(1), 598-608.
- Sesay, A., and Omotosho, M. (2011). *The Politics of Regional Integration in West Africa*.
- Shiraishi, T., and Okamoto, J. (Eds.). (2012). *Engaging East Asian Integration: States, Markets and the Movement of People*. Institute of Southeast Asian Studies.
- Siebert, H. (2008). *The National Interest vs. Global Rules: Issues in the Future*. Paper presented at the XII Saint Petersburg International Economic Forum June 6-8.

- UNESCO (2018). www.data.uis.unesco.org retrieved on 25 March 2019.
- Tibor Scitovsky. (1967). *Economic Theory and Western Europe Integration*. London: Unwin University Books.
- Ueki, C. K. (2011). Prospects for Regional Security Cooperation in East Asia. *Journal of Asia-Pacific Studies (Waseda University) No*, (16), 45-58.
- Urwin, D. W. (2014). *The Community of Europe: A History of European Integration since 1945*. Routledge.
- Vanheukelom, Jan, Byiers Bruce, Bilal San, and Sean Woolfrey. (2016). *Political Economy of Regional Integration in Africa What Drives and Constrains Regional Organisations?* European Centre for Development Policy Management: Brussels.
- Villarreal, M. A. (2012, January). US-Mexico economic relations: Trends, issues, and implications. LIBRARY OF CONGRESS WASHINGTON DC CONGRESSIONAL RESEARCH SERVICE.
- Von Clausewitz, C. (1976). *On War*, translated by Michael Howard and Peter Paret.
- Walt, S. M. (1998). 'International Relations: One World, Many Theories', and Foreign Policy (Spring): 29–46.
- Watz K. (1979). *Theory of International Politics*. New York: Addison- Wesley
- Webster Dictionary. Online (2018). Retrieved from <http://www.businessdictionary.com/definition/regional-integration.html> on 31 January 2018.
- Wendt, A. (1999). *Social Theory of International Politics*. Cambridge: Cambridge University Press.
- Wilson, W. (1917). *A world League for Peace*. New York. Miller Centre.
- Yakohene, A. B. (2009). Overview of Ghana and Regional Integration: Past, Present and Future. *Ghana in search of regional integration Agenda*, 1-22.
- Yoshimatsu, H. (2002). Preferences, Interests, and Regional Integration: The Development of the ASEAN Industrial Cooperation Arrangement. *Review of International Political Economy*, 9(1), 123-149.
- Zormelo, D. K. K. (1995). *Integration Theories and Economic Development: A Case Study of the Political and Social Dynamics of ECOWAS* (Doctoral dissertation, London School of Economics and Political Science (United Kingdom)).

APPENDIX 1: INTERVIEW SCHEDULE AND QUESTIONNAIRES

Institution.....

1. Article 2 of the EAC Treaty (1999) established “the Community” with the East African Custom and the Common Market as transitional stages to an integral part of the Community. Subsequently, in the EAC II integration schedule, the Customs Union and the Common Market were to be fully realised in 2005 and 2010 respectively.

- (a) To what extent have the two stages of the integration process been achieved?
- (b) Kindly explain the gains and benefits that each EAC II Partner States have gotten from the two stages?
- (c) How have the two stages impacted on the national interest of each Partner States? Please explain.
- (d) The Republic of Kenya is the core/anchor state in the EAC II. States join regional cooperation to pursue and attain their own national interest. How has the pursuit of Kenya’s national interest influenced regional integration process in the EAC at the Custom Union and Common Market Stages? Please explain and provide evidences.

2. Article 3 provides conditions for new members to join the Community as “adherence to universally acceptable principles of good governance, democracy and the rule of law, observance of human rights and social justice. These are tenets or desperate happenings of a democratic rule.

- (a) To what extent are the governments of partner states of the EAC II democratic?
- (b) How do you explain the current governance situation in Burundi and South Sudan in line with this article and what options are available to the Community?
- (c) How does this article affect the sovereign rights of the EAC II partner states?

3. Article 5 of the EAC II Treaty gives the main objective of the Community as “development of policies and programmes aimed at widening and deepening cooperation among the partner states in political, economic, social and cultural research and technology, **defence and security** and legal and judiciary affair for their mutual benefits”. After the Community fully attained the Common Market, the integration process is to progress to the Monetary Union stage which was scheduled to take place by 2013 and ultimately achieve the Political Federation thereafter.

- (a) The attainment of the Monetary Union is behind the EAC II integration schedule, what is its future? Please explain.
- (b) What are the causes and reasons for the delay in achieving monetary union in the EAC II?
- (c) How have the national interests of the Partner States contributed to the delay in attaining Monetary Union in the EAC II?
- (d) What benefits and gains will each EAC II partner state get from the intended Monetary Union? Please explain.
- (e) How will the intended monetary union negatively impact on the interests of each EAC partner state.

4. The EAC II has four operational principles, two of which are subsidiarity and variable geometry. Both principles are borrowed from the EU. In 2013, Kenya, Uganda and Rwanda, applying the principle of variable geometry, entered a Trialateral Agreement on mainstreaming EAC II projects and programmes under Northern Corridor Integration Projects (NCIP) “*the coalition of the willing*”, leaving out the Tanzania and the Burundi.

- (a) What effect is the application of the principle of Variable Geometry by some partner states likely to have on the regional integration process in the EAC II particularly on economic, political, defence and security issues?

(b) How do the partner states use the principles of Subsidiarity and Variable Geometry to pursue and attain their national interest in the EAC?

(c) One of the agreements during the Northern Corridor Integration Project (NCIP) was to have an oil pipeline running from Uganda through Northern Kenya to Lamu Port for the exportation of crude oil from Uganda, South Sudan and Kenya. Uganda later pulled out preferring a route through Tanzania and using the port of Tanga and subsequently the two Presidents signed a bilateral agreement on the same. What made Uganda to change its position?

5. Article 124 of the EAC (1999) provides for cooperation in regional peace and security and particularly close cooperation by partner states in Defence Affairs.

(a) What are security threats in the EAC II region?

(b) What common strategies are put in place by the partner states to resolve these threats?

(c) What achievements have been made in the peace and security cooperation particularly in the Defence Cooperation? What are the main challenges?

(d) How has the pursuit of Kenya's national interest influenced Defence Cooperation in the EAC II region?

6. In your own opinion, what is the future of the the Monetary Union and Political Federation in the EAC?. If they were to take place, how will the the national interest of the EAC partner states particularly the sovereignty, core state institutions like the Presidency, Military, Judiciary and the Financial Sector be affected?

7. What holds the EAC together?

8. What is the future of EAC?

9. Any additional comment.

Institution.....

1. The collapse of the EAC I was partly attributed to lack of involvement of the Private Sector by the partner states. What is your comment?

2. In the EAC II, Article 127 (1) of the EAC Treaty (1999) partly states that, "The partner states to provide an enabling environment for the private sector to take full advantage of the community by formulating strategy for the development of the private sector. This will promote continuous dialogue at both national and the community level. This will create improved businesses environment and create opportunities to participate in policy formulation and implementation".

(a) To what extent is the private sector involved in the strategic development and policy formulation and implementation of the Community?

(b) What is the working relationship between the partner states and Private Sector as far as development of the community affairs is concerned?

(c) What are your achievements and challenges in this area?

3. EAC II has so far attained both the Customs Union and the Common Market stages of the integration process which allow free movement of goods, people, labour and capital. They also allow imposing of a common tariff on the third party?

- (a) To what extent have these conditions being achieved?
- (b) What are the achievements?
- (c) What are the challenges?

4. Tanzania is a member of both EAC II and SADC. What challenges and benefits does this double membership bring to the Community particularly the promotion of trade among the business community of the EAC II partner states?

5. Other partner states perceive Kenya to be benefiting more from the cooperation due to its relatively more developed economy. This is partly one of the causes of the collapse of the EAC I and the item of discontent in the EAC II.

- (a) What is your comment?
- (b) If it is true, what impact does it have on the integration process of the Community and how is it being addressed?

6. The EPA between the EU and the EAC II has been delayed by other partner states despite Kenya having signed and ratified the pact in Oct 2018. Kenya has since been given timeless access to the European market tariff free and duty free.

- (a) Does the comparative position of Kenya as a DC in the global political economy affects the EAC II regional trade bearing in mind that the rest of the partner states are classified as LDC?
- (b) How will the EPA benefit the private sector in Kenya

7. The Community is yet to achieve the Monetary Union despite the implementation being set for 2013.

- (a) What are the challenges?
- (b) If it is implemented, how will it affect the private sector?

8. Any additional comment

The Civil Society

Institution.....

1. The collapse of the EAC I was partly attributed to lack of involvement of the Civil Society by the partner states. What is your comment?

2. In the EAC II, Article 127 (1) of the EAC Treaty (1999) partly states that, “The partner states to provide an enabling environment for civil society to take full advantage of the community by formulating strategy for the development of the civil society”. This will promote continuous dialogue at both national and the community level. This will create improved businesses environment and create opportunities to participate in policy formulation and implementation.

- (a) To what extent is the civil society involved in the strategic development and policy formulation and implementation of the community?
- (b) What is the working relationship between the partner states and the Civil Society as far as development of the community affairs is concerned?

- (c) What are your achievements and challenges in this area?
3. What contributions has the Civil Society made to the integration process the EAC II?
 4. What are your achievements so far?
 5. What challenges are facing the Community?
 6. What is the future of the EAC II?
 7. Any additional comment?

Partner States Foreign Missions in Nairobi

Institution

1. Why did your country join the Community?
2. What opportunities and challenges have been presented by the Community since your country joined?
3. States join regional cooperation in order to pursue national interest. How does this affect integration process in the EAC II?.
4. Kenya is the anchor state in the EAC II. How does its behaviour and participation affect the integration process in the EAC I and EAC II??
5. The principle of Variable Geometry contradicts the principle of Solidarity which is the founding principle of any regional integration. EAC II included. The partner states of EAC II have severally been applying the principle of Variable Geometry to execute some agendas leaving other members out. Some of the cases are the delay in signing and ratifying the EPA with EU and implementation of LAPPSET. Has the application of the principle of variable Geometry promoted or undermined the integration process?
6. Some partner states are, in addition to being members of the EAC II, members of other regional cooperation with similar objectives as EAC II. For example Tanzania is a member of of both EAC II and SADC.
 - (a) What are the reasons for double/multiple membership?
 - (b) Does it promote or undermine the integration process in the EAC II region?
 - (c) What are the gains and challenges for double/multiple membership to both individual partner states and the Community?
7. What is the future of the EAC II?
8. Any additional comment.

The EAC II Secretariat

Institution

1 The Secretariat is the executive organ of the community yet it is under the supervision of the council of Ministers and the direction of the Summit.

(a) How does this affect the function of the Secretariat?

(b) Both the Summit and the Council are made up of the political leaders of partner states whose priority is to pursue and fulfill national interest in the EAC I . How do you balance this in terms of the principle of independency and neutrality?

2. What challenges does the Secretariat have in meeting the objectives of the community and how do you together with partner states address them?

3. What is the future of the community?

4. Any additional comments?

APPENDIX 2: THE TREATY FOR EAST AFRICAN CO-OPERATION ACT 1967

No. 31 of 1967

Date of Assent: 29th November 1967 Date of Commencement: 1st December 1967

ARRANGEMENT OF SECTIONS

Section

- 1- Shorttitle and commencement.
- 2- Interpretation.
- 3- Community to have capacity of body corporate.
- 4- Transfer of assets and liabilities.
- 5- Transfer of offices and officers of Community.
- 6- Existing laws of Common Services Organization to continue in force.
- 7- Adaptation of existing laws.
- 8- Acts of Community to have force of law.
- 9- Construction of Acts of Community.
- 10- Inconsistency between laws.
- 11- Provisions to give effect to Articles 67 and 68 of Treaty.
- 12- Adaptation of laws.
- 13- Personal immunities and privileges.
- 14- Status, immunities and privileges of Bank.
- 15- Common Market Tribunal.
- 16- Power of Authority to enact legislation concerning Corporations,
- 17- Court of Appeal for East Africa.
- 18- Distribution of General Fund balances.
- 19- Amendment of Treaty.
- 20- Amendment of Cap. 2 and Cap. 9.
- 21- Repeal of Cap. 4.

SCHEDULE

An Act of Parliament to provide for giving effect to certain provisions of the Treaty for East African Co-operation and for purposes connected therewith

WHEREAS the Treaty for East African Co-operation (which is set out in the Schedule to this Act) was signed on the 6th June 1967 on behalf of the Governments of the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya-at Kampala:

AND WHEREAS it is expedient to make provisions for giving effect to certain provisions contained in the said Treaty which shall come into operation when the said Treaty comes into force on the 1st December 1967:

NOW THEREFORE BE IT ENACTED by the Parliament of Kenya, as follows: -;

Short title and commencement.

Interpretation.

1. This Act may be cited as the Treaty for East African Co-operation Act 1967, and shall come into operation on the 1st December 1967.

2. In this Act, except where the context otherwise requires—

“Act of the Community” means an Act of the Community enacted in accordance with Article 59 of the Treaty;

“the Assembly” means the East African Legislative Assembly established by Article 56 of the Treaty;

“the Common Services Authority” means the East African Common Services Authority established by the Constitution of the East African Common Services Organization annexed to the East African Common Services Organization Agreements 1961 to 1966; “the Common Services Organization” means the East African Common Services Organization established by the East African Common Services Organization Agreements 1961 to 1966;

“the Community” means the East African Community established by Article 1 of the Treaty; “the East African Authority” means the East African Authority established by Article 46 of the Treaty; “existing law” means an enactment of the High Commission or the Common Services Organization in force or having effect immediately before the commencement of this Act and any rules, regulations, orders or other legislative instruments in force or having effect as aforesaid and made in pursuance of such an enactment; “the High Commission” means the East Africa High Commission which was established by the East Africa (High Commission) Order in Council 1947;

“the Treaty” means the Treaty for East African Cooperation entered into by the Governments of the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya, which is set out in the Schedule to this Act, as from time to time amended under any provision thereof or otherwise modified.

3. (1) The Community shall have the capacity within Kenya of a body corporate with perpetual succession, and shall have power to acquire, hold, manage and dispose of land and other property, and to sue and be sued in its own name. Community to have capacity of body corporate.

(2) The Community shall have power to perform any of the functions conferred upon it by the Treaty and to do all things (including borrowing) that in the opinion of the East African Authority are necessary or desirable for the performance of those functions.

(3) Subsection (2) of this section relates only to the capacity of the Community as a body corporate, and nothing in that subsection shall be construed as authorizing the disregard by the Community of any law, or as affecting any power of the Community conferred by any law.

Transfer of assets and liabilities.

4. (1) All property of the Common Services Authority immediately before the commencement of this Act shall, as from such commencement, vest in the Community, and as from such commencement the Community shall have all the rights which the Common Services Authority has, and be subject to all the liabilities to which the Common Services Authority is subject, immediately before such commencement.

(2) On and after the commencement of this Act. every contract made by or on behalf of the Common Services Authority (whether in writing or not and whether or not of such a nature that rights and liabilities thereunder could be assigned by the Common Services Authority) shall have effect as if made by or on behalf of the Community, and as if references therein to the Common Services Authority and to any officer or authority thereof were replaced, in relation to anything falling to be done on or after such commencement, by references to the Community and to the corresponding officer or authority of the Community.

(3) Without prejudice to the generality of subsections (1) and (2) of this section, the Community and any other person or authority shall have like rights, powers and remedies (including in particular rights and powers as to instituting or defending legal proceedings) for ascertaining, perfecting or enforcing any rights or liabilities vested in or attaching to them by virtue of this section as if the rights or liabilities had at all times been rights or liabilities of the Community or of that person or authority.

(4) Any proceedings by or against the Common Services Authority pending immediately before the commencement of this Act shall be continued by or against the Community.

Transfer of offices and officers of Community.

5. (1) Every office which is an office in the service of the Common Services Organization immediately before the commencement of this Act shall, upon such commencement, become an office in the service of the Community.

(2) Any officer or servant of the Common Services Organization who is holding an office in the service of that Organization at the time when that office becomes an office in the service of the Community shall thereupon become an officer or servant of the Community.

6. The existing laws, with the exception of the East African Merchant Shipping Act 1966, shall continue in force in Kenya and shall be read and construed with such modifications, adaptations and qualifications as may be necessary to bring them into conformity with the Treaty.

- 7.** The East African Authority may, by order published in the Gazette of the Community at any time before the Assembly first meets after the commencement of this Act, make such amendments to any existing law as may appear to the East African Authority to be necessary or expedient for bringing that law into conformity with the provisions of the Treaty or otherwise for giving effect or enabling effect to be given to the Treaty.
- 8.** (1) The provisions of an Act of the Community enacted with respect to any matter that is included in Annex X to the Treaty shall, from the date of the publication of that Act in the Gazette of the Community, have the force of law in Kenya.
 (2) An Act of the Community shall come into operation on the date of its publication in the Gazette of the Community, or if it is provided in that Act that some or all of its provisions shall come into operation on some other date (whether before or after the date of publication), those provisions shall come into operation on that other date.
- 9.** It is hereby declared that, notwithstanding section 8 of this Act, so long as the Interpretation Act of the High Commission as from time to time amended, or any Act of the Community repealing or replacing the same, has the force of law in Kenya, the Interpretation and General Provisions Act shall not apply for the interpretation of the existing laws or the Acts of the Community.
- 10.** (1) Where an Act of Parliament enacted on or after the 1st January 1948 and before the 11th December 1961 is inconsistent with an Act of the High Commission made in pursuance of section 28 (1) (a) of the East Africa (High Commission) Order in Council 1947, it shall be construed as being repealed by the Act of the High Commission to the extent of the inconsistency.
 (2) Where an Act of Parliament is inconsistent with an Act of the Organization or an Act of the Community enacted after it, it shall be construed as being repealed by the Act of the Organization or Act of the Community to the extent of the inconsistency, unless it makes express provision indicating the intention that it shall not be so construed.
 (3) Where an Act of Parliament is inconsistent with an Act of the High Commission, an Act of the Organization or an Act of the Community enacted before it, it shall not be construed so as to repeal any part of the Act of the Organization or Act of the Community, unless it makes express provision indicating the intention that it shall have effect notwithstanding the Act of the High Commission, Act of the Organization or Act of the Community.
 (4) For the purposes of this section—
 (a) an Act shall be regarded as being enacted on the day upon which it has the force of law;
 where an Act of the Community and an Act of Parliament are enacted on the same day, the Act of Parliament shall be deemed to have been enacted after the Act of the Community; and
 (b) a reference in this section to an Act of Parliament includes a reference to any Act of the Legislature of Kenya.

Provisions to give effect to Articles 67 and 68 of Treaty.

- 11.** (1) Notwithstanding any other written law, the proportions of the amounts payable to—
 (a) the Distributable Pool Fund of the Community for the purposes of Article 67 of the Treaty; and
 (b) the General Fund of the Community for the purposes of Article 68 of the Treaty,
 that fall to be contributed by the Government of Kenya shall, to the extent that they are payable out of revenues collected by the Community under any law of Kenya or any Act of the High Commission, the Common Services Organization or the Community that has the force of law in Kenya, be so paid into the said Distributable Pool Fund or the General Fund, as the case may be, without further appropriation.
 (2) Payments from the Distributable Pool Fund of the Community for the purposes of Article 67 of the Treaty shall be made without further appropriation.
- 12.** The Attorney-General may, by order published in the Gazette at any time before the expiration of six months from the commencement of this Act, make such amendments to any Act of Parliament as

may appear to him to be necessary or expedient for the bringing of that Act into conformity with the Treaty or otherwise for giving effect or enabling effect to be given to the Treaty.

13. Paragraphs 4 and 5 of Article 3 of the Treaty (which relate to the immunities and privileges to be accorded to certain persons) shall have the force of law in Kenya.

14. Chapter X of Annex VI to the Treaty (which relates to the status, immunities and privileges to be accorded to the East African Development Bank) shall have the force of law in Kenya.

15. Rules of Procedure made under paragraph 2 of Article 42 of the Treaty by the Common Market Tribunal, established by Article 32 of the Treaty, shall, in relation to the summoning of witnesses, and the conduct of the proceedings of the Tribunal, have the force of law in Kenya.

16. (1) Notwithstanding Chapter XVI of the Treaty, the East African Authority shall have power, by decree published in the Gazette of the Community not later than the 31st December 1967, to enact legislation with respect to—

(a) services and facilities relating to rail, road and inland waterways transport and inland waterways ports, and the establishment of the East African Railways Corporation as an institution of the Community;

(b) harbour services and facilities, and the establishment of the East African Harbours Corporation as an institution of the Community,

(c) posts and telegraphs, telephones, radio communications and other associated matters, and the establishment of the East African Posts and Telecommunications Corporation as an institution of the Community;

(d) The establishment of the East African Airways Corporation as an institution of the Community, and matters incidental or relating thereto, and a decree so made shall have the force of law in Kenya and shall in all respects be deemed to be an Act of the Community.

(2) Every decree made under subsection (1) of this section shall be in conformity with and give effect to the Treaty, and nothing in any such decree shall be inconsistent with the Treaty.

17. The Court of Appeal for Eastern Africa established by the East African Common Services Organization Agreements 1961 to 1966 and the Court of Appeal for Eastern Africa Act 1962 of the Common Services Organization shall continue in being under the name of the Court of Appeal for East Africa and shall be deemed to have been established by the Treaty, notwithstanding the abrogation of those Agreements by the Treaty.

18. Notwithstanding any other written law, the sum of money which is equivalent to the sum of the balances of the General Fund of the Common Services Organization as at the closure of accounts on the 30th November 1967, except for moneys that are appropriated by Act of the Common Services Organization and after deducting the sum of twelve million shillings, shall be divided into three parts consisting of forty per cent, thirty per cent and thirty per cent and the Community shall pay the part consisting of forty per cent to the Government of the Republic of Kenya and the other parts one each to the Governments of the United Republic of Tanzania and the Sovereign State of Uganda.

19. If the Treaty is amended or modified, the Attorney-General shall cause a notice of the amendment or modification, and of the date when the amendment or modification comes or is deemed to have come into operation, to be published in the Gazette and a copy of the notice to be laid without delay before the National Assembly; and such amendment or modification shall, for the purposes of this Act, come or be deemed to have come into operation on such date.

20. (1) The Interpretation and General Provisions Act is amended as follows—

(a) in section 3 (1)—

(i) by deleting the definitions of “Act of the Organization”, “the Authority”, and “the Court of Appeal”;

(ii) by adding, in their appropriate alphabetical positions, the following new definitions—

“Act of the Community” means an Act of the Community enacted in accordance with Chapter XVI of the Treaty for East African Co-operation and having the force of law in

Kenya, and also means an Act of the East African Common Services Organization and an Act of the East Africa High Commission;

“the Community” means the East African Community established by the Treaty for East African Co-operation;

“the Court of Appeal” has the same meaning as in the Appellate Jurisdiction Act;

“the East African Authority” means the East African Authority established by the Treaty for East African Co-operation;

(iii) by deleting the words “the Authority or the Organization or any department” in the definition of “public body” and substituting therefor the words “Community or any department, institution”;

(iv) by deleting the word “Organization” in the definition of “applied law” and substituting therefor the word “Community”;

(b) in section 40, by deleting the words “the Organization or the Authority or to both of them, or to the purposes of the Organization or the Authority or of both of them, as the case may be” and substituting therefor the words “the Community or the purposes of the Community”;

(c) by repealing section 8

(2) section 2 of the Appellate Jurisdiction Act is amended by substituting for the definition of “the” court of Appeal” a new definition as follows-

“the Court of Appeal” means the Court of Appeal for East Africa referred to section 17 of the Treaty for East African CO-operation Act 1967,;

21. The East African Common Services Organization Act is repealed.

SCHEDULE

TREATY FOR EAST AFRICAN CO-OPERATION

WHEREAS the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya have enjoyed close commercial, industrial and other ties for many years:

AND WHEREAS provision was made by the East Africa (High Commission) Orders in Council 1947 to 1961 for the control and administration of certain matters and services of common interest to the said countries and for that purpose the East Africa High Commission and the East Africa Central Legislative Assembly were thereby established:

AND WHEREAS provision was made by the East African Common Services Organization Agreements 1961 to 1966 (upon the revocation of the East Africa (High Commission) Orders in Council 1947 to 1961) for the establishment of the East African Common Services Organization with the East African Common Services Authority as its principal executive authority and the Central Legislative Assembly as its legislative body:

AND WHEREAS the East African Common Services Organization has, since its establishment, performed on behalf of the said countries common services in accordance with the wishes of the said countries and its Constitution:

AND WHEREAS the said countries, while being aware that they have reached different stages of industrial development and resolved to reduce existing industrial imbalances, are resolved and determined to foster and encourage the accelerated and sustained industrial development of all of the said countries:

AND WHEREAS the said countries, with a view to strengthening the unity of East Africa, are resolved to abolish certain quantitative restrictions which at present affect trade between them and are desirous of pursuing a policy towards the most favourable development of the freest possible international trade:

And **whereas** the said countries having regard to the interests of and their desire for the wider unity of Africa are resolved to cooperate with one another and with other African countries in the economic, political and cultural fields:

AND WHEREAS the said countries are resolved to act in concert for the establishment of a common market with no restrictions in the long term on trade between such countries:

Now **therefore** the Government of the United Republic of Tanzania, the Government of the Sovereign State of Uganda and the Government of the Republic of Kenya Determined to strengthen their industrial, commercial and other ties and their common services by the establishment of an East African Community and of a Common Market as an integral part thereof

Agree as follows—

PART I—PRINCIPLES CHAPTER I—THE EAST AFRICAN COMMUNITY

Article 1—Establishment and membership of the Community

1. By this Treaty the Contracting Parties establish among themselves an East African Community and, as an integral part of such Community, an East African Common Market.
2. The East African Community is in this Treaty referred to as “the Community” and the East African Common Market is referred to as “the Common Market”.
3. The members of the Community, in this Treaty referred to as “the Partner States”, shall be the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya.

Article 2—Aims of the Community

1. It shall be the aim of the Community to strengthen and regulate the industrial, commercial and other relations of the Partner States to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities the benefits whereof shall be equitably shared.
2. For the purposes set out in paragraph 1 of this Article and as hereinafter provided in the particular provisions of this Treaty, the Community shall use its best endeavours to ensure—
 - (a) the establishment and maintenance, subject to certain exceptions, of a common customs tariff and a common excise tariff;
 - (b) the abolition generally of restrictions on trade between Partner States;
 - (c) the inauguration, in the long term, of a common agricultural policy;
 - (d) the establishment of an East African Development Bank in accordance with the Charter contained in Annex VI to this Treaty;
 - (e) the retention of freedom of current account payments between the Partner States, and freedom of capital account payments necessary to further the aims of the Community;
 - (f) the harmonization, required for the proper functioning of the Common Market, of the monetary policies of the Partner States and in particular consultation in case of any disequilibrium in the balances of payments of the Partner States;
 - (g) the operation of services common to the Partner States;
 - (h) the co-ordination of economic planning;
 - (i) the co-ordination of transport policy;
 - (j) the approximation of the commercial laws of the Partner States; and
 - (k) such other activities, calculated to further the aims of the Community, as the Partner States may from time to time decide to undertake in common.

Article 3—Institutions of the Community

1. The institutions of the Community (established and regulated by Parts III and IV of this Treaty) shall be—
 - the East African Authority
 - the East African Legislative Assembly
 - the East African Ministers
 - the Common Market Council
 - the Common Market Tribunal
 - the Communications Council
 - the Finance Council
 - the Economic Consultative and Planning Council
 - the Research and Social Council,and such other corporations, bodies, departments and services as are established or provided for by this Treaty.
2. The institutions of the Community shall perform the functions and act within the limits of the powers conferred upon them by this Treaty or by any law.
3. The institutions of the Community shall be assisted in the exercise of their functions by a central secretariat of officers in the service of the Community.
4. Persons employed in the service of the Community, the Corporations or the Bank, and directors and alternate directors of the Bank—
 - (a) shall be immune from civil process with respect to acts performed by them in their official capacity; and
 - (b) shall be accorded such immunities from immigration restrictions or alien registration, and where they are not citizens of a Partner State, such facilities in relation to exchange regulations, as the Authority may determine.
5. Experts or consultants rendering services to the Community, the Corporations or the Bank shall be accorded

such immunities and privileges in the Partner States as the Authority may determine.

Article 4—General undertaking as to implementation

The Partner States shall make every effort to plan and direct their policies with a view to creating conditions favourable for the development of the Common Market and the achievement of the aims of the Community and shall co-ordinate, through the institutions of the Community, their economic policies to the extent necessary to achieve such aims and shall abstain from any measure likely to jeopardize the achievement thereof.

PART II—THE EAST AFRICAN COMMON MARKET

Chapter II—External Trade

Article 5—Common customs tariff

1. The Partner States, recognizing that a common external customs tariff is a basic requirement of the Common Market and subject to paragraphs 2 and 3 of this Article, agree to establish and maintain a common customs tariff in respect of all goods imported into the Partner States from foreign countries.
2. A Partner State may, with the agreement of the Ministers of the Partner States responsible for public finance, depart from the common external customs tariff in respect of the importation of a particular item into that State.
3. The Partner States agree to undertake early consultations in the Common Market Council with a view to the abolition generally of existing differences in the external customs tariff.

Article 6—Remission of customs duty

1. The Partner States agree not to exempt, remit or otherwise relieve from payment of customs duty any goods originating in a foreign country and imported by the Government of a Partner State if—
 - (a) such goods are imported for the purpose of resale or for any purpose other than consumption or use by that Government; and
 - (b) in the case of goods provided by way of aid, by any government or organization, either *gratis* or on terms less stringent than those appropriate to ordinary commercial transactions, such goods are intended for the purpose of resale or consumption in, or are transferred to, any country other than the Partner State which is the recipient of such goods.
2. The Partner States agree that the Community and the Corporations shall be enabled to import free of customs duty any goods required for the purpose of their operations except such goods as are intended for sale, or are sold, to the public.

Article 7—External Trade Arrangements

No Partner State shall enter into arrangements with any foreign country where under tariff concessions are available to that Partner State which are not available to the other Partner States.

Article 8—Deviation of Trade Resulting from Barter Agreements

1. If as a result of any barter agreement involving a particular kind of manufactured goods, entered into between a Partner State or anybody or person therein, and a foreign country, or anybody or person therein, there is, in respect of that kind of manufactured goods, a significant deviation of trade away from goods coming from and manufactured in another Partner State to goods “imported in pursuance of that agreement, then the Partner State into which such goods are so imported shall take effective measures to counteract such deviation.
2. In paragraph 1 of this Article “barter agreement” means any agreement or arrangement by which manufactured goods are imported into a Partner State, being goods for which settlement may be effected, in whole or in part, by the direct exchange of goods.
3. In order to determine whether a deviation of trade in a particular kind of manufactured goods has occurred for the purposes of this Article, regard shall be had to all relevant trade statistics and other records concerning that kind of manufactured goods of the East African Customs and Excise Department for the six months immediately preceding a complaint that a deviation has occurred and to the average of the two comparable periods of six months in the twenty-four months which preceded the first importation of goods under the barter agreement.

Chapter III - Intra-East African Trade

Article 9—External Goods—General Principles

1. The Partner States agree that where customs duty has been charged and collected on any goods imported

into a Partner State (hereinafter in this paragraph referred to as “the importing State**) from a foreign country then such goods shall not be liable to further customs duty on transfer to any other Partner State (hereinafter referred to as “the receiving State”):

Provided that where the rate of customs duty applicable to such goods in the receiving State exceeds that charged and collected in the importing State any excess of duty so arising may be charged and collected.

2. Each of the Partner States shall grant full and unrestricted freedom of transit through its territory for goods proceeding to or from a foreign country indirectly through that territory to or from another Partner State; and such transit shall be subject to any discrimination, quantitative restrictions, duties or other charges levied on transit.

3. Notwithstanding paragraph 2 of this Article—

(a) goods in transit shall be subject to the customs laws; and

(b) goods in transit shall be liable to the charges usually made for carriage and for any services

which may be rendered, provided such charges are not discriminatory.

4. The Partner States agree that each Partner State shall be entitled to prohibit or restrict the import from a foreign country into it of goods of any particular description or derived from any particular source.

5. Where goods are imported from a foreign country into one Partner State, it shall be open to each of the other Partner States to restrict the transfer to it of such goods whether by a system of licensing and controlling importers or by other means:

Provided that, in the application of any restriction referred to in this paragraph, regard shall be had to the practicability of such restriction where goods have been repacked, blended, or otherwise processed.

6. The provisions of paragraphs 4 and 5 of this Article shall not apply to any goods which, under the provisions of Article 11 of this Treaty, fall to be accepted as goods originating in a Partner State.

Article 10—Customs Duty Collected to be Paid to Consuming State

1. Where any goods, which are imported into a Partner State from a foreign country and in respect of which customs duty has been charged and collected in that State (in this paragraph referred to as “the collecting State”) are transferred to one of the other Partner States (in this paragraph referred to as “the consuming State”), the following provisions shall apply—

(a) if the duty collected in the collecting State was a specific duty or if the goods are transferred to the consuming State in their original packages, the collecting State shall pay the full amount of the duty collected to the consuming State;

(b) if the duty collected in the collecting State was an *ad valorem* duty and the goods are transferred to the consuming State other than in their original packages, the collecting State shall pay to the consuming State an amount equal to 70 per cent of the duty which would have been payable if the value of the goods for duty had been taken to be the ordinary retail price; and for this purpose “ordinary retail price”* means the price at which the goods could be expected to sell at the time and place of their transfer to the consuming State:

Provided that the Authority may by order from time to time alter the amount to be paid by the collecting State to the consuming State under this subparagraph and the method of calculation thereof;

(c.) if the duty collected was an *ad valorem* duty and the goods are transferred other than in their original packages and an alteration of the relevant tariff has been made in the collecting State within a material time, then, for the purpose of calculating the sum to be paid under subparagraph (b) of this paragraph, duty shall be deemed to have been collected in accordance with the tariff actually in force six weeks before the transfer of the goods.

2. Where any goods, which are imported from a foreign country into a Partner State (in this paragraph referred to as “the importing State”) are chargeable to customs duty in that State, but the duty has been remitted either in whole or in part, and are subsequently transferred to one of the other Partner States (in this paragraph referred to as “the consuming State”) the importing State shall, notwithstanding the said remission, pay to the consuming State the amount which would have been paid to the consuming State in accordance with paragraph 1 of this Article had the duty been collected but to the extent only that such duty would have been chargeable and collected if the goods had been imported directly into the consuming State.

Article 11—No Internal Tariff on East African Goods

1. Except as is provided in paragraph 2 of this Article no Partner State shall impose a duty in the nature of a customs duty or import duty in respect of goods which are transferred to that Partner State from one of the other

Partner States and originate in the Partner States.

2. Paragraph 1 of this Article is subject to the rights and powers of Partner States to impose transfer taxes in accordance with and subject to the conditions contained in this Treaty.
3. For the purpose of this Treaty, goods shall be accepted as originating in the Partner States where—
 - (a) they have been wholly produced in the Partner States; or
 - (b) they have been produced in the Partner States and the value of materials imported from a foreign country or of undetermined origin which have been used at any stage of the production of the goods does not exceed 70 per cent of the ex-factory value of the goods.
4. Rules for the administration and application of this Article are contained in Annex I to this Treaty.
5. The Common Market Council shall from time to time examine whether the rules contained in Annex I to this Treaty can be amended to make them simpler and more liberal and to ensure their smooth and equitable operation, and the Authority may by order from time to time amend or add to Annex I.

Article 12—No Quantitative Restrictions on East African Goods

1. Except as is provided in this Article, each of the Partner States undertakes that, at a time not later than the coming into force of this Treaty, it will remove all the then existing quota, quantitative or the like restrictions or prohibitions which apply to the transfer to that State of goods originating in the other Partner States (including agricultural products) and, except as may be provided for or permitted by this Treaty, will thereafter refrain from imposing any further restrictions or prohibitions:

Provided that this paragraph shall not preclude a Partner State introducing or continuing or executing restrictions or prohibitions affecting—

- (a) the application of security laws and regulations;
- (b) the control of arms, ammunition and other war equipment and military items;
- (c) the protection of human, animal or plant health or life, or the protection of public morality;
- (d) transfers of gold, silver and precious and semi-precious stones;
- (e) the control of nuclear materials, radio-active products or any other material used in the development or exploitation of nuclear energy; or
- (f) the protection of its revenue where another Partner State has, in accordance with paragraph 2 of Article 17 of this Treaty, departed from a common excise tariff.

2. It is agreed that each of the Partner States shall have the right to impose restrictions and prohibitions against the transfer of goods from the other Partner States which originate in the other Partner States, in so far as may be necessary from time to time to give effect to the contractual and other obligations entered into by each of the States and listed in Annex II to this Treaty.

3. It is agreed that each of the Partner States shall have the right to impose quantitative restrictions or prohibitions in respect of certain agricultural products in the circumstances provided for by Article 13 of this Treaty.

4. If a Partner State encounters balance of payment difficulties, taking into account its overall position, that Partner State may, for the purpose only of overcoming such difficulties, impose quantitative restrictions on the goods of the other Partner States, subject to the following conditions being satisfied, namely that—

- (a) the proposed quantitative restrictions do not contravene its obligations under the General Agreement on Tariffs and Trade or its obligations under the rules of the International Monetary Fund; and
- (b) restrictions have been imposed on the import of goods from foreign countries and are inadequate to solve the difficulties; and
- (c) the restrictions imposed under this paragraph shall in no case operate against the goods of Partner States more unfavourably than the restrictions imposed on the goods of foreign countries; and
- (d) consultation concerning the proposed quantitative restrictions has first taken place within the Common Market Council and thereafter, while such restrictions remain in force, the Common Market Council shall keep the operation thereof under review.

Article 13—Exception for certain agricultural products

1. Notwithstanding the obligation of the Partner States in respect of agricultural products referred to in paragraph 1 of Article 12 of this Treaty, it is declared that each of the Partner States shall, to the extent set out in

Annex III to this Treaty, have the right to impose quantitative restrictions against the transfer of the agricultural products of the other Partner States which are basic staple foods or major export crops, subject to special marketing arrangements and listed in that Annex.

2. The Authority may from time to time amend or add to Annex III to this Treaty.

Article 14—Long-term aim as to agriculture

Notwithstanding Articles 12 and 13 of this Treaty, it is declared that, in the long term, it is the aim and intention of the Partner States that the provisions of this Treaty relating to the establishment and maintenance of the Common Market should extend to agriculture and trade in agricultural products and that the development of the Common Market in respect of agricultural products should be accompanied by co-operation and consultation in the field of agricultural policy among the Partner States so that in particular, within the framework of the Community, trade arrangements between the national agencies or marketing boards of the Partner States may be entered into directly within a single system of prices and a network within the Partner States as a whole of marketing services and facilities.

Article 15—Customs duty on goods used in manufacture

1. Where goods which are imported into a Partner State from a foreign country and in respect of which customs duty is charged and collected in that State (in this Article referred to as “the collecting State”) are wholly or in part used in the collecting State in the manufacture of other goods (in this Article referred to as “the manufactured goods”*), and the manufactured goods are subsequently transferred to another Partner State (in this Article referred to as “the consuming State”), the collecting State shall pay to the consuming State the full amount of the duty collected in the collecting State in respect of the goods imported into the collecting State and used in the manufacture of the manufactured goods subsequently transferred to the consuming State.

2. Where goods which are imported into a Partner State (in this paragraph referred to as “the importing State”) from a foreign country are chargeable to customs duty in that State but the duty has been remitted either in whole or in part and the goods are wholly or in part used in the importing State in the manufacture of other goods (in this paragraph referred to as “the manufactured goods”), and the manufactured goods are subsequently transferred to another Partner State (in this paragraph referred to as “the consuming State”), the importing State shall, notwithstanding the said remission, pay to the consuming State the amount of the duty chargeable in respect of goods imported into the importing State and used in the manufacture of the manufactured goods subsequently transferred to the consuming State to the extent that such duty would have been chargeable and collected if the goods had been imported into the consuming State.

3. Notwithstanding paragraphs 1 and 2 of this Article, if the value of the imported goods which are used in the manufacture of any manufactured goods transferred as a separate consignment is less than one hundred shillings in the currency of the State of manufacture, then in that case only no payment of duty shall be made to the consuming State under this Article.

Article 16—Discriminatory practices

1. The Partner States recognize that the following practices are incompatible with this Treaty to the extent that they frustrate the benefits expected from the removal or absence of duties and quantitative restrictions on trade between the Partner States—

(a) one channel marketing;

(b) discriminatory rates of taxes, duties or other charges levied in a Partner State on any goods originating in another Partner State;

(c) dumping; and

(d) Discriminatory purchasing.

1. In paragraph 1 of this Article—

(a) “one channel marketing” means any arrangement for the marketing of goods, whether regulated by law or otherwise, which, by limiting the channels by which such goods may be marketed, has effect to exclude competition in the marketing of such goods;

(b) “discriminatory rates of taxes, duties or other charges” means rates of taxes, duties or other charges imposed upon goods by a Partner State which place such goods in an unfavourable position with regard to sale by comparison with similar goods originating in that Partner State or imported from any other country;

(c) “dumping” means the transfer of goods originating in a Partner State to another Partner State for sale—

- (i) at a price less than the comparable price charged for similar goods in the Partner State where such goods originate (due allowance being made for the differences in the conditions of sale or in taxation or for any other factors affecting the comparability of prices); and
- (ii) under circumstances likely to prejudice the production of similar goods in that Partner State; and discriminatory purchasing” means any arrangement or practice whereby a Partner State or any body or person therein gives preference to the purchase of goods originating from a foreign country when suitable goods originating within the Partner States are available on comparable terms including price.

CHAPTER IV—EXCISABLE GOODS

Article 17—Common excise tariff

1. Subject to paragraphs 2 and 3 of this Article, the Partner States agree to establish and maintain a common excise tariff in respect of excisable goods manufactured, processed or produced in the Partner States.
2. For revenue purposes, a Partner State may, in special circumstances and after consultation between the Ministers of the Partner States responsible for public finance, depart from the common excise tariff in respect of the manufacture, processing or production of particular excisable goods in that State:
Provided that a Partner State before acting under this paragraph shall have due regard to the administrative practicability of enforcing the departure contemplated and to whether the proposed departure would be likely to affect detrimentally the proper functioning of the Common Market.
3. The Partner States acknowledge their intention to remove presently existing differences in the excise tariff which the Common Market Council may determine to be undesirable in the interests of the proper functioning of the Common Market.

Article 18—Excise duty to be paid to consuming State

1. Where goods which are liable to excise duty in one of the Partner States (in this Article referred to as “the collecting State”) are transferred to another Partner State (in this Article referred to as “the consuming State”) the East African Customs and Excise Department shall collect excise duty either at the rate in force in respect of the collecting State or, where the rate in force in respect of the consuming State is higher than that in force in respect of the collecting State, at that rate.
2. Where the rate of excise duty in force in respect of the consuming State is lower than that in force in respect of the collecting State, the owner or other transferor of goods referred to in paragraph 1 of this Article shall receive from the East African Customs and Excise Department, on proof of transfer to the consuming State, a refund of the difference between those rates of duty.
3. The East African Customs and Excise Department shall, in respect of goods liable to excise duty transferred from the collecting State to the consuming State, pay to the consuming State the amount of the excise duty collected at the rate in force in that State.

CHAPTER V—MEASURES TO PROMOTE BALANCED INDUSTRIAL DEVELOPMENT

Article 19—Fiscal incentives

The Partner States declare that they shall use their best endeavours to agree upon a common scheme of fiscal incentives towards industrial development which shall apply within the Partner States.

Article 20—Transfer tax

1. As a measure to promote new industrial development in those Partner States which are less developed industrially transfer taxes may, with the aim of promoting industrial balance between the Partner States, be imposed, notwithstanding paragraph 1 of Article 11 of this Treaty, in accordance with and subject to the conditions and limitations imposed by this Treaty.
2. In this Article, “manufactured goods” means the goods defined, or otherwise listed, in Annex IV to this Treaty. The Authority may by order from time to time amend or add to Annex IV.
3. Subject to this Article, a Partner State which is in deficit in its total trade in manufactured goods with the other two Partner States may impose transfer taxes upon manufactured goods which are transferred to that State and originate from either of the other Partner States.
4. Subject to this Article, a Partner State may impose transfer taxes upon the manufactured goods of a Partner State being goods of a value not exceeding the amount of the deficit in trade in manufactured goods between the State which is imposing the transfer tax and the State of origin of the goods upon which the tax is to be imposed.

5. For the purposes of paragraphs 3 and 4 of this Article the deficit in trade in manufactured goods between Partner States shall at any time be taken to be that indicated in the most recently published annual trade statistics produced by the East African Customs and Excise Department and where, in any particular case, the manufactured goods of a Partner State upon which a transfer tax may under this Article be imposed are not readily identifiable within the trade statistics referred to in this paragraph, the Common Market Council may determine the extent to which any goods comprised in such statistics contribute to the amount of any deficit in any trade.

6. A Partner State may impose a transfer tax upon manufactured goods only if at the time the tax is imposed goods of a similar description are being manufactured in that State or are reasonably expected to be manufactured in that State within three months of the imposition of the tax, and for the purposes of this paragraph goods shall be deemed to be of a similar description to other goods if, in addition to similar function, constituent parts or content, they are of such a nature as will enable them actively to compete in the same market as those other goods:

Provided that this paragraph shall not preclude the imposition, but not the bringing into operation, of a suspended transfer tax at any time:

Provided further that, if a transfer tax is imposed in the reasonable expectation that the manufacture of particular goods will commence within three months of the imposition of the tax and such manufacture does not commence within that period—

(a) the Partner State imposing the transfer tax shall, within twenty-one days, revoke it unless, before the expiration of that period, that Partner State has obtained the directive of the Common Market Council that, conditional upon the commencement of manufacture within a further period of three months, the revocation of such tax may be deferred for such further period;

(b) notwithstanding that a transfer tax has been revoked, for the reason that the Common Market Council has not within three months of the imposition of such tax given the directive referred to in subparagraph (a) of this proviso, it shall be competent to that Council, where application in that behalf has been made by a Partner State within three months of the imposition of such tax, to direct that, conditional upon the commencement of manufacture within a further period of three months, such tax may be reimposed.

7. A Partner State may impose a transfer tax upon a particular kind of manufactured goods only if at the time the tax is imposed, or within three months thereafter if the tax is imposed in the reasonable expectation that the manufacture of such goods will commence within three months, the industry within the tax imposing State has the capacity to produce in the ensuing year—

(a) a quantity of goods equivalent to not less than 15 per cent of the domestic consumption within that Partner State of goods of that particular kind in the period of twelve months immediately preceding the imposition of the tax; or

(b) goods of that particular kind having an ex-factory value of not less than 2,000,000 shillings.

8. The rate of transfer tax shall be determined by the Partner State which imposes it, but the rate for a particular item shall not exceed—

(a) where the duty is chargeable *ad valorem* or *ad valorem* as an alternative to the specific duty, 50 per cent of the rate of duty prescribed by the customs tariff of the tax imposing State in respect of the import of the same kind of item; or

(b) where the duty is a specific duty with no alternative *ad valorem*, 50 per cent of the *ad valorem* equivalent of the specific duty; but if the same kind of item is not chargeable with any duty no transfer tax may be imposed.

9. For the purposes of paragraph 8 of this Article, the *ad valorem* equivalent of the specific duty on a particular item shall be the percentage which is equivalent to that proportion which the aggregate of the duties collected on all items of that kind imported into the tax imposing State in a period of one year bears to the total value of those items, calculated from the date used in compiling the most recently published annual trade statistics produced by the East African Customs and Excise Department:

Provided that, if in the course of the period covered by such annual trade statistics the relevant rate of specific duty was altered, the *ad valorem* equivalent of the specific duty shall be calculated with reference only to imports entered after the alteration of the rate of duty:

Provided further that, in the calculation of the *ad valorem* equivalent of the specific duty, no account shall be taken of manufactured goods which have been either exempted from the payment of customs duty or in respect of which the customs duty has been remitted:

Provided further that, in relation to goods subject to specific duty with no alternative *ad valorem*, where there has been no importation of such goods into the tax imposing State and consequently no *ad valorem* equivalent can be determined, the rate of transfer tax shall not exceed 50 per cent of the specific duty thereon.

Where, in accordance with this Article, a Partner State has imposed a transfer tax upon manufactured

goods and subsequently the rate of customs duty chargeable in that State on goods of the same kind is reduced, so that by virtue of paragraph 8 of this Article the tax falls to be

10. reduced, that State shall, within twenty-one days of such reduction, reduce the tax accordingly: Provided that, where the relevant item in the customs tariff is expressed only as a specific duty, the obligation to reduce the tax shall be performed as soon as the *ad valorem* equivalent of the specific duty as defined in paragraph 9 of this Article can be recalculated, on the basis of statistics produced by the East African Customs and Excise Department, in respect of imports into the tax imposing State for a period of three months following the reduction in the customs tariff.

11. Transfer tax shall be assessed on the value of the manufactured goods upon which it is imposed, which shall be taken to be the value set out in Annex V to this Treaty:

Provided that, in the case of manufactured goods transferred under a contract of sale and entered for the payment of transfer tax, tax shall be deemed to have been paid on that value if, before the goods are released after transfer, tax is tendered and accepted on a declared value based on the contract price and for the purposes of this provision

(a) the declared value of any goods shall be their value as declared by or on behalf of the buyer in the country to which the goods are being transferred in making entry of the goods for transfer tax;

(b) that value shall be deemed to be based on the contract price if, but only if, it represents that price properly adjusted to take account of circumstances differentiating the contract from such contract of sale as is contemplated by Annex V to this Treaty; and

(c) the rate of exchange to be used for determining the equivalent in the currency of the country to which the goods are transferred of any foreign currency shall be the current selling rate for sight drafts in the country to which the goods are transferred as last notified before the time when the goods are entered for transfer:

Provided further that, where under Article 15 of this Treaty the Partner State in which the goods are manufactured is liable to pay to the Partner State which has imposed the transfer tax the full amount of customs duty collected in respect of goods imported and used in the manufacture of the manufactured goods, the amount of such duty paid over shall be deducted from the value provided for by this Article:

Provided further that, where under Article 18 of this Treaty the Partner State in which the goods are manufactured is liable to pay to the Partner State which has imposed the transfer tax the full amount of excise duty collected in respect of goods manufactured or processed or used in the manufacture of the manufactured goods, the amount of such duty paid shall be deducted from the value provided for by this Article.

12. The Authority may from time to time make rules for the administration and operation of paragraph 11 of this Article and of Annex V to this Treaty and may from time to time amend or add to such rules.

13. Subject to this Treaty, the assessment, collection, administration and management generally of all transfer taxes imposed under this Treaty shall be performed by the East African Customs and Excise Department, but the costs and expenses thereof, including any costs and expenses incurred in establishing the system of such assessment and collection, shall be borne by the Partner States which impose such transfer taxes in such manner as the Finance Council may from time to time determine.

14. Every transfer tax shall expire, unless sooner revoked, eight years after the date of its first imposition; and for the purposes of this paragraph no regard shall be had, in the case of a suspended transfer tax, to the date when, if at all, such tax is brought into operation.

15. Every transfer tax imposed under this Treaty shall be revoked fifteen years after the coming into force of this Treaty unless such tax has sooner expired.

16. Notwithstanding paragraphs 14 and 15 of this Article, the Partner States agree that, for the purpose of evaluating the effectiveness of the transfer tax system as an instrument for attaining the aims of the Community, and in particular its effectiveness as a measure to promote a more balanced industrial development, they will undertake joint consultations to review and reappraise the system five years after the first imposition of a transfer tax under this Treaty.

17. If, as a result of a Partner State imposing a transfer tax upon a particular kind of manufactured goods, there is, in respect of manufactured goods of that kind coming into the Partner State which has imposed the transfer tax, a significant deviation of trade away from goods coming from and manufactured in the Partner State whose goods are subject to the transfer tax, to goods imported from a foreign country, then the Partner State which has imposed the transfer tax shall take measures to counteract such deviation and the other Partner States shall, where appropriate, take steps, in cooperation with that Partner State, to make such measures effective.

18. In order to determine whether a deviation of trade in a particular kind of manufactured goods has occurred for the purpose of paragraph 17 of this Article, regard shall be had to the information concerning that kind of manufactured goods in the trade statistics of the East African Customs and Excise Department (or otherwise

recorded by that Department) for the six months immediately preceding a complaint that a deviation has occurred and to the average of the two comparable periods of six months in the twenty-four months which preceded the imposition of the transfer tax.

19. If a transfer tax is imposed by a Partner State upon a particular kind of manufactured goods originating in one of the other Partner States, and subsequently not less than 30 per cent of the total ex-factory value of sales, in any period of twelve months, of manufactured goods of that kind originating in the tax imposing State is sold for transfer to the other Partner States, the transfer tax shall be revoked.

20. If a transfer tax is imposed by a Partner State upon a particular kind of manufactured goods originating in the other Partner States, or one of them, and subsequently not less than 30 per cent of the total ex-factory value of sales, in any period of twelve months, of manufactured goods of that kind originating in the tax imposing State is sold for transfer to the other Partner States or to a foreign country, a Partner State may, if it considers that in the circumstances the tax ought not to continue in force, having regard to all relevant matters and to this Treaty, raise the matter within the Common Market Council and the Council may direct that the Partner State which imposed the tax shall revoke it.

21. If a partner state which is entitled to impose transfer taxes transfers to the other States in any year beginning on the 1st January manufactured goods originating in that partner state and amounting in total value to not less than 80 percent of the total value (measured on a fair and comparable basis in accordance with the annual trade statistics produced by the East African Customs and Excise Department) of manufactured goods transferred into that partner state from the other partner states during that year (and originating in those partner states), that partner state shall not thereafter be entitled to impose any new transfer tax or bring any suspended transfer tax into operation, but this paragraph shall not affect any subsisting transfer tax.

22. If a transfer tax is imposed by a Partner State upon a particular kind of manufactured goods, the manufacture of which is regulated under East African Industrial Licensing laws in operation in the Partner States (or any laws which may be enacted in replacement of those laws in pursuance of Article 23 of this Treaty), the Partner State whose goods are subject to the transfer tax may, if it considers that there are such exceptional circumstances that the tax ought not to continue in force, having regard to all relevant matters and to this Treaty, raise the matter within the Common Market Council and if the Council after due consideration finds that such circumstances exist the Partner State which imposed the tax shall revoke it.

23. Each Partner State shall take effective action to prevent manufactured goods originating in a Partner State being transferred to another Partner State at a price lower than their true value if such transfer is likely to prejudice the production of similar goods by that other Partner State or retard or prevent the establishment of an industry to produce such goods in that State.

24. For the purpose of paragraph 23 of this Article—

(a) manufactured goods shall be considered to be transferred at a price lower than their true value if, due allowance having been made in each case for differences in conditions of sale, taxation or for any other factors affecting the comparability of prices, their price on transfer is less than—

(i) the comparable price, in ordinary trading conditions, of similar goods destined for domestic consumption in the State in which they were produced; or

(ii) the comparable price of similar goods on their export to a foreign country in ordinary trading conditions; or

(iii) the cost of production of the goods in the Partner State where they are produced, together with a reasonable addition in respect of distribution and sales costs and profit; and

(b) “effective action” shall include the making available of facilities

for inquiry relating to any allegation, by a Partner State, of transfer of goods to that Partner State at a price lower than the true value of such goods and where, on reference to the

Common Market Council, the fact of such transfer at such lower value has been established, the taking of such measures as, in relation to any industry, shall be calculated to prevent its recurrence.

25. No Partner State shall directly or indirectly subsidize the transfer of any manufactured goods from that Partner State, or establish, maintain or support any system whereby such goods are sold for transfer to another Partner State at a price lower than the comparable price charged for similar goods on the domestic market, due allowance being made for differences in the conditions of sale or in taxation and for any other factors affecting the comparability of prices.

For the purpose of paragraph 25 of this Article, tax incentives or refunds

26. of a general and non-discriminatory nature granted by a Partner State with a view to encouraging production

within that State of goods shall not constitute a transfer subsidy, provided they do not frustrate the purpose of the transfer tax system and are not inconsistent with this Treaty.

27. The Partner States agree that no transfer tax may be imposed upon manufactured goods which are required by the Community or by any of the Corporations for the purpose of their operations, otherwise than upon such goods as are intended for sale, or are sold, to the public.

Article 21—Establishment of the East African Development Bank

1. There is hereby established a Development Bank, to be known as the East African Development Bank.
2. The East African Development Bank is in this Treaty referred to as “the Bank”.

Article 22 – charter of the bank

The charter of the bank shall be that set out in Annex VI to this treaty
Chapter vi- industrial licensing

Article 23 – present system to continue

1. Subject to this article, the partner states agree to continue the industrial licensing system formulated in the three East African industrial licensing laws now in operation in the partner states, whereby the manufacture of certain articles scheduled under the said laws is regulated and the East African Industrial Council is empowered to grant industrial licenses in respect of the manufacture of such articles.
2. It is agreed that the industrial licensing system shall continue until the expiration of twenty years from the commencement of the said East African Industrial Licensing Laws.
3. It is agreed that no additions shall be made to the schedules of articles, the manufacture of which is subject to industrial licensing under the said East African Industrial Licensing Laws.
4. Subject to paragraph 5 of this Article, the Partner States agree to support the early replacement of the said East African Industrial Licensing laws by one law to be introduced into the East African Legislative Assembly for enactment as an Act of the Community.
5. It is agreed that the law proposed in paragraph 4 of this Article shall generally be in similar terms to the said East African Industrial Licensing laws, except that an appeal shall lie to the Industrial Licensing Appeal Tribunal on a matter of law only.

CHAPTER VII—CURRENCY AND BANKING

Article 24—No exchange commission

The Partner States undertake to make arrangements through their central banks, subject only to exchange control laws and regulations which do not conflict with this Treaty, whereby—

(a) their respective currency notes shall be exchanged without undue delay within the territories of the Partner States at official par value without exchange commission:

Provided that the Finance Council may at its discretion authorize the central banks to make such charge, upon the exchange of currency, as will be sufficient only to meet the cost of transfer of such currency to the Partner State of its origin; and

(b) remittances may be effected without undue delay between the Partner States at official par value of the respective currencies, that is to say without exchange commission.

Article 25—Payments and capital transfers

1. Each Partner State undertakes to permit, in the currency of the Partner State in which the creditor or beneficiary resides, all *bona fide* payments on current account falling within the definition of current account payments set out in Annex VII to this Treaty, and undertakes to ensure that all necessary permissions and authorities are given without undue delay.

2. Each Partner State undertakes to permit payments and transfers on capital account except to the extent that a Partner State may consider that control of certain categories of such payments and transfers is necessary for furthering its economic development and an increase in trade consistent with the aims of the Community:

Provided that no such control shall be imposed by a Partner State in such a manner as to prejudice the ability of the Community, the Bank or the Corporations to perform the functions conferred upon any of them by this Treaty or under any law.

3. The Authority may from time to time by order amend or add to Annex VII to this Treaty.

Article 26—Inter-State settlements

The central banks of the Partner States shall open accounts with each other over which settlements shall be selected between them in a currency acceptable to the creditor.

Article 27—Economic and monetary policy

1. Each of the Partner States agrees to pursue an economic policy aimed at ensuring the equilibrium of its overall balance of payments and confidence in Us currency.
2. The Partner States will endeavour to harmonize their monetary policies to the extent required for the proper functioning of the Common Market and the fulfillment of the aims of the Community, and for this purpose agree that the Governors of the three central banks shall meet at least four times in every year to consult, and to co-ordinate and review their monetary and balance of payments policies.

Article 28—Reciprocal credits

1. If a Partner State is in difficulties as regards its balance of payments and has already exercised its drawing rights under the first credit tranche beyond the gold tranche with the International Monetary Fund, such State may, from time to time, request assistance in the way of credits for balance of payments support from any other Partner State with which it had a payments deficit in the last period of twelve months for which information is available and, subject to this Article, such a request shall be granted. Credits granted under this Article shall be in the currency of the Partner State granting the credits.
2. A Partner State shall not be obliged by this Article to allow credits at any one time to be outstanding in excess of an amount equivalent to the value of one-sixth of the goods transferred from the Partner State granting the credits to the recipient Partner State in the last period of twelve months for which information is available.
3. Except by agreement, a Partner State shall not be obliged by this Article to grant credits which in any year beginning on the 1st January exceed in total one-twelfth of the value of the goods transferred from the Partner State granting the credits to the recipient Partner State in the preceding year.
4. Credits granted in pursuance of this Article shall be for a period not exceeding three years and interest shall be paid half-yearly on the amounts outstanding at the rate of 4 per cent per annum for the first year, 5 per cent per annum for the second year and 6 per cent per annum for the third year.

CHAPTER VIII—CO-OPERATION IN OTHER RESPECTS

Article 29—Co-operation In particular fields

The Partner States declare their intention to consult with one another through the appropriate institutions of the Community for the purpose of co-ordinating their respective policies in such fields of governmental activity as they may, from time to time, consider necessary or desirable for the efficient and harmonious functioning and development of the Common Market, and in particular, but without prejudice to the generality of the foregoing declaration, the Partner States agree—

- (a) that the Tax Board established by Article 88 of this Treaty shall, if requested by any Partner State, render assistance in the study of and correlation between taxes managed and collected by the Community and taxes managed and collected directly by authorities in that Partner State, and shall render such further assistance in matters appertaining to fiscal planning as may be desired by any Partner State;
- (b) that the Counsel to the Community shall advise the Partner States on, and endeavour to promote, the harmonization of the commercial laws in operation in the Partner States;
- (c) that it is their intention to co-operate in the co-ordination of their surface transport policies and to consult thereon within the Communications Council as may from time to time be desirable; and
- (d) in order to assist their respective national planning, to engage in consultations within the Economic Consultative and Planning Council and between the planning authorities of each of the Partner States and those of the Community.

PART III—PRINCIPAL COMMON MARKET MACHINERY

Chapter IX—The Common Market Council

Article 30—Responsibilities of the Common Market Council It shall be the responsibility of the Common Market Council established by Article 53 of this Treaty—

- (a) to exercise such powers and perform such duties as are conferred or imposed upon it by this Treaty;
- (b) to ensure the functioning and development of the Common Market in accordance with this Treaty and to keep its operation under review;
- (c) to settle problems arising from the implementation of this treaty concerning the Common Market;
- (d) to receive and consider references making, refuting or concerning allegations as to the breach of any

obligation under this Treaty in relation to the Common Market or as to any action or omission affecting the Common Market alleged to be in contravention of this Treaty and determine every such reference as follows—

- (i) by issuing a binding directive to a Partner State or States; or
 - (ii) by making recommendations to a Partner State or States; or
 - (iii) by recording that the reference shall be deemed to be abandoned, settled or otherwise disposed of; or
 - (iv) by recording an inability to agree in relation to the reference;
- (e) to consider what further action should be taken by Partner States and the Community in order to promote the attainment of the aims of the Community and to facilitate the establishment of closer economic and commercial links with other States, associations of States or international organizations;
- (f) to request advisory opinions from the Common Market Tribunal in accordance with this Treaty.

Article 31—Common Market functions of the central secretariat

1. The central secretariat shall keep the functioning of the Common Market under continuous examination and may act in relation to any particular matter which appears to merit examination either on its own initiative or upon the request of a Partner State made through the Common Market Council and the central secretariat shall, where appropriate, report the results of its examination to the Common Market Council.
2. The central secretariat shall undertake such work and studies and perform such service relating to the Common Market as may be assigned to it by the Common Market Council, and shall also make such proposals thereto as it considers may assist in the efficient and harmonious functioning and development of the Common Market.
3. For the performance of the functions imposed upon it by this Article, the central secretariat may collect information and verify matters of fact relating to the functioning of the Common Market and for that purpose may request a Partner State to provide information relating thereto.
4. The Partner States agree to co-operate with and assist the central secretariat in the performance of the functions imposed upon it by this Article and agree in particular to provide any information which may be requested under paragraph 3 of this Article.

CHAPTER X—THE COMMON MARKET TRIBUNAL

Article 32—Establishment of the Common Market Tribunal

1. There is hereby established a judicial body, to be known as the Common Market Tribunal, which shall ensure the observance of law and of the terms of this Treaty in the interpretation and application of so much of this Treaty as appertains to the Common Market.
2. The Common Market Tribunal is in this Treaty referred to as “the Tribunal”.

Article 33—Composition of the Tribunal

1. Subject to this Article, the Tribunal shall be composed of a Chairman and four other members, all of whom shall be appointed by the Authority.
2. The Chairman of the Tribunal shall be chosen from among persons of impartiality and independence who fulfill the conditions required for the holding of the highest judicial office in their respective countries of domicile or who are jurists of a recognized competence of the members of the Tribunal other than the Chairman, each of the Partner States shall choose one, and the fourth shall be chosen by the Chairman and the other three members acting in common agreement.
3. The members chosen under paragraph 3 of this Article shall be chosen from among persons of impartiality and independence who are qualified for appointment by reason of their knowledge or experience in industry, commerce or public affairs.

Article 34—Term of office and temporary membership of the Tribunal

1. The Chairman and the other members of the Tribunal shall hold office for such period, being not less than three years, as may be determined in their respective instruments of appointment, and in fixing such periods of office regard shall be had to the desirability of securing a measure of continuity in the membership of the Tribunal.
2. All members of the Tribunal shall be eligible for reappointment.
3. If a member of the Tribunal is temporarily absent or otherwise unable to carry out his functions, the Authority shall, if such absence or inability to act appears to the Authority to be likely to be of such duration as to cause a significant delay in the work of the Tribunal, appoint a temporary member chosen in the same manner as was the absent or disabled member in accordance with Article 33 of this Treaty, to act in place of the said member.

4. If a member of the Tribunal, other than the Chairman, is directly or indirectly interested in a case before the Tribunal, he shall immediately report the nature of his interest to the Chairman, who, if he considers that the member's interest is such that it would be undesirable for him to take part in that case, shall make a report to the Authority; and the Authority shall appoint a temporary member, chosen in the same manner as was the interested member, to act for that case only in place of the interested member.
5. If the Chairman is directly or indirectly interested in a case before the Tribunal he shall, if he considers that the nature of his interest is such that it would be undesirable for him to take part in that case, make a report to the Authority; and the Authority shall appoint a temporary Chairman, chosen in the manner as was the substantive Chairman, to act as Chairman for that case only in place of the substantive Chairman.
6. A temporary Chairman or temporary member appointed under this Article shall have, during the period he is acting, all the functions of the Chairman or member, as the case may be.

Article 35—Competence of the Tribunal

The Tribunal shall be competent to accept and adjudicate upon all matters which pursuant to this Treaty may be referred to it, and shall also possess the jurisdiction specifically conferred on it by this Chapter.

Article 36—References to the Tribunal by a Partner State

1. Where a Partner State has made a reference to the Common Market Council in pursuance of paragraph (d) of Article 30 of this Treaty, and the reference has not been determined by the Common Market Council in accordance with that paragraph within one month of the reference being made, that Partner State may refer the matter in dispute to the Tribunal.
2. Where a reference has been made to the Common Market Council in pursuance of paragraph (d) of Article 30 of this Treaty and the reference has been determined by the Council by recording an inability to agree in relation to the reference, a Partner State which is aggrieved by such determination may within two months thereof refer the matter in dispute to the Tribunal.
3. Where a reference has been made to the Common Market Council in pursuance of paragraph (d) of Article 30 of this Treaty, and a binding directive has been issued by the Common Market Council to a Partner State, and in the opinion of one of the other Partner States that directive is not complied with by the Partner State to which it is directed within the period fixed therein, that other Partner State may refer the question of such non-compliance to the Tribunal.

Article 37—Decisions of the Tribunal

1. The Tribunal shall consider and determine every reference made to it by a Partner State pursuant to this Treaty in accordance with the Statute of the Common Market Tribunal and its rules of procedure, and shall deliver in public session a reasoned decision which, subject to the provisions of the said Statute as to rectification and review, shall be final and conclusive and not open to appeal:
Provided that, if the Tribunal considers that in the special circumstances of the case it is undesirable that its decision be delivered in public, the Tribunal may make an order to that effect and deliver its decision before the parties privately.
2. The Tribunal shall deliver one decision only in respect of every reference to it, which shall be the decision of the Tribunal reached in private by majority verdict. In the event of the members of the Tribunal being equally divided, the Chairman shall have a casting vote.
3. If a member of the Tribunal does not agree with the majority verdict reached in respect of any reference, he shall not be permitted to deliver a dissenting opinion nor record his dissent in public.

Article 38—Advisory opinions of the Tribunal

The Common Market Council may request the Tribunal to give an advisory opinion regarding questions of law arising from the provisions of this Treaty affecting the Common Market, and the Partner States shall in the case of every such request have the right to be represented and take part in the proceedings.

Article 39—Interim orders and directions of the Tribunal

The Tribunal may, in any case referred to it, make any interim order or issue any directions which it considers necessary or desirable.

Article 40—Intervention

A Partner State which is not a party to a case before the Tribunal may intervene in that case, but its submissions shall be limited to supporting or opposing the arguments of a party to the case.

Article 41—Acceptance of the Tribunal's decisions

1. The Partner States undertake not to submit a dispute concerning the interpretation or application of this Treaty, so far as it relates to or affects the Common Market, to any method of settlement other than those provided for in this Treaty.
2. Where a dispute has been referred to the Common Market Council or to the Tribunal, the Partner States shall refrain from any action which might endanger the solution of the dispute or might aggravate the dispute.
3. A Partner State shall take, without delay, the measures required to implement a decision of the Tribunal.

Article 42—Statute and Rules of the Tribunal

1. The Statute of the Tribunal shall be that set out in Annex Vm to this Treaty.
2. The Tribunal shall, after consultation with the Common Market Council, make its rules of procedure and may in like manner from time to time amend or add to any such rules.

PART IV—THE FUNCTIONS OF THE EAST AFRICAN COMMUNITY AND ITS INSTITUTIONS

Chapter XI—Functions and Procedure

Article 43—Functions of the Community

1. The Community shall, on behalf of the Partner States, through its appropriate institutions, perform the functions given to it, and discharge the responsibilities imposed upon it, by this Treaty in relation to the establishment, functioning and development of the Common Market.
2. (a) The Community shall, on behalf of the Partner States, administer the services specified in Part A of Annex IX to this Treaty, and for that purpose shall, subject to this Treaty, take over from the Common Services Organization such of those services as are in existence at the date of the coming into force of this Treaty.
(b) The Authority may by order from time to time amend or add to Part A of Annex IX to this Treaty.
3. The Corporations shall, on behalf of the Partner States and in accordance with this Treaty and the laws of the Community, administer the services specified in Part B of Annex IX to this Treaty, and for that purpose shall take over from the Common Services Organization the corresponding services administered by the Common Services Organization at the date of the coming into force of this Treaty.
4. The Community shall provide machinery to facilitate the coordination of the activities of the Partner States on any matter of common interest.
5. Subject to this Treaty, the Community shall so regulate the distribution of its non-physical investments as to ensure an equitable contribution to the foreign exchange resources of each of the Partner States.
6. The Community shall so arrange its purchases within the Partner States as to ensure an equitable distribution of the benefits thereof to each of the Partner States.
7. Subject to this Treaty, the Community may enact measures with respect to the matters set out in Annex X to this Treaty.
8. The Community shall, in accordance with this Treaty, provide a Court of Appeal, a Common Market Tribunal and an East African Industrial Court.

Article 44—Provision of Services on an Agency Basis

The Community and the Corporations may, with the approval of the

1. Authority, enters into arrangements with any Government or international organization for providing services, and may provide and administer such services accordingly.
2. The Community may enter into arrangements with any of the Corporations for providing services, and may provide and administer such services accordingly.
3. Arrangements made under this Article shall normally provide for the Community or the Corporation concerned to be reimbursed for any expenditure incurred.

Article 45—Procedure within the Community

1. The procedural provisions set out in Annex XI to this Treaty shall be followed within the Community.
2. If there is a doubt as to the procedure to be followed in any particular case, or if no procedure is prescribed by or under this Treaty, the procedure to be followed may be determined by the Authority.

CHAPTER XII—THE EAST AFRICAN AUTHORITY

Article 46—Establishment of the East African Authority

There is hereby established an Authority to be known as the East African Authority, which shall, subject to this Treaty, be the principal executive authority of the Community.

Article 47—Composition of the Authority

1. The Authority shall consist of the President of the United Republic of Tanzania, the President of the Sovereign State of Uganda and the President of the Republic of Kenya.
2. If a member of the Authority is unable to attend a meeting of the Authority and it is not convenient to postpone the meeting, he shall, after consultation with the other members of the Authority, appoint a person holding office as a Minister of his Government to represent him at such meeting only, and a person so appointed shall for the purpose of that meeting have all the powers, duties and responsibilities of the member of the Authority for whom he is acting.

Article 48—Functions of the Authority

1. The Authority shall be responsible for, and have the general direction and control of, the performance of the executive functions of the Community.
2. The Authority shall be assisted in the performance of its functions under this Article by the Councils and the East African Ministers.
3. The Authority may give directions to the Councils and to the East African Ministers as to the performance of any functions conferred upon them, and such directions shall be complied with.

Chapter XIII—East African Ministers

Article 49—Appointment of East African Ministers

1. There shall be three East African Ministers.
2. The Partner States shall each nominate one person, qualified under paragraph 3 of this Article, for appointment as an East African Minister, and the Authority shall appoint the persons so nominated to be East African Ministers.
3. A person shall be qualified to be appointed an East African Minister if he is qualified to vote under the national electoral laws of the Partner State nominating him:
Provided that if at the time of his appointment as an East African Minister a person holds office as a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary in the Government of a Partner state, he shall immediately resign from that office and may not thereafter hold such an office while he remains an East African Minister.
4. If an East African Minister is temporarily absent from the territories of the Partner States, or for some other reason is temporarily unable to perform his duties, the Partner State which nominated him for appointment may, and at the request of the other East African Ministers shall, nominate some other person, qualified to vote under its national electoral laws, for temporary appointment as an East African Minister; and the Authority shall appoint the person so nominated to be an Acting East African Minister in the place of the Minister who is absent or unable to act.
5. An Acting East African Minister shall hold office until the person in whose place he is acting returns to the territories of the Partner States or is able to resume his duties, as the case may be, and delivers notification thereof in writing to the Secretary-General for transmission to the Authority.
6. An Acting East African Minister shall while he is holding office have all the functions, responsibilities, powers, duties and privileges of the substantive East African Minister.

Article 50—Tenure of Office of East African Ministers

An East African Minister shall not be appointed for a fixed term but shall vacate his office upon the happening

of any of the following events—

- (a) if he transmits his resignation in writing to the Authority and the Authority accepts his resignation;
- (b) if he ceases to be qualified for appointment as an East African Minister;
- (c) if the Authority terminates his appointment, which it shall do upon the request in writing of the Partner State which nominated him.

Article 51—Functions of East African Ministers

1. It shall be the responsibility of the East African Ministers to assist the Authority in the exercise of its executive functions to the extent required by and subject to the directions of the Authority, and to advise the Authority generally in respect of the affairs of the Community.

2. In addition to the responsibilities conferred on them by paragraph 1 of this Article, the East African Ministers shall perform the functions conferred on them by this Treaty in respect of the Councils, the Assembly and other matters.

3. The Authority may allocate particular responsibilities to each of the East African Ministers.

4. The Authority may, in respect of any responsibilities which it confers upon the East African Ministers, specify which matters shall be performed by them acting in common agreement and which may be performed by a single East African Minister.

5. It shall be the responsibility of the East African Ministers, with the assistance of representatives of the East African Airways Corporation and such other persons as may be appropriate, to negotiate bi-lateral air services agreements on behalf of the Partner States and to conduct such negotiations in accordance with the criteria laid down by the Communications Ministerial Committee of the Common Services Organization and any amendment of such criteria which may be made by the Communications Council

6. Each of the Partner States undertakes that it will grant to the East African Minister nominated by it a status within its territory commensurate with that of a Minister of its Government, and shall permit that East African Minister to attend and speak at meetings of its Cabinet

CHAPTER XIV—DEPUTY EAST AFRICAN MINISTERS

Article 52—Deputy East African Ministers

1. The Authority may, if at any time it considers it desirable, appoint three Deputy East African Ministers.

2. If the Authority decides to appoint three Deputy East African Ministers, the Partner States shall each nominate one person, qualified under paragraph 3 of this Article, for appointment as a Deputy East African Minister; and the Authority shall appoint the persons so nominated to be Deputy East African Ministers.

3. A person shall be qualified to be appointed a Deputy East African Minister if he is qualified to vote under the national electoral laws of the Partner State nominating him:

Provided that if, at the time of his appointment as a Deputy East African Minister, a person holds office as a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary in the Government of a Partner State, he shall immediately resign from that office and may not thereafter hold such an office while he remains a Deputy East African Minister.

4. A Deputy East African Minister shall not be appointed for a fixed term but shall vacate his office upon the happening of any of the following events—

- (a) if he transmits his resignation in writing to the Authority and the Authority accepts his resignation;
- (b) if he ceases to be qualified for appointment as a Deputy East African Minister;
- (c) if the Authority terminates his appointment, which it shall do upon the request in writing of the Partner State which nominated him.

5. Where Deputy East African Ministers have been appointed and thereafter the number of Deputy East African Ministers falls below three, a person or persons shall be nominated and appointed in the manner provided by this Article to fill the vacancy or vacancies.

6. Subject to any directions given or instructions issued by the Authority, it shall be the responsibility of the Deputy East African Ministers to assist the East African Ministers in the performance of their functions and to perform such duties as may be imposed on them by the Authority or by this Treaty.

Chapter XV—The Councils

Article 53—Establishment of the Councils

There shall be established as institutions of the Community the following Councils—

- (a) the Common Market Council;
- (b) the Communications Council;
- (c) the Economic Consultative and Planning Council;
- (d) the Finance Council; and
- (e) the Research and Social Council.

Article 54—Composition of the Councils

1. The composition of the Councils shall be as follows—

- (a) the Common Market Council shall consist of the three East African Ministers, together with nine other members, of whom three shall be designated by each Partner State from among the persons holding office as Minister of its Government;
- (b) the Communications Council shall consist of the three East African Ministers, together with three other members, being the persons holding office as Ministers responsible for matters relating to communications in the respective Governments of the Partner States;
- (c) the Economic Consultative and Planning Council shall consist of the three East African Ministers, together with nine other members, of whom three shall be designated by each Partner State from among the persons holding office as Minister of its Government;
- (d) the Finance Council shall consist of the three East African Ministers together with three other members, being the persons holding office as the Ministers responsible for matters relating to public finance in the respective Governments of the Partner States; and
- (e) The Research and Social Council shall consist of the three East African Ministers, together with nine other members, of whom three shall be designated by each Partner State from among the persons holding office as Minister of its Government.

2. If an East African Minister is unable to attend a meeting of a Council, he may, if at the time there are persons holding office as Deputy East African Ministers, appoint one of them, by notice in writing delivered to the Secretary-General, to act as a member of that Council for that meeting and a person so appointed shall, in respect of the meeting for which he is appointed to act, have all the rights and duties of a member of the Council.

3. If a Minister of the Government of a Partner State is unable to attend a meeting of a Council of which he is a member, that Partner State may, by notice in writing delivered to the Secretary-General, appoint some other person who is a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary of its Government to act as a member of that Council for that meeting, and a person so appointed shall, in respect of the meeting for which he is appointed to act, have all the rights and duties of a member of the Council.

4. If under paragraph 1 of this Article a Partner State designates one of its Ministers to be a member of a Council or terminates such a designation, it shall give notice thereof in writing to the Secretary-General.

Article 55—Functions of the Councils

The Common Market Council. 1. The function of the Common Market Council shall be the discharge of the responsibilities imposed upon it by Article 30 of this Treaty.

The Communications council. 2. Subject to any directions given by the Authority, and subject to this Treaty and to any law of the Community, the Communications Council shall perform the duties and have the powers which are set out in Annex XIII to this Treaty, and shall provide a forum for consultation generally on communications matters.

The Economic Consultative and Planning Council. 3. The functions of the Economic Consultative and Planning Council shall be (a) to assist the national planning of the Partner States by consultative means; and

(b) to advise the Authority upon the long-term planning of the common services.

The Finance Council. 4. Subject to this Treaty, the functions of the Finance Council shall be to consult in common on the major financial affairs of the Community, and to consider and approve major financial decisions relating to the services administered by the Community, including their estimates of expenditure and related loan and investment programmes. In this paragraph “the Community” shall not include the Bank.

The Research and Social Council. 5. The functions of the Research and Social Council shall be to assist, by consultative means, in the co-ordination of the policies of each of the Partner States and the Community regarding research and social matters.

CHAPTER XVI—THE EAST AFRICAN LEGISLATIVE ASSEMBLY
***Article 55—Establishment and composition of the East African
Legislative Assembly***

1. There is hereby established for the Community a legislative body, to be known as the East African Legislative Assembly, which shall exercise the powers conferred upon it by this Treaty.
2. The members of the Assembly shall be—
 - (a) the three East African Ministers;
 - (b) the three Deputy East African Ministers (if any);
 - (c) twenty-seven appointed members; and
 - (d) the Chairman of the Assembly, the Secretary-General and the Counsel to the Community.
3. The Chairman of the Assembly shall preside over and take part in its proceedings in accordance with the rules of procedure of the Assembly made by the Authority in accordance with paragraph 17 of Annex XI to this Treaty.
4. The Assembly shall have a Public Accounts Committee, which shall be constituted in the manner provided in the rules of procedure of the Assembly and shall perform the functions provided in respect thereof in the said rules of procedure; and the Assembly may have such other committees as may be provided for or permitted under the said rules of procedure.

Article 57—Appointment of members of the Assembly

1. Of the twenty-seven appointed members of the Assembly each Partner State shall appoint nine in accordance with such procedure as each Partner State decides.
2. A person shall be qualified to be appointed a member by a Partner State if he is a citizen of that Partner State and is qualified to be elected a member of its legislature under its electoral laws, and is not an officer in the service of the Community or a servant of a Corporation or the Bank.
3. If an appointed member of the Assembly is temporarily absent from the territories of the Partner States, or for some other reason is temporarily unable to perform his duties, the Partner State which appointed him may appoint some other person, qualified under paragraph 2 of this Article, to be a temporary appointed member in his place; and a temporary appointed member shall, unless his period of office is terminated by the Partner State which appointed him, hold office until the person in whose place he is acting returns to the territories of the Partner States or is able to resume his duties, as the case may be, and so notifies the Chairman of the Assembly in writing.
4. A temporary appointed member of the Assembly shall, while holding office, have all the responsibilities, powers and privileges of the substantive appointed member.

Article 58—Tenure of office of appointed members

- 1) Subject to this Article, an appointed member of the Assembly shall hold office until the legislature of the Partner State which appointed him first meets after it is next dissolved,
- 2) An appointed member of the Assembly shall vacate his seat in the Assembly upon the happening of any of the following events—
 - (a) upon the delivery of his resignation in writing to the Chairman of the Assembly;
 - (b) upon his ceasing to be qualified for appointment as an appointed member;
 - (c) upon his appointment as a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary in the Government of a Partner State;
 - (d) upon his appointment as an East African Minister or as a Deputy East African Minister;
 - (e) upon his having been absent from the Assembly for such period and in such circumstances as are prescribed by the rules of procedure of the Assembly.

Article 59—Acts of the Community

1. The enactment of measures of the Community shall be effected by means of Bills passed by the Assembly and assented to on behalf of the Community by the Heads of State of the Partner States and every measure that has been duly passed and assented to shall be styled an Act.
2. When a Bill has been duly passed by the Assembly the Chairman of the Assembly shall submit the Bill to the

Heads of State of the Partner States.

3. Every Bill that is submitted to the Heads of State under paragraph 2 of this Article shall contain the following words of enactment—

“Enacted by the President of the United Republic of Tanzania, the President of the Sovereign State of Uganda and the President of the Republic of Kenya on behalf of the East African Community, with the advice and consent of the East African Legislative Assembly.”

Article 60—Assent to Bills

1. The President of the United Republic of Tanzania, the President of the Sovereign State of Uganda and the President of the Republic of Kenya may assent or withhold assent to a Bill.
2. A Bill that has not received the assent provided for in paragraph 1 of this Article within nine months of the date upon which it was passed by the Assembly shall lapse.

Chapter XVII—Staff of the Community

Article 61—Offices in the Community

1. There shall be the following offices in the service of the Community—
 - (a) a Secretary General, who shall be the principal executive officer of the Community;
 - (b) a Counsel to the Community; and
 - (c) an Auditor General.
2. There shall be such other offices in the service of the Community as, subject to any Act of the Community, the Authority may determine.
3. In this Treaty, “offices in the service of the Community” does not include an office in the service of a Corporation or of the Bank.

Article 62—Establishment of the East African Community Service Commission

1. There is hereby established a service commission to be known as the East African Community Service Commission for all offices in the service of the Community.
2. The Service Commission shall consist of such number of members as the Authority shall from time to time determine.
3. The Authority shall appoint the members of the Service Commission by instrument in writing, which shall specify the period of office of the member concerned.
4. A person shall not be qualified to be appointed a member of the Service Commission if he holds office as a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary in the Government of a Partner State, or is a member of the Legislative Assembly or a member of the legislature of a Partner State.
5. A member of the Service Commission shall vacate his office—
 - (a) upon the expiry of the period of office specified in his instrument of appointment;
 - (b) if he delivers his resignation in writing to the Secretary General for transmission to the Authority; or
 - (c) if he ceases to be qualified for appointment as a member. A member of the Service Commission may be removed from office by
6. the Authority for inability to perform the functions of his office, whether arising from infirmity of mind or body or for any other sufficient cause, or for misbehavior, but shall not otherwise be removed from office.

Article 63—Appointment and disciplinary control of the Secretary General and certain other officers

1. The Secretary General of the Community shall be appointed by the Authority.
2. The Counsel to the Community and the holders of such other offices in the service of the Community as the Authority may, by notice in the Gazette, determine shall be appointed by the Authority after consultation with the Service Commission and with the Secretary General.
3. If the Secretary General or any person appointed under paragraph 2 of this Article is absent from the territories of the Partner States, or is unable through illness or for any other reason to perform the functions

of his office, the Authority may appoint a person to act in the place of the Secretary General or of such person, as the case may be, during the period of the absence or inability to act and the person so appointed shall have, while he is so acting, the same powers and responsibilities as the substantive holder of the office.

4. For the purposes of the exercise of the power of disciplinary control and dismissal, the persons appointed under paragraph 2 of this Article shall be subject to the jurisdiction of the Service Commission.

Article 64—Functions of the Service Commission

1. Subject to this Treaty and to any Act of the Community, the Service Commission shall, on behalf of the Community, make appointments to offices in the service of the Community, and shall exercise the powers of disciplinary control and dismissal over persons holding or acting in such offices.

2. For the purposes of paragraph 1 of this Article, references to appointments shall be construed as including references to appointments on promotion and on transfer, and appointments of persons in an acting capacity.

3. The Service Commission may, by order published in the Gazette, and with the approval of the Authority, delegate, subject to such conditions as it may think fit, any of its functions under this Article to any of its members or to any officer of the Community either generally or in respect of any particular class of cases.

4. This Article shall not apply to the Judges of the Court of Appeal for East Africa or to the members of the Common Market Tribunal.

CHAPTER XVIII—FINANCES OF THE COMMUNITY

Article 65—The General Fund and special funds

1. There shall be a General Fund of the Community, and such special funds as may from time to time be established by an Act of the Community.

2. Subject to this Treaty, all moneys received by the Community from whatever source shall be paid into the General Fund, except—

- (a) the divisible income tax, the remaining divisible income tax and the divisible customs and excise duties;
- (b) sums which fall to be paid into the Distributable Pool Fund under Article 67 of this Treaty; and
- (c) sums which are required by an Act of the Community to be paid into one of the special funds referred to in paragraph 1 of this Article.

Article 66—Expenditure from the General Fund

1. All expenditure of the Community, other than expenditure which is required by an Act of the Community to be met from one of the special funds referred to in Article 65 of this Treaty, shall be met from the General Fund.

2. There may be met from the General Fund—

- (a) the estimated net annual recurrent expenditure of the University of East Africa;
- (b) one-half of the estimated net annual recurrent expenditure of Makerere University College, the University College, Dares Salaam, and University College, Nairobi; and
- (c) expenditure towards the cost of any service provided by the Community under Article 44 of this Treaty, or of any activity which the Authority declares to be in furtherance of the aims of the Community:

Provided that the expenditure under sub-paragraphs (a) and (b) of this paragraph shall cease on the 30th June 1970 or upon the cessation of the arrangements under which the University Colleges mentioned in sub-paragraph (b) of this paragraph are constituent colleges of the University of East Africa, whichever is the sooner.

3. No money shall be paid out of the General Fund unless—

- (a) the payment has been authorized by an Appropriation Act of the Community; or
- (b) the money is required to meet expenditure charged on the General Fund under this Treaty or by an Act of the Community :

Provided that, if an Appropriation Act for a particular financial year has not come into operation by the first day of that financial year, the Authority may from time to time authorize the payment of money out of the General Fund to meet any expenditure which may properly be met there out, but so that—

- (i) the amount paid out in any particular month for any particular head of expenditure shall not exceed one-twelfth of the total appropriation for the previous financial year for that head;
- (ii) the authorization shall not extend beyond the 30th day of September in the same financial year or such earlier date as that on which the Appropriation Act may come into operation; and
- (iii) any money paid out under this proviso shall be brought into account when payments are being made under the Appropriation Act.

4. No money shall be paid out of the General Fund except in the manner prescribed by an Act of the Community.
5. The Authority shall cause detailed estimates of the receipts into and the payments out of the General Fund to be prepared for each financial year and shall cause them to be laid before a meeting of the Assembly in the financial year preceding that to which they relate.
6. A Bill for an Appropriation Act providing for the sums necessary to meet the estimated expenditure (other than expenditure charged on the General Fund under this Treaty or by an Act of the Community) to be paid out of the General Fund shall be introduced into the Assembly as soon as practicable after the estimates have been laid before a meeting of the Assembly under paragraph 5 of this Article.
7. If in any financial year it is found—
 - (a) that the amount appropriated by the Appropriation Act is insufficient to meet any particular head of expenditure or that a need has arisen for expenditure from the General Fund for which no amount has been appropriated by that Act; or
 - (b) that any expenditure has been incurred for any purpose in excess of the amount appropriated to that purpose by the Appropriation Act, or for a purpose to which no amount has been appropriated by that Act, the Authority shall cause a supplementary estimate of expenditure in respect thereof to be prepared and laid before the Assembly, and a Bill for a Supplementary Appropriation Act, providing for the sums necessary to meet the estimated expenditure (other than expenditure charged on the General Fund under this Treaty or by an Act of the Community) to be paid out of the General Fund, shall be introduced into the Assembly as soon as practicable after the supplementary estimate has been so laid before the Assembly.
8. Notwithstanding paragraph 3 of this Article, if at any time it appears to the East African Ministers to be necessary for money to be paid out of the General Fund to meet unforeseen expenditure which either—
 - (a) is of a special character, and may properly be provided for in an Appropriation Act but has not been so provided for; or
 - (b) will result in an excess on a vote contained in an Appropriation Act,
 and which in either case cannot without serious injury to the public interest be postponed until a Supplementary Appropriation Act can be enacted, the East African Ministers may, in anticipation of such enactment, authorize payment from the General Fund of the sums required to meet such expenditure:

Provided that—

 - (i) the total sum so authorized shall not at any time exceed 500,000 Tanzania shillings; and
 - (ii) bill for a Supplementary Appropriation Act in respect of the payments shall be introduced into the Assembly as soon as practicable thereafter.

Article 67—The Distributable Pool Fund

1. There shall be a Distributable Pool Fund of the Community.
2. There shall be paid into the Distributable Pool Fund—
 - (a) a sum equal to 20 per cent of the income tax collected by the East African Income Tax Department on gains or profits of companies engaged in manufacturing or finance business (less 20 per cent of the proportion of the cost of collection referred to in paragraph 1 (b) of Article 68 of this Treaty):

Provided that, where the tax is collected on or after the effective date and before the final date, the percentages shall be 10 per cent; and
 - (b) a sum equal to 3 per cent of the amount of customs duty and excise duty collected by the East African Customs and Excise Department (less a ratable proportion of the cost of collection referred to in paragraph 3 of Article 68 of this Treaty): Provided that, where the customs duty or excise duty is collected on or after the effective date and before the final date, the percentage shall be one and one-half per cent
3. Notwithstanding paragraph 2 of this Article, no payment shall be made into the Distributable Pool Fund in respect of income tax collected on or after the final date or in respect of customs duty or excise duty collected on or after the final date.
4. The Distributable Pool Fund shall be distributed among the Partner States in equal shares.

Article 68—Distribution of the principal revenue

1. From the amount of income tax collected by the East African Income Tax Department, there shall be deducted—

- (a) the cost of collection, which shall be paid into the General Fund; and
- (b) so much of the amount as represents income tax on gains or profits of companies engaged in manufacturing or finance business (less a ratable proportion of the cost of collection), which shall be dealt with in accordance with paragraph 4 of this Article,

and the balance (in this Treaty referred to as “the divisible income tax”) shall be divided among the Partner States in accordance with paragraph 7 of this Article.

2. In this Article and in Article 67 of this Treaty, the “gains or profits of companies engaged in manufacturing or finance business” means the income defined in the provisions of Annex XII to this Treaty.

3. From the amount of customs duty and excise duty collected by the East African Customs and Excise Department, there shall be deducted the cost of collection, which shall be paid into the General Fund, and the balance shall be dealt with in accordance with paragraph 4 of this Article.

4. From the amounts which, under paragraph 1 (b) and paragraph 3 of this Article, are to be dealt with in accordance with this paragraph, there shall be deducted—

- (a) the sums which, under Article 67 of this Treaty, fall to be paid into the Distributable Pool Fund; and
- (b) such sums as are required to make up (with the moneys in the General Funds) the amount of expenditure to be met from the General Fund; and
 - (i) for the period from the coming into force of this Treaty until the final date as defined in Article 70 of this Treaty, such sums shall be charged against the moneys referred to in paragraph 1 (b) and paragraph 3 of this Article in the ratio which 20 per cent of the moneys referred to in paragraph 1 (b) bears to 3 per cent of the moneys referred to in paragraph 3 respectively, and
 - (ii) after the said final date, the proportions in which those sums shall be charged against the moneys referred to in paragraph 1 (b) and paragraph 3 of this Article respectively shall correspond to the relative sizes of those two amounts of money, and the residue of the money referred to in paragraph 1 (b) of this Article (in this Treaty referred to as “the remaining divisible income tax”) and the residue of the money referred to in paragraph 3 of this Article (in this Treaty referred to as “the divisible customs and excise duties”) shall each be divided among the Partner States in accordance respectively with paragraphs 7 and 8 of this Article.

5. The money divided between the Partner States under paragraph 4 of this Article shall be paid direct by the East African Income Tax Department or the East African Customs and Excise Department, as the case may be, to the Partner States.

6. Revenue from transfer taxes payable to a Partner State under Article 20 of this Treaty, less the costs and expenses to become by that Partner State under paragraph 13 of that Article, shall be paid direct by the East African Customs and Excise Department to that Partner State, and the said costs and expenses shall be paid into the General Fund.

7. There shall be paid by the East African Income Tax Department to each of the Partner States that portion of the remaining divisible income tax as, according to law, may be ascertained as relating to income accruing in, or derived from, that Partner State.

8. There shall be paid by the East African Customs and Excise Department to each of the Partner States that portion of the divisible customs and excise duties which arises from customs and excise duties collected in respect of goods imported into, or manufactured in, that Partner State and consumed in that Partner State, together with such portion of the divisible customs and excise duties as falls to be paid to that State in accordance with Articles 10, 15 and 18 of this Treaty.

Article 69—Remuneration of the holders of certain offices

1. There shall be paid to the holders of the offices of—

- (a) Judge of the Court of Appeal for East Africa;
- (b) Chairman or other member of the Tribunal;
- (c) Chairman of the Assembly;
- (d) Chairman or other member of the Service Commission; and
- (e) Auditor-General,

such salaries as may be prescribed by an Act of the Community.

2. The salaries payable to the holders of the offices specified in paragraph 1 of this Article shall be paid from and are hereby charged on the General Fund.
3. A holder of any of the offices specified in paragraph 1 of this Article shall not have his salary or any of his other terms and conditions of service altered to his disadvantage after his appointment.

Article 70—Interpretation of this Chapter

In this Chapter of this Treaty—

“cost of collection” means the expenditure of the East African Income Tax Department or the East African Customs and Excise

Department, as the case may be, less appropriations in aid and less the costs and expenses referred to in paragraph 6 of Article 68 of this Treaty;

“divisible customs and excise duties” has the meaning given to it in paragraph 4 of Article 68 of this Treaty;

“divisible income tax” has the meaning given to it in paragraph 1 of Article 68 of this Treaty;

“effective date” means the first day of the month following the date on which a transfer tax is first imposed under this Treaty;

“final date” means the first day of the month following the first anniversary of the date on which the Republic of Kenya has paid in full the second installment to the paid-in capital stock of the Bank pursuant to Article 5 of the Chapter of the Bank;

“financial year” means the period from the 1st day of July to the succeeding 30th day of June;

“remaining divisible income tax” has the meaning given to it in paragraph 4 of Article 68 of this Treaty.

CHAPTER XIX—THE CORPORATIONS WITHIN THE COMMUNITY

Article 71—Establishment of the Corporations

1. There shall be within the Community, as institutions of the Community, the Corporations specified in paragraph 2 of this Article and the Corporations shall, subject to this Treaty, be constituted in such manner as shall be provided by law.
2. The Corporations shall be—
 - The East African Railways Corporation;
 - The East African Harbours Corporation;
 - The East African Posts and Telecommunications Corporation; and
 - The East African Airways Corporation.

Article 72—Principles of operation

1. It shall be the duty of each of the Corporations to conduct its business according to commercial principles and to perform its functions in such a manner as to secure that, taking one year with another, its revenue is not less than sufficient to meet its outgoings which are properly chargeable to revenue account, including proper allocations to the general reserve and provision in respect of depreciation of capital assets, pension liabilities and interest and other provision for the repayment of loans and further to ensure that, taking one year with another, its net operating income is not less than sufficient to secure an annual return on the value of the net fixed assets in operation by the Corporation of such a percentage as the Authority may from time to time direct:

Provided that the Authority may at any time, if it thinks fit, relieve the East African Airways Corporation from any obligation to secure an annual return on the value of net fixed assets in operation by the Corporation.

2. For the purpose of paragraph 1 of this Article—

(a) “net operating income” shall be determined by subtracting from gross operating revenues all operating and administrative expenses, including taxes (if any) and adequate provision for maintenance and depreciation; and

(b) “value of the net fixed assets in operation” shall be the value of such assets less accumulated depreciation as shown in the statement of accounts of the Corporation:

Provided that, if the amounts shown in such statements of accounts do not reflect a true measure of value of the assets concerned because of currency revaluations, changes in prices or similar factors, the value of the fixed assets shall be adjusted adequately to reflect such currency revaluations, changes in prices or similar factors.

3. It shall be the duty of each Corporation, in performing its obligations under paragraph 1 of this Article, to have regard to its revenues in the territories of the Partner States as a whole and not to its revenues in any particular Partner State or area within the territories of the Partner States.
4. Subject to this Treaty, the Corporations shall so regulate the distribution of their non-physical investments as to ensure an equitable contribution to the foreign exchange resources of each of the Partner States, taking into account *inter alia* the scale of their operations in each Partner State.
5. The Corporations shall so arrange their purchases within the Partner States as to ensure an equitable distribution of the benefits thereof to each of the Partner States, taking into account *inter alia* the scale of their operations in each Partner State.
6. The Corporations shall be exempted from income tax and from stamp duty.

Article 73—Control of the Corporations

1. There shall be a Board of Directors for each of the Corporations which shall be, subject to this Treaty, responsible for its policy, control and management through the Director-General.
2. The Authority, the Communications Council and the Board of Directors and the Director-General of each Corporation shall, in respect of that Corporation, and in addition to any other powers and duties conferred or imposed on them by this Treaty or by any Act of the Community, have the powers and perform the duties specified in Annex XIII to this Treaty.

Article 74—Composition of Boards of Directors of the Corporations

1. Subject to this Article, the Boards of Directors of the Corporations, other than the East African Airways Corporation, shall each be composed of a Chairman, who shall be appointed by the Authority, the Director-General, who shall be a director *ex officio*, and six other members who shall be appointed in the manner provided by paragraph 2 of this Article.
2. Of the six members of the Boards of Directors to be appointed under paragraph 1 of this Article, three shall be appointed one each by the Partner States, and three shall be appointed by the Authority which shall have regard to the desirability of appointing persons with experience in commerce, industry, finance or administration or with technical experience or qualifications.
The Board of Directors of the East African Airways Corporation shall be composed of a Chairman, who shall be appointed by the Authority, the Director-General, who shall be a director *ex officio*, and eight other members of whom two each shall be appointed by the Authority and the Partner States, and the appointing authorities shall have regard to the desirability of appointing persons with
 3. experience in commerce, industry, finance or administration or with technical experience or qualifications.
 4. A member of the legislature of a Partner State or a member of the Assembly shall not, while he remains such a member, be appointed to a Board of Directors.

Article 75—Resident Directors

1. The three directors appointed by the Partner States to the Board of Directors of the East African Railways Corporation shall be styled Resident Directors.
2. The Board of Directors of the East African Posts and Telecommunications Corporation may resolve (and may if it so desires rescind such a resolution) that three directors appointed to the Board of Directors of that Corporation by the Partner States shall be styled Resident Directors and in that event paragraph 3 of this Article shall apply.
3. Each Resident Director shall have the duty of being the main link between the Partner State which appointed him and the Corporation of which he is a director, and for that purpose he shall reside and have his office in the capital of that Partner State and shall also be a member of the General Purposes Committee of the Board of Directors; but a Resident Director shall have no executive functions in relation to the Corporation other than his functions as one of the directors of the Corporation.

Article 76—Directors-General of the Corporations

1. There shall be a principal executive officer, who shall be styled the Director-General, for each of the Corporations and, subject to this Treaty, a Director-General shall be responsible for the execution of the policy of

the Board of Directors.

2. The Authority shall be responsible for the appointment, disciplinary control and termination of appointment of the Director- General of each of the Corporations:

Provided that, except in the case of the appointment of the first Director-General of a Corporation, the Authority shall exercise its powers under this paragraph after consultation with the Board of Directors.

Article 77—Appointment and Disciplinary Control of Staff of the Corporations

1. The Corporations shall employ such staff as may be necessary for the efficient conduct of their operations.
2. The Board of Directors of each Corporation shall be responsible for the appointment, disciplinary control and dismissal of all staff of that Corporation other than the Director-General.
3. A Board of Directors may, subject to such conditions as it shall think fit, delegate any of its functions under paragraph 2 of this Article to the Director-General or to any other member of the staff of the Corporation or to any committee or board established by the Board of Directors.
4. The Board of Directors of each of the Corporations shall introduce and maintain procedures whereby staff aggrieved by the exercise of powers delegated under paragraph 3 of this Article may appeal to a higher authority.
5. For the purpose of Article 76 of this Treaty, and this Article, references to appointments shall be construed so as to include references to appointments on promotion and on transfer or secondment and appointments of persons in an acting capacity.

Article 78—Annual Accounts of the Corporations

1. A Board of Directors shall ensure that proper accounts and proper records are kept in relation to the revenue and expenditure of the Corporation, and shall ensure that within six months of the end of each financial year of the Corporation, or such longer period as the Communications Council may allow in any particular case, a statement of accounts of the Corporation is prepared, in accordance with the best commercial standards and any directions which may be issued by the Authority, and transmitted to the Auditor-General.
2. Upon the return of the statement of accounts, certified by the Auditor-General, and the receipt of his report thereon, the Board of Directors shall immediately transmit that statement of accounts and report of the Auditor-General to the Communications Council which shall cause the same to be presented to the Assembly without delay and, in any event, before the expiry of nine months from the end of the financial year to which they relate or such longer period as the Communications Council may allow in any particular case.

Article 79—Annual Reports of the Corporations

A Board of Directors shall, within nine months after the end of each financial year, prepare a report upon the operations of the Corporation during that year and shall transmit such report to the Communications Council which shall cause the same to be presented to the Assembly with the statement of accounts and report of the Auditor-General referred to in Article 78 of this Treaty.

Chapter XX—The Court of Appeal for East Africa

Article 80—The Court of Appeal for East Africa

There shall be a Court of Appeal for East Africa which shall be constituted in such manner as may be provided by Act of the Community, and the Court of Appeal for Eastern Africa established by the East African Common Services Organization Agreements 1961 to 1966 shall continue in being under the name of the Court of Appeal for East Africa and shall be deemed to have been established by this Treaty, notwithstanding the abrogation of those Agreements by this Treaty.

Article 81—Jurisdiction of the Court of Appeal

The Court of Appeal for East Africa shall have jurisdiction to hear and determine such appeals from the courts of each Partner State as may be provided for by any law in force in that Partner State and shall have such powers in connexion with appeals as may be so provided.

CHAPTER XXI—PENSIONS AND TRADE DISPUTES

Article 82—Pension Rights

1. This Article applies to any benefit payable under any law providing for the grant of pensions, compensation, gratuities or like allowances to persons who are, or have been, officers or servants of the Community, the Corporations, the Common Services Organization or of the East Africa High Commission in respect of their services as such officers or servants, or to the widows, children or personal representatives of such persons in respect of such services.

2. The law applicable to any benefits to which this Article applies shall, in relation to any person who has been granted or is eligible for such benefits, be that in force on the relevant date or any later law that is no less favorable to the person.
3. In this Article, “the relevant date” means—
 - (a) in relation to any benefits granted before the coming into force of this Treaty, the date upon which those benefits were granted;
 - (b) in relation to any benefits granted after the date upon which this Treaty comes into force, to or in respect of any person who was an officer or servant of the Common Services Organization before that date or any benefits for which any such person may be eligible, the date immediately preceding the date on which this Treaty comes into force; and
 - (c) in relation to any benefits granted to or in respect of any person who first becomes an officer or servant of the Community or of a Corporation after the date upon which this Treaty comes into force, the date upon which he first becomes such an officer or servant.
4. Where a person is entitled to exercise an option as to which of two or more laws might apply in his case, the law specified by him in exercising the option shall, for the purpose of this Article, be deemed to be more favorable to him than any other law.
5. Any benefits to which this Article applies shall—
 - (a) in the case of benefits that are payable in respect of the service of any person who at the time he ceased to be an officer or servant of the East Africa High Commission or the Common Services Organization was in the service of the East African Posts and Telecommunications Administration, be a charge upon the funds of the East African Posts and Telecommunications Corporation;
 - (b) in the case of benefits that are payable in respect of the service of any person who at the time he ceased to be an officer or servant of the East Africa High Commission or the Common Services Organization was in the service of the East African Railways and Harbours Administration, be a charge upon the funds of either the East African Railways Corporation or the East African Harbours Corporation as the Authority may, in respect of such person, by notice in the Gazette determine;
 - (c) in the case of benefits that are payable in respect of the service of any person who, immediately preceding his retirement, was an officer or servant of the East African Posts and Telecommunications Corporation, the East African Railways Corporation or the East African Harbours Corporation, be a charge upon the funds of that Corporation;
 - (d) in the case of any other benefits, be a charge upon the General Fund of the Community or such special fund as may be established for that purpose by an Act of the Community.
6. Where under any law any person or authority has a discretion—
 - (a) to decide whether or not any benefits to which this Article applies shall be granted; or
 - (b) to withhold, reduce in amount or suspend any amounts which have been granted,
 those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate body concurs in the refusal to grant the benefits or, as the case may be, the decision to withhold them, reduce them in amount or suspend them.
7. Where the amount of any benefit to which this Article applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the appropriate body concurs in his being granted benefits of a smaller amount.
8. For the purpose of this Article “the appropriate body” means—
 - (a) in the case of benefits that have been granted or may be granted in respect of the services of any person who, at the time that he ceased to be an officer or servant of the Community, was subject to the jurisdiction of the Service Commission established by this Treaty, that Commission; and
 - (b) in the case of an officer or servant of any of the Corporations, the body appointed by that Corporation for the purpose of paragraphs 6 and 7 of this Article.
9. Reference in this Article to officers or servants of the Community shall include reference to the Judges, officers and servants of the Court of Appeal for East Africa.

Article 83—Investment of money accruing for the payment of pensions

Upon the coming into force of this Treaty, and until such time as the Authority may determine, the net accruals to money held by the Community or the Corporation for the payment of pensions shall be invested in such stock of the former East Africa High Commission as the Authority may specify; and thereafter such net accruals shall be invested in such stock of the Partner States as the Authority may

specify, having regard to the relative proportions of the financial provisions made each year by the Community or the Corporations in respect of pensions for the citizens of each Partner State employed in their service.

Article 84—Settlement of trade disputes

The law relating to the settlement of trade disputes in force in any Partner State shall apply to employment or service under the Community and the Corporations, and to persons in such employment or service, within that State; so however that any such law shall provide that—

- (a) any power therein conferred upon any tribunal, court or other authority to make binding awards or orders in respect of the salaries or other conditions of service of persons in employment or service under the Community or the Corporations, and any power incidental thereto, shall be conferred upon, and be exercised by, the East African Industrial Court provided for in Article 85 of this Treaty; and
- (b) any award or order made by the East African Industrial Court which accords with paragraph 2 of Article 85 of this Treaty shall be binding.

Article 85—The East African Industrial Court

1. There shall be established a tribunal to be styled the East African Industrial Court, in this Article referred to as “the Industrial Court”, which shall be constituted by—

- (a) the Chairman, or other member nominated by the Chairman, of the Permanent Labor Tribunal established under the Permanent Labour Tribunal Act 1967 of Tanzania;
- (b) the president, or the deputy president if so nominated by the president, of the Industrial Court established under the Trade Disputes (Arbitration and Settlement) Act 1964 of Uganda; and
- (c) the President, or other member Dominated by the President, of the Industrial Court established under the Trades Disputes Act 1965 of Kenya.

2. The Industrial Court shall exercise the powers referred to in Article 84 of this Treaty in accordance with the principles laid down from time to time by the Authority.

3. The persons referred to in paragraph 1 of this Article shall, in the order set out therein, preside over the sittings of the Industrial Court.

4. The Industrial Court shall regulate its own procedure.

5. The Authority may determine the fees, emoluments or allowances to be paid to members of the Industrial Court.

CHAPTER XXII—DECENTRALIZATION, THE LOCATION OF HEADQUARTERS AND THE EAST AFRICAN TAX BOARD

Article 86—Decentralization and related measures

The Partner States agree that the measures in Annex XIV to this Treaty, which relate to decentralization of the operations of the Corporations and of certain of the services administered by the Community, shall be put into effect by the authorities concerned in accordance with the said Annex.

Article 87—Location of headquarters

1. It is agreed that—

- (a) the headquarters of the Community, including the Tribunal and the central secretariat, shall be at Arusha in Tanzania;
- (b) the headquarters of the Bank shall be at Kampala in Uganda;
- (c) the headquarters of the East African Railways Corporation shall be at Nairobi in Kenya;
- (d) the headquarters of the East African Harbours Corporation shall be at Dar es Salaam in Tanzania;
- (e) the headquarters of the East African Posts and Telecommunications Corporation shall be at Kampala in Uganda; and
- (f) the headquarters of the East African Airways Corporation shall be at Nairobi in Kenya.

2. The authorities concerned shall implement paragraph 1 of this Article as soon as possible.

Article 88—The East African Tax Board

1. There is hereby established an advisory body, to be known as the East African Tax Board.
2. The Tax Board shall consist of—
 - (a) three members appointed one each by the Minister responsible for public finance in each of the Partner States;
 - (b) the Commissioner-General of the East African Income Tax Department;
 - (c) the Commissioner-General of the East African Customs and Excise Department;
 - (d) the three Commissioners of Income Tax in the Partner States;
 - (e) the three Commissioners of Customs and Excise in the Partner States; and
 - (f) a senior officer of the central secretariat of the Community designated by the Secretary General.
3. The members appointed under sub-paragraph (a) of paragraph of this Article shall hold the office of Chairman of the Tax Board in rotation.
4. The functions of the Tax Board shall be—
 - (a) to render assistance as provided for in paragraph (a) of Article 29 of this Treaty;
 - (b) to keep under review the administration of the East African Income Tax Department and the East African Customs and Excise Department including the allocation and distribution of revenue collected by those Departments;
 - (c) to ensure the best possible co-operation between the East African Income Tax Department and the East African Customs and Excise Department;
 - (d) to study the correlation between the taxes managed and collected by the Community and taxes managed and collected directly by authorities in the Partner States, to make proposals to improve this correlation and to report annually hereon to the Finance Council;
 - (e) if requested by any Partner State, to render assistance in relation to taxation planning; and
 - (f) to make an annual report to the Finance Council concerning the operation of the East African Income Tax Department and of the East African Customs and Excise Department, and the organization and the personnel situation in those Departments.

Chapter XXIII—Audit

Article 89—Audit of accounts

1. The public accounts of the Community and of all officers and authorities of the Community shall be audited and reported on by the Auditor-General and for that purpose the Auditor-General and any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.
2. It shall be the duty of the Auditor-General to verify that the revenue collected by the East African Income Tax Department and the East African Customs and Excise Department has been allocated and distributed in accordance with the Treaty and to include a certificate to that effect in his report.
3. The Auditor-General shall submit his reports under paragraph 1 of this Article to the East African Ministers who shall cause the same to be laid before the assembly.
4. The accounts of the Corporations and all of all officers and authorities of the Corporations shall be audited by the Auditor-General, and any person authorized and other documents relating to those accounts and upon receipt of a statement of accounts transmitted to him under paragraph 1 of Article 78 of this Treaty the Auditor-General shall examine it, certify it and report on it and shall return the statement with his certificate and report to the Board of Directors of the Corporation concerned in sufficient time to enable compliance with paragraph 2 of Article 78 of this Treaty.
5. In the performance of his functions under this article, the auditor-general shall not be subject to the direction or control of any person or authority.

PART V—TRANSITIONAL AND GENERAL

Chapter XXIV—Transitional

Article 90—Transitional provisions

The transitional provisions contained in Annex XV to this Treaty shall apply.

Chapter XXV—General

Article 91—Commencement of the Treaty

This Treaty shall come into force on the first day of December 1967.

Article 92—Duration of the Treaty

1. Parts II and III of this Treaty, together with so much of the other Parts of the Treaty as appertains to the Common Market or the Common Market Council, shall remain in force for 15 years after coming into force and shall be reviewed by the Partner States before the expiry of that period.
2. Subject to paragraph 1 of this Article, this Treaty shall have indefinite duration.

Article 93—Association of other countries with the Community

The Partner States may together negotiate with any foreign country with a view to the association of that country with the Community or its participation in any of the activities of the Community or the Corporations.

Article 94—Modification of the Treaty

1. This Treaty may be modified at any time by agreement of all the Partner States.
2. Notwithstanding paragraph 1 of this Article, Annex VI to this Treaty shall only be amended in accordance with Article 52 of that Annex.

Article 95—Implementation measures of the Partner States

1. Each of the Partner States undertakes to take all steps within its power to secure the enactment and the continuation of such legislation as is necessary to give effect to this Treaty, and in particular—
 - (a) to confer upon the Community the legal capacity and personality required for the performance of its functions; and
 - (b) to confer upon Acts of the Community the force of law within its territory.
2. A Partner State shall not, by or under any law of that Partner State, confer any power nor impose any duty upon an officer IT authority of the Community, or of a Corporation as such, except with the prior consent of the Authority.

Article 96—Effect of Annexes, rules and orders

1. The Annexes to this Treaty shall form an integral part of this Treaty.
2. Rules and orders made by the Authority pursuant to this Treaty shall be binding on the institutions of the Community and the Partner States.

Article 97—Abrogation of existing agreements

1. Subject to this Treaty, the East African Common Services Organization Agreements 1965 to 1966 are hereby abrogated.
2. Subject to this Treaty, all the existing agreements between the Partner States or any of them concerning the imposition of customs and excise duties and the allocation and distribution of customs and excise revenue collected by the East African Customs and Excise Department are hereby abrogated.
3. Subject to this Treaty, all the existing agreements between the Partner States or any of them concerning the allocation and distribution of revenue collected by the East African Income Tax Department are hereby abrogated.
4. Subject to this Treaty, the Agreement dated the 22nd November 1961 made between the Governments of the Trust Territory of Tanganyika, the Protectorate of Uganda and the Colony and Protectorate of Kenya in pursuance of section 42a of the East Africa (High Commission) Order in Council 1947 with respect to payments into and out of the Distributable Pool Fund of the East Africa High Commission is hereby abrogated.

Article 98—Interpretation

1. In this Treaty, except where the context otherwise requires—

“Act of the Community” means an Act of the Community enacted in accordance with this Treaty or an Act of the Common Services Organization or an Act of the East Africa High Commission;

“appointed member” means an appointed member of the Assembly appointee* under Article 57 of this Treaty;

“Assembly” means the East African Legislative Assembly established by Article 56 of this Treaty;

“Auditor-General” means the Auditor-General of the Community provided for by Article 61 of this Treaty;

“Authority” means the East African Authority established by Article 46 of this Treaty;

“Bank” means the East African Development Bank established by Article 21 of this Treaty;

“Board of Directors”, except in Annex VI to this Treaty, means the Board of Directors of a Corporation;

“central banks” means the Bank of Tanzania, the Bank of Uganda and the Central Bank of Kenya;

“Chairman of the Assembly” means the Chairman of the East African Legislative Assembly provided for by paragraph 2 of Article 56 of this Treaty;
“Chairman of the Tribunal” means the Chairman of the Common Market Tribunal provided for by Article 33 of this Treaty;
“common customs tariff” and “common excise tariff” imply an identical rate of tariff imposed in the same manner;
“Common Market” means the East African Common Market established by Article 1 of this Treaty;
“common services” means the services specified in Annex IX to this Treaty;
“Common Services Organization” means the East African Common Services Organization established by the East African Common Services Organization Agreements 1961 to 1966;
“Community” means the East African Community established by Article 1 of this Treaty;
“Corporation” means a corporation specified in paragraph 2 of Article 71 of this Treaty;
“Council” means a council established by Article 53 of this Treaty;
“Counsel to the Community” means the Counsel to the Community provided for by Article 61 of this Treaty;
“current account payments” means the payments so defined in Annex VII to this Treaty;
“customs duty” includes suspended duty;
“customs laws” means the East African Customs Management Act 1952;
“Deputy East African Ministers” means the Deputy East African Ministers

appointed under Article 52 of this Treaty;
“Director-General”, except in Annex VI to this Treaty, means the Director-General of a Corporation provided for by Article 76 of this Treaty;
“East African Ministers” means the East African Ministers appointed under Article 49 of this Treaty;
“foreign country” means any country other than a Partner State;
“Gazette” means the Official Gazette of the Community;
“General Fund” means the General Fund provided for by Article 65 of this Treaty;
“goods in transit” means goods being conveyed between a Partner State and a foreign country and passing through another Partner State or States, and “transit” shall be construed accordingly;
“Heads of State” means the President of the United Republic of Tanzania, the President of the Sovereign State of Uganda and the President of the Republic of Kenya;
“import” with its grammatical variations and cognate expressions means to bring or cause to be brought into the territories of the Partner States from a foreign country;
“Industrial Licensing laws” means the East African Industrial Licensing Ordinance (Tanzania Cap. 324), the East African Industrial Licensing Act (Uganda Cap. 102) and the East African Industrial Licensing Act (Kenya Cap. 496);
“Industrial Licensing Tribunal” means the Tribunal established by the law referred to in paragraph 4 of Article 23 of this Treaty;
“manufactured goods” means the goods defined or otherwise listed in Annex IV to this Treaty;
“Minister” in relation to a Partner State includes the Vice- President of that Partner State;
“Partner State” means the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya;
“Resident Director” means a director of a Corporation who is styled a Resident Director under Article 75 of this Treaty;
“salaries and other conditions of service” includes wages, overtime pay, salary and wage structures, leave, passages, transport for leave purposes, pensions and other retirement benefits, redundancy and severance payments, hours of duty, grading of posts, medical arrangements, housing, arrangements for transport and travelling on duty, and allowances;
“Secretary General” means the Secretary General of the Community provided for by Article 61 of this Treaty;
“Service Commission” means the East African Community Service Commission established by Article 62 of this Treaty;
“suspended transfer tax” means a transfer tax the operation of which is suspended at the time of its introduction;
“Tax Board” means the East African Tax Board established by Article 88 of this Treaty;
“transfer tax” includes suspended transfer tax;
“Tribunal” means the Common Market Tribunal established by Article 32 of this Treaty;
“University of East Africa” means the University of East Africa constituted by the University of East Africa Act 1962.

2. In this Treaty, a reference to a law shall be construed as a reference to that law as from time to time amended, added to or replaced.

**ANNEX—RULES FOR THE ADMINISTRATION AND
APPLICATION OF ARTICLE 11**

Interpretation

1. (1) In these Rules—
“materials” includes products, parts and components used in the production of goods;
“produced” and “a process of production” include the application of any operation of process with the exception of any operation or process which consist only of one more of the following—
 - (a) packing, wherever the packing materials may have been produced;
 - (b) splitting up into lots;
 - (c) sorting or grading;
 - (d) marking;
 - (e) putting up into sets.
- (2) Energy, fuel, plant, machinery and tools used in the production of goods within the Partner States and materials used in the maintenance of such plant, machinery and tools shall be regarded as wholly produced within the Partner States when determining the origin of such goods.
- (3) In determining the place of production of marine products and goods in relation to a Partner State, a vessel of a Partner State shall be regarded as part of the territory of that State and in determining the place from which such goods originated, marine products taken from the sea or goods produced there from at sea, shall be regarded as having their origin in the territory of a Partner State if they were taken by, or produced in, a vessel of that State and have been brought directly to the territories of the Partner States.
- (4) For the purposes of paragraph (3) of this rule, a vessel which is registered or licensed under any law in force within the Partner States shall be regarded as a vessel of the State in which it is so registered or licensed.

Goods wholly produced in the Partner States

2. For the purposes of paragraph 3 of Article 11 of this Treaty, the following are among the products which shall be regarded as wholly produced in the Partner States—
 - (a) mineral products extracted from the ground within the Partner States;
 - (b) vegetable products harvested within the Partner States;
 - (c) live animals born and raised within the Partner States;
 - (d) products obtained within the Partner States from live animals;
 - (e) products obtained by binding or fishing conducted within the Partner States;
 - (f) marine products taken from the sea by a vessel of a Partner State;
 - (g) used articles fit only for the recovery of materials provided that they have been collected from users within the Partner States;
 - (h) scrap and waste resulting from manufacturing operations within the Partner States;
 - (i) goods produced within the Partner States exclusively from one or both of the following
 - (i) products within sub-paragraphs (a) to (h);
 - (ii) Materials containing no element imported from outside the Partner States or of undetermined origin.

Application of percentage criterion

3. For the purposes of sub-paragraph (b) of paragraph 3 of Article 11 of this Treaty, the following rules shall apply—
 - (a) any materials which meet the condition specified in sub-paragraph (a) of paragraph 3 of that Article shall be regarded as containing no element imported from outside the Partner States;
 - (b) the value of any materials which can be identified as having been imported from a foreign country shall be their c.i.f. value accepted by the East African Customs and Excise Department on clearance for home consumption less the amount of any transport costs incurred in transit through the territory of other Partner States;

- (c) if the value of any materials imported from a foreign country cannot be determined in accordance with paragraph (b) of this rule, their value shall be the earliest ascertainable price paid for them in the territory of the Partner State where they were used in a process of production;
- (ci) if the origin of any materials cannot be determined, such materials shall be deemed to have been imported from a foreign country and their value shall be the earliest ascertainable price paid for them in the territory of the Partner State where they were used in a process of production;
- (c) the ex-factory value of the goods shall be the price paid or payable for them to the exporter in the territory of the Partner State where the goods were produced, that price being adjusted where necessary to a f.o.b. or free at frontier basis in that territory;
- (d) the value under paragraphs (b), (c) or (d) of this rule or three-factory value under paragraph (e) of this rule may be adjusted to correspond with the amount which would , have been obtained on a sale in the open market between buyer , , . and seller independent of each other; this amount shall also be taken to fee the ex-factory value when the goods are not the subject of a sale.

Unit of Qualification

- 4. (a) Each article in a consignment shall be considered separately.
- (b) For the purposes of paragraph (a) of this rule—
 - i. tools, parts and accessories which are transferred with an article, the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article so long as they constitute the standard equipment customarily included on the sale of articles of that kind;
 - ii. in cases not within sub-paragraph (i) of this paragraph, goods shall be treated as a single article if they are so treated for the purpose of assessing customs duty on like articles.
- (c) An unassembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to transfer it in a single consignment may, at the option of the transferee, be treated as one article.

Segregation of Materials

- 5. (a) For those products or industries where it would be impracticable to segregate physically materials of similar character but different origin used in the production of goods, such segregation may be replaced by an appropriate accounting system which ensures that no more goods are deemed to originate in the Partner States than would have been the case if it had been possible physically to segregate the materials.
- (b) Any such accounting system shall conform to such conditions as may be agreed upon by the Common Market Council in order to ensure that adequate control measures will be applied.

Treatment of Mixtures

- 6 (a). In the case of mixtures, not being groups, sets or assemblies of separable articles dealt with under rule 4, a Partner State may refuse to accept as originating in the Partner States any, product resulting from the mixing together of goods which would qualify as originating in the Partner States with goods which would not so qualify, if the characteristics of the product as a whole are not essentially different from the characteristics of the goods which have been mixed.
- (b). In the case of particular products where it is recognized by the Coriwaon Market Council to be desirable to permit mixing of the kind described in paragraph (a) of this rule, such products shall be accepted as originating in the Partner States in respect of such part thereof as may be shown to correspond to the quantity of goods originality in the Partner States used in the mixing subject to such conditions as may be agreed by the Common Market Council.

Certificates of Origin

- 7) The transferor of any goods from one Partner State to another Partner State shall, .if required, by law or by. the appropriate authority, provide a certificate-, of the origin of such goods, determined in accordance with the provisions of paragraph 3 of Article 11 of this Treaty and of these **rules**, signed or otherwise authenticated by the manufacturer of such goods.

(Article 12)

ANNEX II- CONTRACTUAL AND OTHER OBLIGATIONS

Tanzania

Contracting parties:...	The government of Tanganyika anic S.P.A of 12 Viale Dell`Arto, Rome, Italy Hydrocarbons Holding Co. A.G of Zurich, Switzerland Tanganyikan & Italian Petroleum Refining Co,(Triper) Ltd., of Der es salaam
Subject	(a)Petroleum products of the types made, or to be made, pursuant to the contract, by the Tanganyikan and Italian Petroleum refining company and those obtainable by blending two or more of these petroleum products; Products which correspond commercially to the products aforesaid
Duration	Thirty years from the 19 th June 1963
UGANDA	
Obligations.. ..	Those comprised in the Enguli (manufacture and Licensing) Act (Cap. 9 - law Uganda) and the jiggery and Enguli base Tax act, 1996
Subject	Jaggery and Enguli
Duration.. ..	Commencing respectively on 20 th January 1965 and 1 st 1966 of indefinite duration
KENYA	
1. Contacting parties..	The Government of Kenya and the Consolidates Petroleum Co. Ltd
Subject.. ..	Crude oil Petroleum products
Duration	Indefinite duration from September 1959
Contacting Parties..	The Government of Kenya, Ross Group (International) Ltd, F.a.A Ellenberger, Lmau Fisheries Ltd, Sidewell and Co. (Mombasa) Ltd, and kenya Inshore Fisheries
Subject	Crustecse
Duration	Five years form 1 st January 1967
Contracting parties..	The Government of Kenya and Alnatoross Superfostaafabrikien, N.V., Covenant Industries Ltd., Imperial Chemical Industries Ltd
Subject.. ..	Nitrogenous Fertilizers
Duration	Indefiniteduration

ANNEX III—AGRICULTURAL PRODUCTS

1. Period of operation—no limitation.
Maize, including maize flour Wheat
Rice, both paddy and husked Coffee, raw Pyrethrum flowers
Cotton lint, cotton seed and unginned cotton Sisal fibre, sisal tow, and sisal flume tow Beans, peas, lentils and other leguminous vegetables, split or dried
Meat (including poultry) fresh, chilled or frozen
Milk and cream, fresh
Eggs
Pineapples, fresh Passion fruit, fresh Groundnuts Millets
Simsim (sesame seed)
2. Period of operation—three years from the coming into force of this Treaty.
Onions
3. Period of operation—until 1st December 1968.
Bixa
Castor seed Copra
Capsicum, dried Sunflower seed Cassava Cashew nuts Sorghum Wattle bark

ANNEX IV- MANUFACTURED GOODS

Manufactured goods shall be all those goods referred to in those Sections, Divisions or Items of the Official Import and Export List, as specified in the Schedule to Legal Notice No. 68 of 1963 of the Common Services Organization, which are set out below, subject to the modifications expressly stated in the description of goods given below: —

Section, Division Description of Goods or Item

012(part)	Bacon, ham and other smoked meat, whether or not in airtight containers (excluding dried meat and salted meat)
013(part).....	Sausages and other prepared or preserved meat (excluding meat extracts and meat juices)
0221 (part) ..	Milk or cream (in liquid or semi-solid form) evaporated or condensed, including butter milk and whey but excluding skimmed milk
0222.....	Milk and cream dry (in solid form such as blocks or powder), including buttermilk, skimmed milk and whey
023.....	Butter, including clarified butter
024..... ..	Cheese and curd
032 (part) ..	Fish and fish preparations (including crustacea and molluscs) in airtight containers
046 (part)	Meal and flour of wheat (excluding meal and flour of meslin)
047(part) ..	Meal and flour of other cereals (excluding meal and flour of maize)
048.....	Cereal preparations and preparations of flour and starch of fruits and vegetables
053....	Fruit preserved and fruit preparations (excluding dried and artificially dehydrated fruit)
055... ..	Vegetables, roots and tubers, preserved or prepared, not elsewhere specified whether or not in airtight containers
06 part) ..	Sugar, sugar preparations and honey (excluding item 061 6 0, natural honey)
07118	Coffee, roasted, including ground, and coffee substitutes containing coffee
073....	Chocolate and other food preparations containing cocoa or chocolate, not elsewhere specified
07410.....	Tea (other than unprocessed leaf)
073....	Spices, ground only
081... ..	Feeding stuff for animals (excluding unmilled cereals)
091	Margarine and shortening
099	Food preparations, not elsewhere specified
11	Beverages

Section, Division Description of Goods or Item

122	Tobacco manufactures
243 (part) ..	Wood, shaped or simply worked (excluding item 243 1 0, railway sleepers (ties))
251	<i>Pulp and waste paper</i>
266	<i>Synthetic and regenerated (artificial) fibres (including waste of such fibres)</i>
33... ..	<i>Petroleum and petroleum products</i>
34.. ..	<i>Gas, natural and manufactured</i>
42.. ..	<i>Fixed vegetable oils and fats</i>
5 (part) ..	<i>Chemicals (excluding item 532 4 1, wattle bark extract)</i>
5(part) ..	<i>Manufactured goods classified chiefly by material, excluding the following items:—</i>
	<i>68110 Silver, unworked or partly worked</i>
	<i>68210 Copper and alloys, whether or not refined, unwrought</i>
	68310 Nickel and nickel alloys, unwrought
	68410 Aluminium and aluminium alloys, unwrought
	68510 Lead and lead alloys, unwrought
	68610 Zinc and zinc alloys, unwrought
	68710 Tin and tin alloys, unwrought
	68800 Uranium and thorium and their alloys
	68900 Miscellaneous non-ferrous base metals employed in metallurgy
7.. ..	Machinery and transport equipment
5.. ..	Miscellaneous manufactured articles

ANNEX V—VALUE OF GOODS LIABLE TO TRANSFER TAX

- (1. (1) The value of any goods liable to transfer tax shall be taken to be the normal price, that is to say the price which they would fetch when they are entered for the payment of transfer tax (or, if they are not so entered, at the time of transfer) on a sale in the open market between a buyer in the country to which the goods are transferred and a seller in the country from which the goods are transferred independent of each other.
 - (2) The normal price of any goods liable to transfer tax shall be determined on the following assumptions—
 - (a) that the goods are treated as having been delivered to the buyer at the point of entry into the country to which the goods are being transferred; and
 - (b) that the seller will bear freight, insurance, commission and all other costs, charges and expenses incidental to the sale and the delivery of the goods at that point of entry; but that the buyer will bear any tax chargeable in the country to which the goods are being transferred.
 - (3) A sale in the open market between buyer and seller independent of each other presupposes—
 - (a) that the price is the sole consideration; and
 - (b) that the price paid is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question); and
 - (c) that no part of the proceeds of the subsequent resale, use or disposal of the goods will accrue directly or indirectly to the seller or any person associated with him.
 - (4) Where the goods to be valued—
 - (a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
 - (b) are transferred under a foreign trade mark or are transferred for sale (whether or not after further manufacture) under a foreign trade mark, the normal price shall be determined on the assumption that the price covers the right to use the patent, design or trade mark in respect of the goods.
- (2. For the purposes of paragraph 3 of this Annex, the expression “trade mark” includes a trade name and a get up, and a foreign trade mark is a trade mark used for the purpose of indicating that goods in relation to which it is used are those of—
 - (a) a person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside the country to which the goods are transferred; or
 - (b) a person associated in business with any such person as is referred to in sub-paragraph (a) of this paragraph; or
 - (c) a person to whom any such person as is mentioned in sub-paragraph (a) or (b) of this paragraph has assigned the goodwill of the business in connexion with which the trade mark is used.
- (3. Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either one of them has *any* interest in the business or property of the other, or both have *a* common interest in any business or property, or some third person has an interest in the business or property of both of them.

(Article 22)

ANNEX VI—THE CHARTER OF THE EAST AFRICAN DEVELOPMENT BANK

WHEREAS the Governments of the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya, who are referred to in the Treaty and this Charter as “the Partner States”, have in Article 21 of the Treaty agreed to establish a Development Bank to be known as the East African Development Bank :

AND WHEREAS the said Governments have agreed in Article 22 of the Treaty that the Charter of the East African Development Bank shall be set out in an Annex to the Treaty;

NOW THEREFORE it is agreed that the East African Development Bank (hereinafter referred to as “the

Bank”) be established and operate in accordance with the following provisions:

CHAPTER I—OBJECTIVES AND MEMBERSHIP

Article 1—Objectives of the Bank

1. The objectives of the Bank shall be—
 - (a) to provide financial and technical assistance to promote the industrial development of the Partner States;
 - (b) to give priority, in accordance with the operating principles contained in this Charter, to industrial development in the relatively less industrially developed Partner States, thereby endeavouring to reduce the substantial industrial imbalances between them;
 - (c) to further the aims of the East African Community by financing, wherever possible, projects designed to make the economies of the Partner States increasingly complementary in the industrial field;
 - (d) to supplement the activities of the national development agencies of the Partner States by joint financing operations and by the use of such agencies as channels for financing specific projects;
 - (e) to co-operate, within the terms of this Charter, with other institutions and organizations, public or private, national or international, which are interested in the industrial development of the Partner States; and
 - (f) to undertake such other activities and provide such other services as may advance the objectives of the Bank.
2. In paragraph 1 of this Article, “industry” with its grammatical variations and cognate expressions means manufacturing, assembling and processing industries including processing associated with the agricultural, forestry and fishing industries but does not include the building, transport and tourist industries.

Article 2—Membership in the Bank

1. The original members of the Bank shall be the Partner States and such bodies corporate, enterprises or institutions who with the approval of the Governments of the Partner States become members on Or before the date specified in Article 55 of this Charter.
2. Upon an affirmative decision of the Board of Directors by a majority of the voting power, any body corporate, enterprise or institution, which has not become a member under paragraph 1 of this Article, may, with the approval of the Authority, be admitted to membership of the Bank under such terms and conditions as the Bank may determine.

CHAPTER II—CAPITAL

Article 3—Authorized capital

1. The authorized capital stock of the Bank shall be 400,000,000 units of account and the value of the unit of account shall be 0.124414 grams of fine gold.
2. The authorized capital stock of the Bank shall be divided into 4,000 shares having a par value of 100,000 units of account each which shall be available for subscription only by members in accordance with Article 4 of this Charter.
3. The original authorized capital stock of the Bank shall be divided equally into paid-in shares and callable shares.
4. The authorized capital stock of the Bank may, after consultation with the Board of Directors, be increased by the Authority.

Article 4—Subscription of shares

1. Each member of the Bank shall subscribe to shares of the capital stock of the Bank.
2. Each subscription to the original authorized capital stock of the Bank shall be for paid-in shares and callable shares in equal parts.
3. The initial subscription of each of the Partner States to the original authorized capital stock of the Bank shall be 800 shares and the initial subscriptions of other original members to the original authorized capital stock of the Bank shall be as determined by the Governments of the Partner States.
4. The initial subscriptions of members, other than original members, to the original Authorized capital stock of the Bank shall be determined by the Bank but no subscription shall be authorized

which would have the effect of reducing the percentage of capital stock held by the Partner States below 51 per cent of the total subscribed capital stock.

5. If the authorized capital stock of the Bank is increased, the following provisions shall apply—
 - (a) subject to this Article, subscriptions to any increase of the authorized capital stock shall be subject to such terms and conditions as the Bank shall determine;
 - (b) the Partner States shall subscribe to equal parts only of the increased capital stock; and
 - (c) each member, other than a Partner State, shall be given a reasonable opportunity to subscribe to a proportion of the increase of stock equivalent to the proportion which its stock therefore subscribed bears to the total subscribed capital stock immediately prior to such increase:
Provided that no such member shall be obliged to subscribe to any part of an increase of capital stock; and provided further that subscriptions shall be restricted proportionately to the extent necessary to ensure that the percentage of capital stock held by the partner states remains not less than 51 per cent of the total subscribed capital stock.
6. Shares of stock initially subscribed for by the original members shall be issued at par. Other shares shall be issued at par unless the Bank, by a vote representing a majority of the total voting power of members, decides in special circumstances to issue them on other terms.
7. Shares of stock shall not be pledged or encumbered in any manner whatsoever and they shall not be transferable except to the Bank:
Provided that if any shares of stock which are transferred to the Bank are subsequently subscribed for by or otherwise transferred to the Partner States, they shall take up such shares in equal parts only.
8. The liability of the members on shares shall be limited to the unpaid portion of the issue price of the shares.
9. No member shall be liable, by reason of its membership in the Bank, for obligations of the Bank.

Article 5—Payment of subscriptions

1. Payment of the amount initially subscribed by the original members to the paid-in capital stock of the Bank shall be made in four instalments the first of which shall be 10 per cent of such amount and the remaining instalments shall each be 30 per cent of such amount. The first instalment payable by each Partner State shall be paid within 30 days after the coming into force of the Treaty to which this Charter is annexed and in the case of original members other than the Partner States, the first instalment shall be paid within 30 days of their becoming a member. The second instalment shall be paid six calendar months after the date on which the Treaty comes into force. The remaining two instalments shall each be paid successively six calendar months from the date on which the preceding instalment becomes due under this paragraph.
2. Notwithstanding the provisions of paragraph 1 of this Article, in respect of any instalment, other than the first instalment, of the initial subscriptions to the original paid-in capital stock, the Bank shall, if the funds are not immediately required, either defer the due date for payment of such instalment or require that part only of such instalment be payable on the due date and at the same time prescribe a due date for the remainder of such instalment.
3. Of each instalment for the payment of subscriptions by each of the Partner States to the original paid-in capital stock—
 - (a) 50 per cent shall be paid in convertible currency;
 - (b) 50 per cent shall be paid in the currency of the Partner State concerned.
4. Each payment of a Partner State in its own currency under sub-paragraph (b) of paragraph 3 of this Article shall be in such amount as the Bank, after such consultation with the International Monetary Fund as the Bank may consider necessary, determines to be equivalent to the full value in terms of the unit of account as expressed in paragraph 1 of Article 3 of this Charter of the portion of the subscription being paid.
5. The initial payment of a Partner State under sub-paragraph (b) of paragraph 3 of this Article shall be in such amount as the member considers appropriate but shall be subject to such adjustment, to be effected within 90 days of the date on which such payment was made, as the Bank shall determine to be necessary to constitute the full value of such payment in terms of the unit of account as expressed in paragraph 1 of Article 3 of this Charter.
6. Each instalment for the payment of subscriptions by members other than Partner States to the original paid-in capital stock shall be paid in convertible currency.
7. Payment of the amount subscribed to the callable capital stock of the Bank shall be subject to call only as and when required by the Bank to meet its obligations incurred under paragraphs (b) and (d) of Article 10 of this Charter on borrowings of funds for inclusion in its ordinary capital resources or on guarantees chargeable to such

resources.

8. In the event of a call being made in terms of paragraph 7 of this Article, payment may be made at the option of the member in convertible currency or in the currency required to discharge the obligations of the Bank for the purposes for which the call is made. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

9. The Bank shall determine the place for any payment of subscriptions, provided that, until the first meeting of its Board of Directors, the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the Bank of Uganda as Trustee for the Bank.

CHAPTER III—ORDINARY CAPITAL RESOURCES AND SPECIAL FUNDS

Article 6—Ordinary capital resources

In the context of this Charter, the term “ordinary capital resources” of the Bank shall include—

- (a) the authorized capital stock of the Bank including both paid-in and callable shares subscribed pursuant to Article 4 of this Charter;
- (b) funds raised by borrowings of the Bank by virtue of powers conferred by Article 19 of this Charter to which the commitment to calls provided for in paragraph 7 of Article 5 of this Charter is applicable;
- (c) funds received in repayment of loans or guarantees made with the resources specified in paragraphs (a) and (b) of this Article;
- (d) income derived from loans made from the above-mentioned funds or from guarantees to which the commitment to calls provided for in paragraph 7 of Article 5 of this Chapter is applicable; and
- (e) any other funds or income received by the Bank which do not form part of its Special Funds referred to in Article 7 of this Charter.

Article 7—Special Funds

1. The Bank may accept for administration, from such sources as it considers appropriate, Special Funds which are designed to promote the objectives of the Bank.
2. Special Funds accepted by the Bank under paragraph 1 of this Article shall be used in such manner and on such terms and conditions as are not inconsistent with the objectives of the Bank and the agreement under which such funds are accepted by the Bank for administration.
3. The Board of Directors shall make such regulations as may be necessary for the administration and use of each Special Fund. Such regulations shall be consistent with the provisions of this Charter, other than those provisions which expressly relate only to the ordinary operations of the Bank.
4. The term “Special Funds” as used in this Charter shall refer to the resources of any Special Fund and shall include—
 - (a) funds accepted by the Bank in any Special Fund;
 - (b) funds repaid in respect of loans or guarantees financed from any Special Fund which, under the regulations of the Bank covering that Special Fund, are received by such Special Fund; and
 - (c) income derived from operations of the Bank in which any of the above-mentioned resources or funds are used or committed if, under the regulations of the Bank covering the Special Fund concerned, that income accrues to such Special Fund.

CHAPTER IV—OPERATIONS OF THE BANK

Article 8—Use of resources

The resources and facilities of the Bank shall be used exclusively to implement the objectives of the Bank as set forth in Article 1 of this Charter.

Article 9—Ordinary and special operations

1. The operations of the Bank shall consist of ordinary operations and special operations. Ordinary operations shall be those financed from the ordinary capital resources of the Bank and special operations shall be those financed from the Special Funds referred to in Article 7 of this Charter,
2. The ordinary capital resources and the Special Funds of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of entirely separately from each other.
3. The ordinary capital resources of the Bank shall not be charged with, or used to discharge, losses or

liabilities arising out of special operations for which Special Funds were originally used or committed.

4. Expenses relating directly to ordinary operations shall be charged to ordinary capital resources of the Bank and those relating to special operations shall be charged to the Special Funds. Any other expenses shall be charged as the Bank shall determine.

Article 10—Methods of operation

Subject to the conditions set forth in this Charter, the Bank may provide finances or facilitate financing in any of the following ways to any agency, entity or enterprise operating in the territories of the Partner States—

- (a) by making or participating in direct loans with its unimpaired paid-in capital and, except in the case of its Special Reserve as defined in Article 17 of this Charter, with its reserves and undistributed surplus or with the unimpaired Special Funds;
- (b) by making or participating in direct loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources;
- (c) by investment of funds referred to in paragraphs (a) and (b) of this Article in the equity capital of an institution or enterprise; or
- (d) by guaranteeing, in whole or in part, loans made by others for industrial development.

Article 11—Limitations on operations

1. The total amount outstanding of loans, equity investments and guarantees made by the Bank in its ordinary operations shall not at any time exceed one and a half times the total amount of its unimpaired subscribed capital, reserves and surplus included in its ordinary capital resources, excluding the Special Reserve and any other reserves not available for ordinary operations.

2. The total amount outstanding in respect of the special operations of the Bank relating to any Special Fund shall not at any time exceed the total amount of the unimpaired special resources appertaining to that Special Fund,

3. In the case of loans made with funds borrowed by the Bank to which the commitment to calls provided for in paragraph 7 of Article 5 of this Charter is applicable, the total amount of principal outstanding and payable to the Bank in a specific currency shall not at any time exceed the total amount of the principal of outstanding borrowings by the Bank that are payable in the same currency.

4. In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested shall not exceed 10 per cent of the aggregate amount of the unimpaired paid-in capital stock of the Bank actually paid up at any given time together with the reserves and surplus included in its ordinary capital resources, excluding the Special Reserve.

5. The amount of any equity investment in any entity or enterprise shall not exceed such percentage of the equity capital of that entity or enterprise as the Board of Directors shall in each specific case determine to be appropriate. The Bank shall not seek to obtain by such investment a controlling interest in the entity or enterprise concerned, except where necessary to safeguard the investment of the Bank.

6. In the case of guarantees given by the Bank in the course of its ordinary operations, the total amount guaranteed shall not exceed 10 per cent of the aggregate amount of the unimpaired paid-in capital stock of the Bank actually paid up at any given time together with the reserves and surplus included in its ordinary capital resources excluding the Special Reserve.

Article 12—Provision of currencies for direct loans

In making direct loans or participating in them, the Bank may provide finance in the following ways—

- a) by furnishing the borrower with currencies other than the currency of the Partner State in whose territory the project is located, which are needed by the borrower to meet the foreign exchange costs of the project; or
- b) by providing when local currency required for the purposes of the loan cannot be raised by the borrower on reasonable terms, local currency but not exceeding a reasonable portion of the total local expenditure to be incurred by the borrower.

Article 13—operating principles

The operations of the Bank shall be conducted in accordance with the following principles—

(a) the Bank shall be guided by sound banking principles in its operations and shall finance only economically sound and technically feasible projects, and shall not make loans or undertake any responsibility for the discharge or re-financing of earlier commitments by borrowers;

(b) in selecting projects, the Bank shall always be guided by the need to pursue the objectives set forth in Article 1 of this Charter;

(c) subject to this Article, the Bank shall ensure that, taken over consecutive periods of five years, the first of which shall begin upon the commencement of the operations of the Bank, it shall so conduct its operations that it shall have loaned, guaranteed or otherwise invested, as nearly as is

possible, in the United Republic of Tanzania 38J per cent of the total sum which it has loaned, guaranteed or otherwise invested of its ordinary capital resources and the Special Funds, in the Sovereign State of Uganda 38i per cent thereof and in the Republic of Kenya 22^{1/2} cent thereof:

Provided that, after a period of ten years from the commencement of operations of the Bank, the Partner States shall review the percentages specified in this paragraph and thereafter the Authority, after consultation with the Board of Directors, may by order published in the Gazette of the Community alter the percentages specified in this paragraph;

(d) the operations of the Bank shall provide principally for the financing directly of specific projects within the Partner States but may include loans to or guarantees of loans made to the national development agencies of the Partner States so long as such loans or guarantees are in respect of and used for specific projects which are agreed to by the Bank;

(e) the Bank shall seek to maintain a reasonable diversification in its investments;

(f) the Bank shall seek to resolve its funds by selling its investments in equity capital to other investors wherever it can appropriately do so on satisfactory terms;

(g) the Bank shall not finance any undertaking in the territory of a Partner State if that Partner State objects to such financing;

(h) before a loan is granted or guaranteed or an investment made, the applicant shall have submitted an adequate proposal to the Bank, and the Director-General of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with his recommendations;

(i) in considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain finance or facilities elsewhere on terms and conditions that the Bank considers reasonable for the recipient, taking into account all pertinent factors;

(j) in making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be able to meet their obligations under the loan contract;

(k) in making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned;

(l) in guaranteeing a loan made by other investors, the Bank shall charge a suitable fee or commission for its risk;

(m) in the case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw the loan funds only to meet payments in connexion with the project as they fall due;

(n) the Bank shall take all necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank are used only for the purposes for which the loan was granted and with due attention to considerations of economy and efficiency; and

(o) the Bank shall ensure that every loan contract entered into by it shall enable the Bank to exercise all necessary powers of entry, inspection and supervision of operations in connexion with the project and shall further enable the Bank to require the borrower to provide information and to allow inspection of its books and records during such time as any part of the loan remains outstanding.

Article 14—Prohibition of political activity

1. The Bank shall not accept loans, Special Funds or assistance that may in any way prejudice, limit, deflect or otherwise alter its objectives or functions.

2. The Bank, its Director-General and officers and staff shall not interfere in the political affairs of any Partner State, nor shall they be influenced in their decisions by the political character of a Partner State. Only economic considerations shall be relevant to their decisions and such considerations shall be weighed impartially to achieve and carry out the objectives and functions of the Bank.

Article 15—Terms and conditions for direct loans and guarantees

1. In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish, in conformity with the operating principles set out above and subject to the other provisions of this Charter, the terms and conditions for the loan or the guarantee concerned, including payment of principal, interest, commitment fee and other charges, maturities and dates of payment in respect of the loan, or the fees and other charges in respect of the guarantee, respectively.

2. The contract shall provide that all payments to the Bank under the contract shall be made in the currency loaned, unless, in the case of a loan made or guaranteed as part of special operations, the regulations of the Bank provide otherwise.

3. Guarantees by the Bank shall also provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower or any other guarantor, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

4. Whenever it considers it appropriate, the Bank may require as a condition of granting or participating in a loan that the Partner State in whose territory a project is to be carried out, or a public agency or instrumentality of that Partner State acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof.

5. The loan or guarantee contract shall specifically state the currency in which all payments to the Bank thereunder shall be made.

Article 16—Commission and fees

1. In addition to interest, the Bank shall charge a commission on direct loans made or participated in as part of its ordinary operations at a rate to be determined by the Board of Directors and computed on the amount outstanding on each loan or participation.

2. In guaranteeing a loan as part of its ordinary operations, the Bank shall charge a guarantee fee at a rate determined by the Board of Directors payable periodically on the amount of the loan outstanding.

3. Other charges, including commitment fee, of the Bank in its ordinary operations and any commission, fees or other charges in relation to its special operations shall be determined by the Board of Directors.

Article 17—Special Reserve

1. The amount of commissions and guarantee fees received by the Bank under the provisions of Article 16 of this Charter shall be set aside as a Special Reserve which shall be kept for meeting liabilities of the Bank in accordance with Article 18 of this Charter. The Special Reserve shall be held in such liquid form as the Board of Directors may decide but the Board of Directors shall ensure that any part of the Special Reserve which it may decide to invest in the territories of the Partner States shall be invested, as nearly as possible, in equal proportions in each Partner State.

Article 18—Defaults on loans and methods of meeting liabilities of the Bank

1. In cases of default on loans made, participated in or guaranteed by the Bank in its ordinary operations, the Bank shall take such action as it considers appropriate to conserve its investment including modification of the terms of the loan, other than any term as to the currency of repayment.

2. Payments in discharge of the Bank's liabilities on borrowings or guarantees chargeable to the ordinary capital resources shall be charged firstly against the Special Reserve and then, to the extent necessary and at the discretion of the Bank, against other reserves, surplus and capital available to the Bank.

3. Whenever necessary to meet contractual payments of interest, other charges or amortization on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in relation to loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of the uncalled subscribed callable capital in accordance with paragraphs 7 and 8 of Article 5 of this Charter

Chapter V—Miscellaneous Powers and Duties of the Bank

Article 19—Miscellaneous powers

In addition to the powers specified elsewhere in this Charter, the Bank shall be empowered—

(a) to borrow funds in the territories of the Partner States, or elsewhere, and in this connexion to furnish such collateral or other security therefor as the Bank shall determine:

Provided that—

(i) before selling its obligations or otherwise borrowing in the territory of a country, the Bank shall obtain the approval of the Government of that country to the sale: and

(ii) before deciding to sell its obligations or otherwise borrowing in a particular country, the Bank shall consider the amount of previous borrowing, if any, in that country with a view to diversifying its borrowing to the maximum extent possible;

(b) to buy and sell securities which the Bank has issued or guaranteed or in which it has invested;

(c) to guarantee securities in which it has invested in order to facilitate their sale;

(d) to invest funds not immediately needed in its operations in such obligations as it may determine and invest funds held by the Bank for pensions or similar purposes in marketable securities, but the Bank shall ensure that any funds which it may decide to invest in the territories of the Partner States shall be invested, as nearly as possible, in

equal proportions in each Partner State;

(e) to provide technical advice and assistance which may serve its purposes and come within its functions and where appropriate, for example in the case of special feasibility studies, the Bank shall charge for such services; and to study and promote the investment opportunities within the Partner States.

Article 20—Allocation of net income

1. The Board of Directors shall determine annually what part of the net income of the Bank, including the net income accruing to the Special Funds, shall be allocated, after making provision for reserves, to surplus and what part, if any, shall be distributed to the members.

2. Any distributions to members made pursuant to paragraph 1 of this Article shall be in proportion to the number of shares held by each member and payments shall be made in such manner and in such currency as the Board of Directors shall determine.

Article 21—Power to make regulations

The Board of Directors may make such regulations, including financial regulations, being consistent with the provisions of this Charter as it considers necessary or appropriate to further the objectives and functions of the Bank.

Article 22—Notice to be placed on securities

Every security issued or guaranteed by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any Government, unless it is in fact the obligation of a particular Government, in which case it shall so state.

Chapter VI—Currencies

Article 23—Determination of convertibility

Whenever it shall become necessary under this Charter to determine whether any currency is convertible, such determination shall be made by the Bank after consultation with the International Monetary Fund.

Article 24—Use of currencies

1. The Partner States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank for payments in any country of the following—

- (a) currencies received by the Bank in payment of subscriptions to its capital stock;
- (b) currencies purchased with the currencies referred to in sub-paragraph (a) of this paragraph;
- (c) currencies obtained by the Bank by borrowing for inclusion in its ordinary capital resources;
- (d) currencies received by the Bank in payment of principal, interest, dividends or other charges in respect of loans or investments made out of any of the funds referred to in sub-paragraphs (a), (b) and (c) of this paragraph or in payment of fees in respect of guarantees made by the Bank; and currencies received from the Bank in distribution of the net income of the Bank in accordance with Article 20 of this Charter.

2. The Partner States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of currency received by the Bank which does not come within the provisions of paragraph 1 of this Article unless such currency forms part of the Special Funds of the Bank and its use is subject to special regulations.

3. The Partner States may not maintain or impose any restriction on the holding or use by the Bank, for making amortisation payments or for repurchasing in whole or in part the Bank's own obligations, of currencies received by the Bank in repayment of direct loans made out of its ordinary capital resources.

4. Each Partner State shall ensure, in respect of projects within its territories, that the currencies necessary to enable payments to be made to the Bank in accordance with the provisions of the contracts referred to in Article 15 of this Charter shall be made available in exchange for currency of the Partner State concerned.

Article 25—Maintenance of value of currency holdings

1. Whenever the par value in the International Monetary Fund of the currency of a Partner State is reduced or the foreign exchange value of the currency of a Partner State has, in the opinion of the Bank, depreciated to a significant extent within the territory of that Partner State, such Partner State shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of subscription, of the amount of the currency of such Partner State paid in to the Bank by that Partner State under sub-paragraph (b) of paragraph 3 of Article 5 of this Charter, and currency furnished under the provisions of this paragraph, provided, however, that the foregoing shall apply only so long as and to the extent that such currency shall not have been initially disbursed or exchanged for another currency.

2. Whenever the par value in the International Monetary Fund of the currency of a Partner State is increased, or the foreign exchange value of the currency of a Partner State has, in the opinion of the Bank, appreciated to a significant extent within the territory of that Partner State, the Bank shall return to such Partner State within a reasonable time an amount of the currency of that Partner State equal to the increase in the value of the amount of such currency to which the provisions of paragraph 1 of this Article are applicable.

CHAPTER VII—ORGANIZATION AND MANAGEMENT OF THE BANK

Article 26—Structure

The Bank shall have a Board of Directors, a Director-General and such other officers and staff as it may consider necessary.

Article 27—Board of Directors

1. All the powers of the Bank shall, subject to this Charter, be vested in the Board of Directors.
2. The Board of Directors shall consist of not more than five nor fewer than three members of whom—
 1. All the powers of the bank shall, subject to this charter, be vested in the board directors.
 2. The board of directors shall consist of not more than five nor fewer than three members of whom
 - (a) three shall be appointed by the Partner States, each of which shall appoint one; and
 - (b) up to two shall be elected by the members other than the Partner States in accordance with such procedure as the said members shall from time to time decide:

Provided that no single member shall be represented by more than one director.

3. AU directors shall be persons possessing high competence and wide experience in economic, financial and banking affairs.

4. Directors shall hold office for a term of three years and shall be eligible for re-appointment or re-election:

Provided that—

- (a) of the first directors of the Bank two, who shall be chosen by the directors by lot, shall hold office for two years;
 - (b) a director shall remain in office until his successor has been appointed or elected;
 - (c) a director appointed or elected in place of one whose office has become vacant before the end of his term shall hold office only for the remainder of that term;
 - (d) a director appointed by a Partner State may be required at any time by that Partner State to vacate his office.
5. There shall be appointed or elected, as the case may be, an alternate director in respect of each substantive director and an alternate director shall be appointed or elected in the same manner and for the same term of office as the director to whom he is an alternate; and an alternate director shall remain in office until his successor has been appointed or elected.
6. An alternate director may participate in meetings but may vote only when he is acting in place of and in the absence of the director to whom he is an alternate.
7. While the office of a director is vacant the alternate of the former director shall exercise the powers of that director.

Article 28—Procedure of the Board of Directors

1. The Board of Directors shall normally meet at the principal office of the Bank and shall meet at least once every three months or more frequently if the business of the Bank so requires.

2. Meetings of the Board of Directors shall be convened by the Director-General of the Bank

3. Four directors, including the three directors appointed by the Partner States, or, if there is no member other than the Partner States, three directors, shall constitute a quorum for any meeting of the Board of Directors:

Provided that if within two hours of the time appointed for the holding of a meeting of the Board of Directors a quorum is not present, the meeting shall automatically stand adjourned to the next day, at the same time and place, or if that day is a public holiday, to the next succeeding day which is not a public holiday at the same time and place, and if at such adjourned meeting a quorum is not present within two hours from the time appointed for the meeting, the directors present shall constitute a quorum and may transact the business for which the meeting was called.

4. The Board of Directors may, by regulation, establish a procedure whereby a decision in writing signed by all the Directors of the Bank shall be as valid and effectual as if it had been made at a meeting of the Board of

Directors.

Article 29—Voting

1. The voting power of each member of the Bank shall be equal to the number of shares of the capital stock of the Bank held by that member.
2. In voting in the Board of Directors—
 - (a) an appointed director shall be entitled to cast the number of votes of the Partner State which appointed him;
 - (b) each elected director shall be entitled to cast the number of votes of the members of the Bank whom he represents, which votes need not be cast as a unit; and
 - (c) except as otherwise expressly provided in this Charter, all matters before the Board of Directors shall be decided by a majority of the total voting power of the members of the Bank.

Article 30—Director-General of the Bank

1. There shall be a Director-General of the Bank who shall be Appointed by the Authority after consultation with the Board of Directors, and who, while he remains Director-General, may not hold office as a Director or an alternate to a Director.
2. Subject to paragraph 3 of this Article, the Director-General shall hold office for a term of five years and may be re-appointed.
3. The Director-General shall vacate his office if the Authority after consultation with the Board of Directors so decides.
4. If the office of Director-General becomes vacant for any reason, a successor shall be appointed for a new term of five years.
5. The Director-General shall preside at meetings of the Board of Directors but shall have no vote.
6. The Director-General shall be the legal representative of the Bank.
7. The Director-General shall be chief of the staff of the Bank and shall conduct under the direction of the Board of Directors the current business of the Bank. He shall be responsible for the organization, appointment and dismissal of the officers and staff in accordance with regulations adopted by the Board of Directors.
8. In appointing officers and staff the Director-General shall, subject to the paramount importance of securing the highest standards of efficiency and technical competence, pay due regard to the recruitment of citizens of the Partner States.

Article 31—Loyalties of Director-General and Officers and Staff

The Director-General and officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence the Director-General or any of the officers and staff in the discharge of their duties.

Article 32—Offices of the Bank

The principal office of the Bank shall be located at Kampala in Uganda and the Bank may establish offices or agencies elsewhere.

Article 33—Channel of Communications, Depositories

1. Each member of the Bank shall designate an appropriate official, entity or person with whom the Bank may communicate in connexion with any matter arising under this Charter.
2. Each Partner State shall designate its central bank, or such other agency as may be agreed upon with the Bank, as a depository with which the Bank may keep its holdings of currency and other assets.

Article 34—Working Language

The working language of the Bank shall be English.

Article 35—Accounts and Reports

1. The Board of Directors shall ensure that proper accounts and proper records are kept in relation to the operations of the Bank and such accounts shall be audited in respect of each financial year by auditors of high repute selected by the Board of Directors.

2. The Bank shall prepare and transmit to the Authority and to the members of the Bank, and shall also publish, an annual report containing an audited statement of its accounts.
3. The Bank shall prepare and transmit to its members quarterly a summary statement of its financial position and a profit and loss statement showing the results of its operations.
4. All financial statements of the Bank shall show ordinary operations and the operations of each Special Fund separately.
5. The Bank may also publish such other reports as it considers desirable in carrying out its objectives and functions and such reports shall be transmitted to members of the Bank.

CHAPTER VIII—WITHDRAWAL AND SUSPENSION OF MEMBERS

Article 36—Withdrawal of Members

1. A Partner State may not withdraw from the Bank.
2. Any member, other than a Partner State, may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its principal office.
3. Withdrawal by a member under paragraph 2 of this Article shall become effective, and its membership shall cease, on the date specified in its notice but in no event less than six months after the date that notice has been received by the Bank. However, at any time before the withdrawal becomes finally effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.
4. A withdrawing member shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice. If the withdrawal becomes finally effective, the member shall not incur any liability for obligations resulting from operations of the Bank effected after the date on which the withdrawal notice was received by the Bank.

Article 37—Suspension of Membership

1. If a member of the Bank, other than a Partner State, fails to fulfil any of its obligations to the Bank, the Board of Directors may suspend such member by a majority vote of the total number of Directors representing not less than 75 per cent of the total voting power of the members including the affirmative votes of each of the Partner States.
2. The member so suspended shall automatically cease to be a member of the Bank six months from the date of its suspension unless the Board of Directors decides, within that period and by the same majority necessary for suspension, to restore the member to good standing.
3. While under suspension, a member shall not be entitled to exercise any rights under this Charter but shall remain subject to all its obligations.

Article 38—Settlement of Accounts

1. After the date on which a member ceases to be a member, it shall remain liable for its direct obligations to the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member is outstanding; but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Bank nor share either in the income or the expenses of the Bank.
2. At the time a member ceases to be a member, the Bank shall arrange for the repurchase of its shares by the Bank as a part of the settlement of accounts with such member in accordance with the provisions of paragraphs 3 and 4 of this Article. For this purpose, the repurchase price of the shares shall be the value shown by the books of the Bank on the date the member ceases to be a member.
3. The payment for shares repurchased by the Bank under this Article shall be governed by the following conditions—
 - (a) Any amount due to the member concerned for its shares shall be withheld so long as that member remains liable, as borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the contingent liability of the member for future calls on its subscription for shares in accordance with paragraph 7 of Article 5 of this Charter. In any event, no amount due to a member for its shares shall be paid until six months after the date on which the member ceases to be a member;
 - (b) payments for shares may be made from time to time, upon their surrender by the member concerned, to the extent by which the amount due as the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans and guarantees referred to in sub-paragraph (a) of this paragraph, until the former member has received the full repurchase price;

- (c) payments shall be made in such available currencies as the Bank determines, taking into account its financial position; and if losses are sustained by the Bank on any guarantees or loans which were outstanding on the date when a member ceased to be a member and the amount of such losses exceeds the amount of the reserve provided against losses on that date, the member concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain liable on any call for unpaid subscriptions in accordance with paragraph 7 of Article 5 of this Charter, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

4. If the Bank terminates its operations pursuant to Article 39 of this Charter within six months of the date upon which any member ceases to be a member, all rights of the member concerned shall be determined in accordance with the provisions of Articles 39 to 41 of this Charter. Such member shall be considered as still a member for the purposes of such Articles but shall have no voting rights.

CHAPTER IX—TERMINATION OF OPERATIONS

Article 39—Termination of operations

1. The Bank may terminate its operations by resolution of the Board of Directors approved by a vote representing not less than 85 per cent of the total voting power of the members and with the approval also of the Authority.
2. After such termination, the Bank shall forthwith cease all activities, except those incidental to the orderly realization, conservation and preservation of its assets and the settlement of its obligations.

Article 40—Liability of members and payment of claims

1. In the event of termination of the operations of the Bank, the liability of all members for uncalled subscriptions to the capital stock of the Bank shall continue until all claims of creditors, including all contingent claims, shall have been discharged.
2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgment, to ensure a *pro rata* distribution among holders of direct and contingent claims.

Article 41—Distribution of assets

1. No distribution of assets shall be made to members on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for and any such distribution shall be approved by the Board of Directors by a vote representing not less than 85 per cent of the total voting power of the members.
2. Any distribution of the assets of the Bank to the members shall be in proportion to the capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall consider fair and equitable. The shares of assets distributed need not be uniform as to type of asset. No member shall be entitled to receive its share in such a distribution of assets until it has settled all of its obligations to the Bank.
3. Any member receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

CHAPTER X—STATUS, IMMUNITIES AND PRIVILEGES

Article 42—Purpose of Chapter

To enable the Bank effectively to fulfil its objectives and carry out the functions with which it is entrusted, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territories of each of the Partner States.

Article 43—Legal status

The Bank shall possess full juridical personality and, in particular, full capacity—

- (a) to contract;
- (b) to acquire, and dispose of, immovable and movable property; and
- (c) to institute legal proceedings.

Article 44—Judicial proceedings

1. Actions may be brought against the Bank in the territories of the Partner States only in a court of competent jurisdiction in a Partner State in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.
2. No action shall be brought against the Bank by members or persons acting for or deriving claims from members. However, members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Charter, in the regulations of the Bank or in contracts entered into with the Bank.

Article 45—Immunity of assets

1. Property and other assets of the Bank, whosoever located and by whomsoever held, shall be immune from requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action and premises used for the business of the Bank shall be immune from search.
2. The Bank shall prevent its premises from becoming refuges for fugitives from justice, or for persons subject to extradition, or persons avoiding service of legal process or a judicial proceeding.

Article 46—Immunity of archives

The archives of the Bank and all documents belonging to it, or held by it, shall be inviolable wherever located.

Article 47—Freedom of assets from restriction

To the extent necessary to carry out the objectives and functions of the Bank and subject to the provisions of this Charter, all property and other assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

Article 48—Personal immunities and privileges

Directors, alternates, officers and employees of the Bank and experts and consultants rendering services to the Bank shall have the immunities and privileges provided for under Article 3 of the Treaty to which this Charter is annexed.

Article 49—Exemption from taxation

1. The Bank shall be enabled to import free of customs duty any goods required for the purpose of its operations except such goods as are intended for sale, or are sold, to the public.
2. No transfer tax may be imposed upon manufactured goods which are required by the Bank for the purpose of its operations, otherwise than upon such goods as are intended for sale, or are sold, to the public.
3. The Bank shall be exempted from income tax and stamp duty.

Article 50—Implementation

Each Partner State shall promptly take such action as is necessary to make effective within that Partner State the provisions set forth in this Chapter and shall inform the Bank of the action which it has taken on the matter.

Article 51—Waiver of immunities

1. The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.
2. The Bank shall take every measure to ensure that the privileges, immunities, exemptions and facilities conferred by this Charter are not abused and for this purpose shall establish such regulations as it may consider necessary and expedient.

CHAPTER XI—AMENDMENT, INTERPRETATION AND ARBITRATION

Article 52—Amendment of the Charter

1. This Charter may be amended only by a resolution of the Board of Directors approved by a vote representing not less than 85 per cent of the total voting power of the members and thereafter approved by the Authority.
2. An amendment to this Charter shall be published as a Legal Notice in the Gazette of the Community and shall enter into force three calendar months after the date of such publication unless the resolution referred to in paragraph I of this Article otherwise provides

3. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Board of Directors shall be required for the approval of any amendment of the Charter modifying—
 - (a) the right of a member, other than a Partner State, to withdraw from the Bank as provided in Article 36 of this Charter;
 - (b) the right to subscribe to capital stock of the Bank as provided in paragraph 5 of Article 4 of this Charter; and
 - (c) the limitation on liability as provided in paragraphs 8 and 9 of Article 4 of this Charter.

Article 53—Interpretation or application

Any question of interpretation or application of the provisions of this Charter arising between any member and the Bank or between two or more members of the Bank shall be submitted to the Board of Directors for decision.

Article 54—Arbitration

1. If a disagreement shall arise between the Bank and a member or between the Bank and a former member of the Bank including a disagreement in respect of a decision of the Board of Directors under Article 53 of this Charter, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Bank, another by the member or former member concerned and the third, unless the parties otherwise agree, by the Executive Secretary of the Economic Commission for Africa or such other authority as may have been prescribed by regulations made by the Board of Directors.
2. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding on the parties and a decision of the arbitrators may include an order as to payment of costs and expenses.
3. The third arbitrator shall be empowered to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

CHAPTER XII—FINAL PROVISIONS

Article 55—Signature and deposit

1. Upon the signature of the Treaty to which this Charter is annexed on behalf of all three Partner States, a copy of this Charter shall be deposited with the Secretary General of the Common Services Organization where it shall remain open until the first day of December 1967 for signature by the bodies corporate, enterprises or institutions approved under paragraph 1 of Article 2 of this Charter.
2. Immediately after the first day of December 1967 the Secretary General of the Community shall send certified copies of this Charter to all the Partner States and others who by signing this Charter become members of the Bank.

Article 56—Entry into force

This Charter shall enter into force at the same time as does the Treaty to which it is annexed.

Article 57—Commencement of operations

1. As soon as this Charter enters into force, the Directors shall be appointed or elected in accordance with the provisions of Article 27 of this Charter and the Secretary General of the Community shall call the first meeting of the Board of Directors.
2. At its first meeting the Board of Directors shall determine the date on which the Bank shall commence its operations.
3. The Bank shall notify its members of the date of the commencement of its operations.

Article 58—Definitions

In this Charter, unless the context otherwise requires—

“Authority” means the East African Authority established by Article 46 of the Treaty to which this Charter is annexed;

“Board of Directors” means the Board of Directors of the Bank;

“Community” means the East African Community established by Article 1 of the Treaty to which this Charter is annexed;

“Director-General” means the Director-General of the Bank;

“Treaty” means the Treaty for East African Co-operation to which this Charter is annexed,

(Article 25)

ANNEX VII—CURRENT ACCOUNT PAYMENTS

- I. Payments for goods of all kinds, including any payment of insurance in respect of such goods or any element in the price thereof in respect of such insurance, and payments for water and electricity, imported or to be imported into the Partner State from which payment is to be made.
- II. Payments in respect of goods traded under transit or merchandising arrangements.
- III. Payments in respect of the carriage of goods or passengers by any means of transport, including payments for the chartering of such transport.
- IV. Payments in respect of services incidental to the carriage of goods or passengers by any means of transport, including warehousing and storage and transit facilities.
- V. Payments in respect of the operation of transport services, including bunkering and provisioning, maintenance, assembly and repair of equipment and installations, fuel and oil, garaging, and expenses of staff.
- VI. Payments in respect of postal and telecommunications services.
- VII. Payments in respect of business services, including payments for agency and representation services, advertising, banking commission and charges, insurance and reinsurance, commission and brokerage services, and assistance relating to the production and distribution of goods and services at all stages.
- VIII. Payments for professional services, including legal, medical, dental, architectural, accounting and auditing and engineering services.
- IX. Payments in respect of travel, subsistence and accommodation.
- X. Payments in respect of fees and remuneration for other services, including education and personal services.
- XI. Payments in respect of construction carried out in the Partner State from which payment is to be made.
- XII. Payments in respect of processing, finishing, servicing and maintenance work.
- XIII. Payments of interest and other investment income on shares, loans, mortgages, overdrafts and debentures, of profits from business, and contractual amortization. Payments by or to subsidiary concerns, branches or sub branches in
- XIV. Respect of overhead costs shared with a parent concern or branch.
- XV. Payments in respect of rentals.
- XVI. Payments in respect of any tax, rate, fine, fee or charge levied or imposed under any law by any public authority, including charges for customs clearance, demurrage, licenses and permits, court fees and fines, and fees for registration of companies, partnerships, business names, trademarks and patents.
- XVII. Payments in respect of business expenses, including wages, salaries, allowances, directors' fees, gratuities and severance payments
- XVIII. Payments of pensions, including any commuted portion thereof, and of superannuation and Provident Fund benefits.
- XIX. Remittances from current income to, by or on behalf of persons (other than bodies corporate) in a Partner State who are not citizens of that Partner State.
- XX. Payments to, by or on behalf of persons visiting or residing in another Partner State whose personal income is not sufficient to cover their current expenses or the current expenses of their family.
- XXI. Payments in respect of claims for damage, legal obligations for damages or for maintenance.
- XXII. Payments in respect of subscriptions to and entrance and membership fees of any association.
- XXIII. Payments by persons having emigrated from the Partner State from which the payment is to be made to another Partner State, of amounts not less than those permitted for emigrants to any foreign country.
- XXIV. Payments in respect of royalties and of use of patent rights, designs, trademarks and inventions.
- XXV. Donations out of current income towards charities.
- XXVI. Payments in respect of inheritances, subject to regulation of the timing of transfers of such payments
- XXVII. Payments in respect of prizes, including premium bond, lottery and sports prizes.

ANNEX VIII—STATUTE OF THE COMMON MARKET TRIBUNAL

Article 1—Preliminary

The Tribunal shall be constituted and shall perform its duties in accordance with this Treaty and this Statute.

Article 2—Oath and declaration

1. Before entering upon their duties, the members of the Tribunal shall in public session individually undertake, by oath or affirmation, to perform their duties impartially and conscientiously and to preserve the secrecy of the Tribunal's deliberations.
2. When entering upon their duties, the members of the Tribunal shall make a declaration to the effect that they will, both during and after the termination of their office, respect the obligations resulting therefrom and in particular

the duty of exercising honesty and discretion as regards the acceptance, after their term of office, of certain positions or benefits, and will abide by the direction of the Tribunal in cases of doubt.

Article 3—Holding of other offices

Except with the consent of the Authority, a member of the Tribunal shall neither hold any political office or any office in the service of a Partner State, the Community or a Corporation, nor engage in any trade, vocation or profession.

Article 4—Resignation

1. The Chairman of the Tribunal may at any time resign his office by the tribunal may at any time resign his office by letter delivered to the secretary general for transmission to the Authority, but his resignation shall not take effect until his successor enter upon his duties.

2. A member of the tribunal other than the chairman may at any time resign his office by letter delivered to the chairman of the tribunal for transmission to the Authority, by his resignation shall not take effect until his successor enters upon his duties.

Article 5—Replacement of member

A member of the Tribunal appointed to replace a member whose term of office has not expired shall be appointed in the same manner as was that member and for the remainder of that member's term of office.

Article 6—Registrar and staff

1. There shall be a Registrar of the Tribunal who shall hold office in the service of the Community and whose functions shall, subject to this Statute and to the rules of procedure of the Tribunal, be determined by the Tribunal.

2. Before entering upon his duties, the Registrar of the Tribunal shall undertake, by oath or affirmation sworn or made before the Tribunal in public session, to perform his duties impartially and conscientiously and to preserve the secrecy of the Tribunal's deliberations.

3. The Tribunal shall have such officials and staff, who shall hold office in the service of the Community, as may be necessary to enable it to perform its functions.

Article 7—Seat of the Tribunal

The seat of the Tribunal shall be at Arusha in Tanzania, but the Tribunal may in any particular case sit and exercise its functions elsewhere within the Partner States if it considers it desirable.

Article 8—Sessions of the Tribunal

1. The Tribunal shall remain permanently in session, except for judicial vacations, and the dates and length of such vacations shall be determined by the Chairman with due regard for its obligations.

2. Subject to this Statute and to the rules of procedure, the Tribunal shall sit in plenary session only with all its members present:

Provided that, in any case where the Tribunal has commenced the hearing of a case before it and not more than one member of the Tribunal is unable to continue such hearing and is temporarily absent therefrom, it shall be competent to the Tribunal, notwithstanding the temporary absence of such member and with the agreement of the parties to the case before it, to continue and determine the hearing of such case.

Article 9—Functions of the Chairman

Notwithstanding paragraph 2 of Article 8 of this Statute, the rules of procedure may impose functions upon the Chairman of the Tribunal sitting alone in relation to administrative, procedural and other preliminary matters not being matters falling to be dealt with by the Tribunal by interim order under Article 39 of this Treaty.

Article 10—Duty to attend

Members of the Tribunal shall be bound, unless they are prevented from attending by illness or other serious reasons duly explained to the Chairman, to hold themselves permanently at the disposal of the Tribunal.

Article 11—References

1. Matters in dispute shall be referred to the Tribunal by a reference addressed to the Registrar specifying the subject matter of the dispute and the parties to it.

2. The Registrar shall immediately send a copy of the reference to all concerned.

Article 12—Representation before the Tribunal

Every party to a case before the Tribunal shall be represented by a person appointed by that party for the case; a representative need not be an advocate but he may be assisted by an advocate entitled to appear before a superior court of any of the Partner States.

Article 13—Proceedings

1. The proceedings of the Tribunal shall consist of a written part and an oral part.
2. The written part of the proceedings shall include the reference, the application, the response to the application, the reply, the rejoinder and the submissions, together with all papers and documents in support.
3. The written part of the proceedings shall be presented to the Registrar, in the order and within the time fixed by the rules of procedure or by the Tribunal in any particular case, and a copy of every paper or document presented by one party shall be communicated to the other party.
4. The oral part of the proceedings shall consist of the hearing* by the Tribunal of witnesses, experts, representatives and advocates.

Article 14—Hearings

The hearing before the Tribunal shall be under the control of the Chairman and shall be in public, unless the Tribunal decides otherwise or a party requests that the public be not admitted.

Article 15—Production of documents

1. The Tribunal may at any time request the parties to produce all documents and supply all information or explanations which the Tribunal considers desirable. Formal note shall be taken of any refusal.
2. The Tribunal may also request a Partner State, which is not a party to the case, or an institution of the Community to supply all information which the Tribunal considers necessary for the proceedings.

Article 16—Inquiries and expert opinions

The Tribunal may, in relation to any proceedings and at any time, charge any person, body or institution with the task of carrying out an inquiry or giving an expert opinion.

Article 17—Witnesses

1. During the hearing relevant questions may be put to the witnesses and experts under the conditions laid down by the rules of procedure.
2. During the hearing the Tribunal may examine the experts and witnesses and ask questions of the representatives and advocates.
3. The Tribunal shall have, with respect to defaulting witnesses, the powers granted to the superior court in the Partner State where it is at the relevant time sitting, and may impose sanctions accordingly.
4. Minutes shall be kept of each hearing and shall be signed by the Chairman and the Registrar.

Article 18—List of cases

The list of cases shall be fixed by the Chairman.

Article 19—Costs

Unless otherwise decided by the Tribunal, each party shall bear its own costs. ¹

Article 20—Advisory opinions

1. A request for an advisory opinion under Article 38 of the Treaty shall be made by means of a written request containing an exact statement of the question upon which an opinion is required and shall be accompanied by all documents likely to be of assistance.
2. Upon receipt of a request under paragraph 1 of this Article, the Registrar shall forthwith give notice thereof to the Partner States and notify them that the Tribunal will be prepared to accept, within a time to be fixed by the Chairman, written submissions, or to hear, at a hearing held for the purpose, oral submissions relating to the question.
3. The Tribunal shall, unless for special reasons it makes an order to the contrary, deliver an advisory opinion in public session.

4. In the exercise of its advisory function the Tribunal shall be guided by the provisions of this Statute relating to references to the extent which it considers them applicable.

Article 21—Interpretation of decisions

in the case of difficulty as to the meaning or scope of a decision or an advisory opinion, the Tribunal shall interpret it upon the request of any party or any institution of the Community establishing an interest therein.

Article 22—Revision

1. An application for revision of a decision may be made to the Tribunal only if it is based upon the discovery of some fact of such nature as to be a decisive factor, which fact was, when the decision was delivered, unknown to the Tribunal and to the party claiming revision.
2. On an application for revision, the procedure shall commence, where the application is admissible, with a decision of the Tribunal explicitly finding that the new fact alleged does exist and is of such a character as to lay the case open to revision, and declaring the application admissible on that ground.
3. Before declaring an application for revision of a decision to be admissible, the Tribunal may require prior compliance with the terms of the decision.
4. No application for revision of a decision may be made after the expiry of five years from the date of the decision.

Article 23—Amendment of the Statute

The Authority may, after consultation with the Tribunal, by order from time to time amend or add to this Statute, and the Tribunal may propose amendments or additions to this Statute.

(Article 43)

ANNEX IX—SERVICES TO BE ADMINISTERED BY THE COMMUNITY OR BY THE CORPORATIONS

PART A—SERVICES TO BE ADMINISTERED BY THE COMMUNITY

1. The secretariat of the Community, including services relating to the Common Market and the Chambers of the Counsel to the Community.
2. The East African Directorate of Civil Aviation.
3. The East African Meteorological Department.
4. The East African Customs and Excise Department.
5. The East African Income Tax Department.
6. The East African Industrial Council.
7. The East African Literature Bureau.
8. The Auditor-General's Department.
9. The East African Community Service Commission.
10. The East African Legislative Assembly.
11. The East African Agriculture and Forestry Research Organization.
12. East African Freshwater Fisheries Research Organization.
13. The East African Marine Fisheries Research Organization.
14. The East African Trypanosomiasis Research Organization.
15. The East African Veterinary Research Organization.
16. The East African Leprosy Research Centre.
17. The East African Institute of Malaria and Vector-Borne Diseases.
18. The East African Institute for Medical Research.
19. The East African Virus Research Organization.
20. The East African Industrial Research Organization.
21. The East African Tropical Pesticides Research Institute.
22. The East African Tuberculosis Investigation Centre.
23. Services arising from the operations of the East African Currency Board.
24. Services for the administration of grants or loans made by the government of any country, any organization or

- any authority, for the purposes of projects or services agreed between the Authority and the Partner States.
25. Services, including statistical services, for the purposes of coordinating the economic activities of the Partner States.
 26. Services for the purposes of anybody or authority established in pursuance of paragraph 4 of Article 43 of this Treaty.
 27. Services for the purposes of the East African Industrial Court established by Article 85 of this Treaty.

PART B—SERVICES TO BE ADMINISTERED BY THE CORPORATIONS

1. The East African Railways Corporation-services and facilities relating to rail, road and inland waterways transport and inland waterways ports.
2. The East African Harbours Corporation-harbours services and facilities (other than inland waterways ports).
3. The East African Posts and Telecommunications Corporation-posts, telecommunications and other associated services.
4. The East African Airways Corporation-services and facilities relating to East African and international air transport.

(Article 43)

ANNEX X—MATTERS WITH RESPECT TO WHICH ACTS OF THE COMMUNITY MAY BE ENACTED

1. Finances of the Community.
2. Appropriations from the General Fund.
3. Audit of the accounts of the Community and the accounts of the Corporations.
4. Civil aviation.
5. Customs, excise and transfer tax-administrative and general provisions (but not including tariff, rates of tax and allowances).
6. Income tax-administrative and general provisions (but not including rates of tax and allowances)
7. Powers, privileges and immunities of the East African Legislative Assembly and the Chairman and members thereof.
8. Research within the Partner States.
9. Control of pesticides.
10. The University of East Africa; Makerere University College; the University College, Dar es Salaam; and University College, Nairobi.
11. The East African Staff College.
12. The East African Examinations Council.
13. Meteorology.
14. The East African Land Survey Certificate.
15. Pensions, gratuities and other retirement benefits payable out of the funds of the Community or the Corporations.
16. Staff of the Community, the East African Community Service Commission, and staff of the Corporations.
17. Posts and telegraphs, telephones, radio communications and other associated matters.
18. Services and facilities relating to rail, road and inland waterway transport and inland waterways ports.
19. Harbour services and facilities (other than inland waterways ports).
20. Borrowing for the purposes of the Community and the Corporations.
21. The Common Market Tribunal.
22. The Court of Appeal for East Africa (but not including the jurisdiction or powers of the Court).
23. Legal proceedings by or against the Community and the Corporations, or any officers or authorities thereof.
24. Statistics.
25. Industrial licensing in East Africa.
26. The establishment of advisory or consultative bodies in respect of any service or Corporation or in respect of any matter of common interest to the Partner States.
27. Any matter, not mentioned elsewhere in this Annex, which is incidental to the execution, performance or enforcement of any function conferred by this Treaty or by an Act of the Community upon any institution or authority, or officer in the service, of the Community, or upon any authority or servant of a Corporation.

ANNEX XI—PROCEDURAL PROVISIONS

Procedure of Authority

1. (a) Subject to this Treaty, the Authority shall determine its own procedure, including that for convening its meetings, for the conduct of business thereat and at other times, and for the rotation of the office of Chairman among the members of the Authority.

(b) The East African Ministers shall attend meetings of the Authority (and speak at such meetings to the extent required or permitted by the Authority) unless, on any particular occasion, the Authority otherwise directs but the absence of an East African Minister or Ministers from a meeting of the Authority shall in no way invalidate its proceedings.

Delegation of the Authority's functions

2. (a) Subject to this Treaty, the Authority may delegate the exercise of any executive function, subject to any conditions which it may think fit to impose, to a member of the Authority, to the East African Ministers jointly or any one of them, to a Council, or to an officer in the service of the Community.

(b) An Act of the Community may make provision for the delegation of any powers, including legislative powers, conferred on the Authority by this Treaty or by any Act of the Community, to the East African Ministers jointly, or to any one of them, to an officer in the service of the Community or to a Director-General.

Decisions of the Authority

3. (a) Any member of the Authority may record his objection to a proposal submitted for the decision of the Authority and, if any such objection is recorded, the Authority shall not proceed with the proposal unless the objection is withdrawn.

(b) Subject to the provisions of any Act of the Community, the acts and decisions of the Authority may be signified under the hand of the Secretary General or of any officer in the service of the Community authorized in that behalf by the Authority.

Procedure of the East African Ministers

4. (a) Subject to any directions which may be given by the Authority, the East African Ministers shall determine their procedure, including that for convening their meetings, for the conduct of business thereat and at other times, and for the rotation of the office of Chairman among the East African Ministers, and such procedure may provide that a decision in writing signed by all the East African Ministers shall be as valid and effectual as if it had been made at a meeting of the East African Ministers.

(b) Subject to any Act of the Community, the acts and decisions of the East African Ministers may be signified by any East African Minister or by any officer in the service of the Community authorized by the East African Ministers in that behalf.

Meetings of the Councils

5. Subject to any directions which may be given by the Authority, the Councils shall determine the frequency of their meetings but the Chairman of any Council shall, at the request of any of the Partner States, summon that Council to meet within ten days.

Chairmanship of the Councils

6. (a) Subject to any directions which may be given by the Authority, within each Council the East African Ministers shall hold the office of Chairman in rotation for periods of four months in such order as may be determined by the Authority.

(b) If the person holding the office of Chairman of a Council is absent from a meeting of that Council, there shall preside at that meeting such member of the Council as the members present may elect for that purpose, unless the Authority otherwise directs.

Procedure of Councils

7. (a) Subject to any directions which may be given by the Authority, a Council shall determine its own procedure, including that for convening its meetings and the conduct of business thereat and at other times.

(b) The procedure determined by a Council under sub-paragraph

(a) of this paragraph may include arrangements under which the exercise of any function of the Council is delegated, subject to such conditions as the Council may think fit to impose, to the East African Ministers jointly, or to any one of them, or to any officer in the service of the Community or to any authority or a servant of a Corporation.

(c) When the Communications Council is conducting business relating to any of the Corporations, the Chairman of the Board of Directors and the Director-General of that Corporation shall be entitled to attend and

speak.

Decisions of Councils

8. (a) Any member of a Council may record his objection to a proposal submitted for the decision of that Council and, except where Article 36 of this Treaty applies, unless such objection is withdrawn the proposal shall be referred to the Authority for its decision.
- (b) If the Communications Council makes a decision which is contrary to a proposal submitted by the Board of Directors of a Corporation for the approval of that Council, that Board of Directors may refer 'the question at issue through the East African Ministers to the Authority for its decision.
- (c) No further action shall be taken in relation to a proposal before a Council or a decision of a Council, as the case may be, in respect of which a reference has been made to the Authority whilst that reference is under consideration by the Authority, unless the reference is withdrawn and the Authority is notified accordingly.
- (d) Subject to any Act of the Community, the acts and decisions of a Council may be signified by any member of the Council or by any officer in the service of the Community authorized by the Council in that behalf.

Questions as to Membership of the Assembly

9. (a) Any questions that may arise whether any person is an appointed member of the Assembly or whether any seat in the Assembly is vacant shall be determined by the Partner State responsible for the appointment in question.
- (b) The Partner States shall notify the Chairman of the Assembly of every determination made under subparagraph (a) of this paragraph, and for the information of the Chairman shall forward to him a copy of the instrument of appointment of every appointed member of the Assembly.

Chairman of the Assembly

10. (a) The Chairman of the Assembly shall be appointed by the Authority, by instrument in writing.
- (b) A person shall not be qualified to hold the office of Chairman of the Assembly if he is an appointed member of the Assembly, a member of the legislature of a Partner State, a member of a Board of Directors, an officer in the service of the Community, a servant of a Corporation, an officer in the service of the Government of a Partner State, or a director, alternate director or a servant of the Bank.
- (c) The Chairman of the Assembly shall vacate his office—
- i. Upon the expiry of the period of office specified in his instrument of appointment;
 - ii. If he delivers his resignation in writing to the Secretary General for transmission to the Authority; or
 - iii. If he ceases to be qualified for appointment as Chairman.
- (d) The chairman of the Assembly may be removed from office by the Authority for inability to perform the functions of his office, whether arising from infirmity of mind or body or from any other cause, or for misbehavior, but shall not otherwise be removed from office.

Invitation of persons to assist the Assembly

11. (a) The Chairman of the Assembly, at the request of the East African Ministers, shall invite any person to attend the Assembly, notwithstanding that he is not a member of the Assembly, if in the opinion of the East African Ministers the business before the Assembly renders his presence desirable.
- (b) A person so invited shall be entitled to take part in the proceedings of the Assembly relating to the matters in respect of which he was invited as if he were a member of the Assembly, but he shall not have a right to vote in the Assembly.

Meetings of the Assembly

12. (a) The meetings of the Assembly shall be held at such times and places as the Authority may appoint.
- (b) The Assembly shall meet at least once in every year and a period of twelve months shall not elapse between the commencement of the last meeting in any year and the first meeting in the following year

Presiding in the Assembly

13. There shall preside at any sitting of the Assembly—
- (a) The Chairman;
 - (b) In the absence of the Chairman, such member of the Assembly as the Authority may appoint; or
 - (c) In the absence of the Chairman or a person so appointed, such member as the Assembly may elect for the sitting.

Quorum and vacancies in the Assembly

14. (a) If, during any sitting of the Assembly, the attention of the person presiding is drawn to the fact that there are fewer than ten members present and if, after such interval as may be prescribed by the rules of procedure of the Assembly, the person presiding ascertains that there are present at the sitting fewer than ten members, he shall adjourn the Assembly.
- (b) In reckoning the number of members who are present for the purposes of sub-paragraph (a) of this paragraph, the person presiding shall not be taken into account.
 - (c) The Assembly may transact business notwithstanding that there is a vacancy among its members, and the attendance or participation of any person not entitled to attend or participate in the proceedings of the Assembly shall not invalidate those proceedings.

Voting in the Assembly

15. (a) Subject to sub-paragraph (e) of this paragraph, all questions proposed for decision in the Assembly shall be determined by a majority of the votes of the members present and voting.
- (b) The Chairman of the Assembly, the Secretary General and the Counsel to the Community shall not be entitled to vote in the Assembly.
 - (c) When in the absence of a Chairman a member is presiding in the Assembly, the member presiding shall retain his right to vote.
 - (d) If the votes of the members are equally divided upon any motion before the Assembly, the motion shall be lost.
 - (e) A Bill for the amendment or repeal of the Court of Appeal for Eastern Africa Act 1962 shall not be passed in the Assembly unless it has received, on the second reading thereof, the votes of not less than two-thirds of all the members of the Assembly.

Bills and Motions in the Assembly

16. (a) Subject to the rules of procedure of the Assembly, any member may propose any motion or introduce any Bill in the Assembly:

Provided that a motion which does not relate to the functions of the Community shall not be proposed in the Assembly, and a Bill which does not relate to a matter with respect to which Acts of the Community may be enacted shall not be introduced into the Assembly.

- (b) Except with the consent of the Authority, signified by an East African Minister, the Assembly shall not-
 - (i) proceed on any Bill, including an amendment to any Bill, that, in the opinion of the person presiding, makes provision for any of the following purposes-
 - (1) for the imposition of any charge upon any fund of the Community or any fund of a Corporation;
 - (2) for the payment, issue or withdrawal from any fund of the Community of any moneys not charged thereon or the increase in the amount of any such payment, issue or withdrawal; or
 - (3) for the remission of any debt due to the Community or a Corporation;
 - (ii) Proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the said purposes.

Rules of Procedure of the Assembly

17. The Authority may make, amend, add to or revoke rules governing the procedure of the Assembly

(including the Standing Orders thereof).

Publication of Acts of the Community

18. The Authority shall cause every Act of the Community to be published in the Gazette.

Publication and commencement of rules and orders of the Authority

19. The Authority shall cause all rules and every order made by it under this Treaty to be published in the Gazette; and such rules or order shall come into force on the date of publication unless otherwise provided therein.

(Article 68)

ANNEX XII—INCOME OF COMPANIES ENGAGED IN MANUFACTURING OR FINANCE BUSINESS

1. The expression “income of companies engaged in manufacturing or finance business” means income of companies engaged within the Partner States in the business of manufacturing and income of companies engaged within the Partner States in the business of finance, being in either case income which is chargeable at the corporation rate under the laws in force in the Partner States.

2. For the purpose of the definition in paragraph 1 of this Annex, a company is engaged in the business of manufacturing if it is a company whose major activity, in terms of gross revenue, falls within one of the classifications in List A hereunder

3. For the purposes of paragraph 2 of this Annex, where the end- product of an earlier activity is used as the raw material of a later activity and the major part of the company’s revenue is from the sale of the final production, the company shall be classified according to the activity at the final stage.

4. For the purpose of the definition in paragraph f of this Annex, a company is engaged in the business of finance if it is a company whose major activity in terms of gross revenue falls within any one of the classifications in List B hereunder.

Classifications

example of activity

(i) Food manufacturing industries (except beverages).	Includes slaughtering, dressing, packing and canning, manufacturing of prepared feeds for animals and fowls, the manufacturing of ice other than dry ice.
iii. Beverage industry	Production of distilled spirits, wines, malt liquors, soft drinks and carbonated beverages.
(ii) Tobacco manufacture	
(iv) Manufacture of textiles.	Preparation of fiber, manufacture and finishing of fabrics (including carpets, linoleum, artificial leather, ropes and twine, and water-proofing of fabrics). Also includes the manufacture of garments in knitting mills (e.g. hosiery).
(v) Manufacture of footwear, other wearing apparel and made up textile goods.	All types of footwear except vulcanized (which is included in (xi) manufacture of rubber products); all wearing apparel by cutting and sewing fabrics, leather, fur and other material, all made up textile goods
(vi) Manufacture of wood and cork (except furniture).	Sawmills, manufacture of boxes, baskets, ladders and collins.
(vii) Manufacture of furniture..	Includes furniture for households, offices and restaurants.
(viii) Manufacture of pulp, paper and paperboard.	
(ix) Printing, publishing and allied industries.	Includes bookbinding, engraving and etching.
(x) Manufacture of leather and	Tanning of hides, preparation of furs, manufacturer of fur and skin,

leather and fur products, except footwear and other Wearing apparel.	rugs, handbags, saddlery.
(xi) Manufacture of rubber products.	Natural and synthetic rubber; tubes, tyres, vulcanized footwear
(xii) Manufacture of chemical and chemical products.	Basic chemicals, dyes, vegetable and animal oils and fats, paints, soap, ink, matches, insecticides (except lard and other edible fats from livestock)
(xiii) Manufacture of products of petroleum and coal.	Petroleum refineries and other manufacturers of products from petroleum and coal.
Manufacture of non-metallic mineral products (except petroleum and coal.)	Pottery, cement, bricks, glass, china, etc.
(xv) Basic metal industries...	All processes from smelting to the semi-finished stage in rolling mills and foundries
Manufacturer of metal products except machinery and transport equipment	Cutlery, hand tools, hardware, bolts and nuts; enameling, galvanizing, black smithing and welding.
) Manufacture of machinery except electrical machinery.	Tractors refrigerators, air -conditioning units, sewing machines, typewriters
i) Manufacture of electrical machinery apparatus, appliances and supplies	All machinery and apparatus for the generation, storage and transmission of electricity; vacuum cleaners, etc. insulated wire and cable, radios, electric lamps, etc.
(xix) Manufacture of transport equipment	Does not include tires and tubes (xi), agricultural and road building tractors (xvii), aeronautical instruments (xx).
(xx) Miscellaneous manufacturing industries	Scientific instruments, photographic and optical goods, watches and clocks, jeweler, musical instruments, lamp shades, tobacco pipes and cigarette holders, advertising displays, molded or extruded plastic product.
	LIST B
Banks and other financial institutions	Banks, credit companies, investment companies
Insurance.....	Insurance carriers of all kinds, life, fire, accident, etc. Insurance agents and brokers.

(Article 55 and 73)

ANNEX XIII—CONTROL OF THE CORPORATIONS
PART A—THE EAST AFRICAN POSTS AND TELECOMMUNICATIONS CORPORATION
The Director-General

1. It shall be the duty of the Director-General—
 - (a) to conduct and manage, subject to the direction of the Board of Directors, the business and operations of the Corporation;
 - (b) to keep the Board fully informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
 - (c) to submit to the Board annual estimates of revenue and expenditure; and
 - (d) to submit annually a draft statement of accounts and a draft report for the consideration of the Board.
2. Subject to this Treaty and to the direction of the Board of Directors, the Director-General may—
 - (a) establish and operate postal and telecommunications services and services, including agency services for the Partner States, which may conveniently be performed in association therewith;
 - (b) regulate and control radio communications;
 - (c) approve recurrent expenditure within limits which shall be determined by the Board;
 - (d) approve any individual capital work of which the estimated cost does not exceed 100,000 Uganda shillings or such other sum as the Authority may, by order, determine;
 - (e) approve any alteration in salaries or other conditions of service not involving expenditure in excess of the limits determined by the Board;

- (f) approve any alteration in the establishment other than an alteration involving a major reorganization or a substantial reduction in the number of employees;
- (g) if required by a Partner State, manage its Post Office Savings Bank;
- (h) allocate functions and delegate powers to officers of the Corporation; and
- (i) perform the duties and exercise the powers imposed on or vested in him by any Act of the Community.

The Board of Directors

3. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, it shall be the duty of the Board of Directors—

- (a) to provide postal and telecommunications services and services, including agency services for the Partner States, which may conveniently be performed in association therewith;
- (b) to regulate and control radio communications;
- (c) to determine policy regarding all the operations of the Corporation and to ensure the application of that policy;
- (d) to keep the Communications Council informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
- (e) to approve annual estimates of revenue and expenditure;
- (f) if required by a Partner State, to manage its Post Office Savings Bank;
- (g) to establish a General Purposes Committee from among its members; and
- (h) To publish the tariffs charged by the Corporation and the rules made by the Board of Directors.

4. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, the Board of Directors may—

- (a) approve any alteration in the tariff of a service which would not affect the gross revenue of the service concerned to an extent greater than two per cent;
- (b) approve any alteration in salaries or other conditions of service of employees other than an alteration which would require a tariff increase of more than two per cent in the service concerned;
- (c) approve any individual capital work of which the estimated cost does not exceed 2,000,000 Uganda shillings or such other sum as the Authority may, by order, determine;
- (d) delegate functions to its General Purposes Committee;
- (e) consider legislative proposals and recommend their enactment;
- (f) refuse to provide a new service in a Partner State at a rate or charge which is insufficient to meet the costs involved in the provision of such service, unless the Partner State undertakes to make good the amount of the loss incurred by the provision of such service;
- (g) approve any alteration in the organization or establishment which is beyond the competence of the Director-General; and
- (h) give directions to the Director-General.

The Communications Council

5. It shall be the responsibility of the Communications Council—

- (a) to receive and consider the information concerning the Corporation provided by the Board of Directors, and upon being consulted by the Board to assist it with advice or directions;
- (b) to give to the Board of Directors directions of a general nature on matters of policy;
- (c) to give effect to the directions of the Authority;
- (d) to consider and approve the development plan and associated loan programme of the Corporation; and
- (e) to consider and approve in principle legislative proposals submitted by the Board of Directors.

6. Subject to this Treaty and to any directions which may be given to the Communications Council by the Authority, the Communications Council may—

- (a) give directions of a general nature to the Board of Directors;
- (b) approve any alteration in the tariff of a service which is beyond the competence of the Board of Directors;
- (c) approve any alteration in salaries or other conditions of service of employees of the Corporation which is beyond the competence of the Board of Directors; and

- (d) approve any individual capital work of which the estimated cost exceeds 2,000,000 Uganda shillings or such other sum as the Authority may, by order, determine.

The Authority

7. Subject to this Treaty and to any Act of the Community, the Authority shall be responsible for the general direction and control of the Corporation.
8. The Authority may—
- (a) give directions of a general nature to the Communications Council; and
 - (b) determine matters referred to it by the Communications Council.

Interpretation

9. In this Part, except where the context otherwise requires, “service” means postal service, telephone service or telegraph service.

Part B—the East African Railways Corporation

The Director-General

1. It shall be the duty of the Director-General—
- a) to conduct and manage, subject to the direction of the Board of Directors, the business and operations of the Corporation;
 - b) to keep the Board fully informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
 - c) to submit to the Board annual estimates of revenue and expenditure; and
 - d) to submit annually a draft statement of accounts and a draft report for the consideration of the Board.
2. Subject to this Treaty and to the direction of the Board of Directors, the Director-General may—
- a) establish and operate services and facilities relating to rail, road and inland waterways transport and inland waterways ports;
 - b) approve recurrent expenditure within limits which shall be determined by the Board;
 - c) approve any individual capital work of which the estimated cost does not exceed 400,000 Kenya shillings or such other sum as the Authority may, by order, determine;
 - d) approve any alteration in salaries or other conditions of service not involving expenditure in excess of the limits imposed by the Board;
 - e) approve any alteration in the establishment other than an alteration involving a major re-organization or a substantial reduction in the number of employees;
 - f) allocate functions and delegate powers to officers of the Corporation; and
 - g) perform the duties and exercise the powers imposed on or vested in him by any Act of the Community.

The Board of Directors

3. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, it shall be the duty of the Board of Directors—
- (a) to determine policy regarding all the operations of the Corporation and to ensure the application of that policy;
 - (b) to keep the Communications Council informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
 - (c) to approve annual estimates of revenue and expenditure;
 - (d) to establish a General Purposes Committee from among its members; and
 - (e) to publish the tariff of rates, fares and other charges made by the Corporation and the rules made by the Board of Directors.
4. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, the Board of Directors may—
- a) approve any minor alteration in the tariff of rates, fares and other charges;
 - b) approve any minor alteration in salaries or other conditions of service of employees;
 - c) approve any individual capital work, not included within aerogramme of works approved by the Communications Council, of which the estimated cost does not exceed 5,000,000 Kenya shillings or such other sum as the Authority may, by order, determine;

- d) delegate functions to its General Purposes Committee;
- e) consider legislative proposals and recommend their enactment;
- f) refuse to provide new transport services or inland waterways facilities in a Partner State at a rate or charge which is insufficient to meet the costs involved in the provision of such services or facilities, unless the Partner State undertakes to make good the amount of the loss incurred by the provision of such services or facilities;
- A. approve any alteration in the organization or establishment which is beyond the competence of the Director-General; and
- B. give directions to the Director-General.

The Communications Council

- 5. It shall be the responsibility of the Communications Council—
 - a. to receive and consider the information concerning the Corporation provided by the Board of Directors, and upon being consulted by the Board to assist it with advice or directions;
 - b. to give to the Board of Directors directions of a general nature on matters of policy;
 - c. to give effect to the directions of the Authority;
 - d. to consider and approve the development plan and associated loan programme of the Corporation; and
 - e. to consider and approve in principle legislative proposals submitted by the Board of Directors.
- 6. Subject to this Treaty and to any directions which may be given to the Communications Council by the Authority, the Communications Council may—
 - a) give directions of a general nature to the Board of Directors;
 - b) approve any major alteration in the tariff of rates, fares and other charges;
 - c) approve any major alteration in salaries or other conditions of service of employees of the Corporation;
 - d) approve any individual capital work of which the estimated cost exceeds 5,000,000 Kenya shillings or such other sum as the Authority may, by order, determine; and
 - e) give directions to the Board of Directors concerning any matter of policy involving agreement with, or the interests of, a foreign country.

The Authority

- 7. Subject to this Treaty and to any Act of the Community, the Authority shall be responsible for the general direction and control of the Corporation.
- 8. The Authority may—
 - (a) give directions of a general nature to the Communications Council; and
 - (b) determine matters referred to it by the Communications Council.

General

- 9. If there is a difference of opinion between the Communications Council and the Board of Directors concerning what constitutes a minor or a major alteration in the tariff of rates, fares and other charges, or a minor or major alteration in salaries or other conditions of service of the employees of the Corporation, the difference shall be referred to the Authority to be resolved.

PART C—THE EAST AFRICAN HARBOURS CORPORATION

The Director-General

- 1. It shall be the duty of the Director-General—
 - a. to conduct and manage, subject to the direction of the Board of Directors, the business and operations of the Corporation;
 - b. to keep the Board fully informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
 - c. to submit to the Board annual estimates of revenue and expenditure; and
 - d. to submit annually a draft statement of accounts and a draft report for the consideration of the Board.
- 2. Subject to this Treaty and to the direction of the Board of Directors, the Director-General may—
 - a. establish and operate harbour services and facilities (other than inland waterways ports);
 - b. approve recurrent expenditure within limits which shall be determined by the Board;
 - c. approve any individual capital work of which the estimated cost does not exceed 400,000 Tanzania shillings or such other sum as the Authority may, by order, determine;
 - d. approve any alteration in salaries or other conditions of service not involving expenditure in excess of the

- limits imposed by the Board;
- e. approve any alteration in the establishment other than an alteration involving a major reorganization or a substantial reduction in the number of employees; allocate functions and delegate powers to officers of the Corporation; and
- f. Perform the duties and exercise the powers imposed on or vested in him by any Act of the Community.

The Board of Directors

- 3) Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, it shall be the duty of the Board of Directors—
 - a. to determine policy regarding all the operations of the Corporation and to ensure the application of that policy;
 - b. to keep the Communications Council informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
 - c. to approve annual estimates of revenue and expenditure; to establish a General Purposes Committee from among its members; and
to publish the tariff of rates and other charges made by the Corporation and the rules made by the Board of Directors.
- 4) Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, the Board of Directors may—
 - a) approve any minor alteration in the tariff of rates and other charges;
 - b) approve any minor alteration in salaries or other conditions of service of employees;
 - c) approve any individual capital work, not included within a programme of works approved by the Communications Council, of which the estimated cost does not exceed 5,000,000 Tanzania shillings or such other sum as the Authority may, by order, determine;
 - d) delegate functions to its General Purposes Committee;
 - e) consider legislative proposals and recommend their enactment;
 - f) refuse to provide new harbor services or facilities in a Partner State at a rate or charge which is insufficient to meet the costs involved in the provision of such services or facilities, unless the Partner State undertakes to make good the amount of the loss incurred by the provision of such services or facilities;
 - g) approve any alteration in the organization or establishment which is beyond the competence of the Director-General; and
 - h) give directions to the Director-General

The Communications Council

- 5) It shall be the responsibility of the Communications Council—
 - a) to receive and consider the information concerning the Corporation provided by the Board of Directors, and upon being consulted by the Board to assist it with advice or directions;
 - b) to give to the Board of Directors directions of a general nature on matters of policy;
 - c) to give effect to the directions of the Authority;
 - d) to consider and approve the development plan and associated loan programme of the Corporation; and
 - e) to consider and approve in principle legislative proposals submitted by the Board of Directors.
- 6) Subject to this Treaty and to any directions which may be given to the Communications Council by the Authority, the Communications Council may—
 - a) give directions of a general nature to the Board of Directors;
 - b) approve any major alteration in the tariff of rates and other charges;
 - c) approve any major alteration in salaries or other conditions of service of employees of the Corporation;
 - d) approve any individual capital work of which the estimated cost exceeds 5,000,000 Tanzania shillings or such other sum as the Authority may, by order, determine; and
 - e) give directions to the Board of Directors concerning any matter of policy involving agreement with or the interests of a foreign country.

The Authority

- 7) Subject to this Treaty and to any Act of the Community, the Authority shall be responsible for the general direction and control of the Corporation.
- 8) The Authority may—

- a) give directions of a general nature to the Communications Council; and
- b) determine matters referred to it by the Communications Council.

General

- 9) If there is a difference of opinion between the Communications Council and the Board of Directors concerning what constitutes a minor or a major alteration in the tariff of rates and other charges, or a minor or major alteration in salaries or other conditions of service of the employees of the Corporation, the difference shall be referred to the Authority to be resolved.

PART D—THE EAST AFRICAN AIRWAYS CORPORATION
The Director-General

1. It shall be the duty of the Director-General—
 - a) to conduct and manage, subject to the direction of the Board of Directors, the business and operations of the Corporation;
 - b) to keep the Board fully informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
 - c) to submit to the Board annually a programme of services and financial estimates for the ensuing year; and
 - d) to submit to the Board, in respect of every five-year period in the operations of the Corporation, a draft development plan including estimates of expected traffic growth, proposals for the development of air routes and for the use and operation of aircraft, and estimates of probable revenue and expenditure.
2. Subject to this Treaty and to the direction of the Board of Directors, the Director-General may—
 - a) establish and operate air transport services, and facilities relating thereto, within the Partner States and elsewhere;
 - b) approve recurrent expenditure within limits which shall be determined by the Board;
 - c) approve any individual capital work of which the estimated cost does not exceed 200,000 Kenya shillings or such other sum as the Authority may, by order, determine;
 - d) approve any alteration in salaries or other conditions of service not involving expenditure in excess of the limits imposed by the Board.
 - e) approve any alteration in the establishment other than an alteration involving a major re-organization or a substantial reduction in the number of employees;
 - f) allocate functions and delegate powers to officers of the Corporation; and perform the duties and exercise the powers imposed on or vested in him by any Act of the Community.

The Board of Directors

3. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, it shall be the duty of the Board of Directors—
 - a. to provide air transport services, and facilities relating thereto, within the Partner States and elsewhere;
 - b. to determine policy governing the operation of the Corporation;
 - c. to keep the Communications Council informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
 - d. to approve the annual programme of services and the financial estimates submitted by the Director-General;
 - e. to prepare in respect of every five-year period in the operations of the Corporation a development plan, including estimates of expected traffic growth, proposals for the development of air routes and for the use and operation of aircraft, and estimates of probable revenue and expenditure for submission to the Communications Council;
 - f. to submit to the Communications Council for approval any proposals affecting tariff policies in respect of international air services, which the Corporation wishes to put forward to the International Air Transport Association;
 - g. to submit to the Communications Council for approval any proposals for an alteration in the tariff of rates, fares and other charges in respect of air transport services provided within the Partner States; and to give effect to any directions given to it by the Authority.
4. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, the Board of Directors may—

- a. approve any minor alteration in the tariff of rates, fares and other charges in respect of any service or facility, other than an air transport service provided within the Partner State;
- b. approve any minor alteration in salaries or other conditions of service of employees;
- c. approve any individual capital work, not included within a development programme approved by the Communications Council or by the Authority, of which the estimated cost does not exceed 5,000,000 Kenya shillings or such other sum as the Authority may, by order, determine;
 - A. consider legislative proposals and recommend their enactment;
 - B. provide services or facilities requested by a Partner State so however that where the amount of the fares or other charges able to be recovered by the Corporation in respect of such services or facilities is less than the cost thereof, the Corporation shall not be obliged to provide such services or facilities unless that Partner State undertakes to make good the amount of such loss;
 - C. approve any alteration in the organization or establishment of the Corporation which is beyond the competence of the Director-General; and
 - D. give policy directions to the Director-General.

The Communications Council

5. It shall be the responsibility of the Communications Council—
 - a) to receive and consider the information concerning the Corporation provided by the Board of Directors, and upon being consulted by the Board to assist it with advice or directions;
 - b) to keep the Authority informed about the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
 - c) to consider and approve in principle legislative proposals submitted by the Board of Directors.
6. Subject to this Treaty and to any directions which may be given to the Communications Council by the Authority, the Communications Council may—
 - a. give directions of a general nature to the Board of Directors;
 - b. approve any alteration in the tariff of rates, fares and other charges in respect of air transport services provided within the Partner States;
 - c. approve any tariff proposals, in respect of international air services, which the Corporation wishes put forward to the International Air Transport Association;
 - d. approve the annual programme of services and the financial estimates of the Corporation;
 - e. approve, in respect of every five-year period in the operations of the Corporation, the development plan submitted to it by the Board of Directors;
 - f. approve any major alteration in salaries or other conditions of service of employees of the Corporation;
 - g. approve any individual capital work of which the estimated cost exceeds 5,000,000 Kenya shillings or such other sum as the Authority may, by order, determine; and (A) give directions to the Board of Directors concerning any matter of policy involving agreement with, or the interests of, a foreign country.

The Authority

7. Subject to this Treaty and to any Act of the Community, the Authority shall be responsible for the general direction and control of the Corporation.
8. The Authority may—
 - a) give directions of a general nature to the Communications Council;
 - b) give directions to the Board of Directors as to the exercise and performance of the functions of the Corporation in relation to any matter which appears to the Authority to affect the public interest; and
 - c) determine matters referred to it by the Communications Council or by the Board of Directors.

General

9. If there is a difference of opinion between the Communications Council and the Board of Directors concerning what constitutes a minor or a major alteration in the tariff of rates, fares and other charges or a minor or major alteration in salaries or other conditions of service of the employees of the Corporation, the difference shall be referred to the Authority to be resolved.

Interpretation

10. In this Part, unless the context otherwise requires—
 "air transport services and facilities relating thereto" includes, without prejudice to the generality of the expression, air transport services and services for the provision of hotel and catering facilities, for the carriage of

passengers to and from airports and aerodromes, and for the collection, delivery and storage of baggage and freight;
“air transport services” means services for the transport of passengers or freight by air;
“international air services” means air transport services provided to or from any place outside the Partner States.
oArticle 86)

ANNEX XIV—DECENTRALIZATION AND RELATED MEASURES

Part A—Services Administered by the Community The East African Customs and Excise Department

1. (a) There shall be appointed for each Partner State a Commissioner of Customs and Excise who shall be an officer in the service of the Community.
(b) There shall be a Commissioner-General of the East African Customs and Excise Department who shall, subject to this Treaty and to any law, have the general control of the Department.
(c) Subject to the general control of the Commissioner-General, a Commissioner of Customs and Excise shall control the operations of the Department, including revenue collection, within the Partner State for which he is Commissioner, and shall have the duty to supply the Minister responsible for finance of that Partner State with such information, including statistical information, as may be required from time to time by that Minister.
(a) Notwithstanding sub-paragraph (c) of this paragraph, the Commissioner-General shall retain control over functions which are necessary to ensure effective co-ordination in the three Partner States.

The East African Income Tax Department

2. (a) There shall be appointed for each Partner State a Commissioner of Income Tax who shall be an officer in the service of the Community.
(b) There shall be a Commissioner-General of the East African Income Tax Department who shall, subject to this Treaty and to any law, have the general control of the Department.
(c) Subject to the general control of the Commissioner-General, a Commissioner of Income Tax shall control the operations of the Department, including revenue collection, within the Partner State for which he is Commissioner, and shall have the duty to supply the Minister responsible for finance of that Partner State with such information, including statistical information, as may be required from time to time by that Minister.
(d) Notwithstanding sub-paragraph (c) of this paragraph, the Commissioner-General shall retain control over functions which are necessary to ensure effective co-ordination in the three Partner States.

Directorate of Civil Aviation

3. (a) There shall be appointed for each Partner State a Director of Civil Aviation who shall be an officer in the service of the Community.
(b) There shall be a Director-General of Civil Aviation who shall, subject to this Treaty and to any law, have the general control of the Directorate.
(c) The Director of Civil Aviation for a Partner State shall be responsible to the Director-General but shall have as much control of the operations of the Directorate as is practical within the territory of the Partner State for which he is Director.
(d) The area of control of each Director shall be determined by the Director-General and need not correspond exactly with the territorial boundaries of the Partner States.
(e) In accordance with a programme to be agreed by the East African Ministers, Sub-Flight Information Centres shall be established at Dar es Salaam and Entebbe to handle air movements, in Tanzania and Uganda respectively, below flight level 145 as from time to time determined in accordance with the rules for international air navigation of the International Civil Aviation Organization.
(f) The programme referred to in sub-paragraph (e) of this paragraph shall give priority to the establishment of the Sub-Flight Information Centre at Dar es Salaam.

East African Meteorological Department

4. (a) The operations of the Department shall in each Partner State be placed under the control of a senior officer in the service of the Community.
(b) Each of the senior officers responsible for the operations of the Department in a Partner State shall have comparable status and responsibilities and their functions and the services which they control shall be gradually

developed in accordance with the availability of staff and finance.

PART B—THE CORPORATIONS

The East African Railways Corporation

1. (a) Strong and functionally comparable regional railway headquarters, including revenue and accounting services, shall be established in Dar es Salaam, Kampala and Nairobi.

(b) The Board of Directors and the Communications Council shall, when considering the capital development programme of the Corporation, give a high priority to sanctioning expenditure to enable—

(c.) Mwanza to become the operating headquarters of the inland marine services (but the workshops and dockyard shall remain at Kisumu);

(d.) diesel locomotive facilities and carriage and wagon depots to be established in Uganda.

(a) The Board of Directors and the Communications Council shall, within sensible operating and financial parameters and for an initial period to be agreed, give preference to Tanzania and to Uganda in establishing new services and facilities.

(b) The Board of Directors and the Communications Council shall give consideration to the initiation of a preliminary economic and engineering survey of a possible new line of communication between Musoma, Arusha and Tanga.

The East African Harbours Corporation

2. The Board of Directors and the Communications Council shall, when considering the capital development programme of the Corporation, give special consideration to the development of harbours in Tanzania.

The East African Posts and Telecommunications Corporation

3. (a) Strong and functionally comparable regional headquarters, including revenue and accounting services, shall be established in Dar es Salaam, Kampala and Nairobi.

(b) The implementation of sub-paragraph (a) of this paragraph shall involve a measure of devolution of functions from the headquarters of the Corporation to the regional headquarters in each Partner State and there shall be a corresponding adjustment of establishments.

The East African Airways Corporation

4. The Board of Directors and the Communications Council shall ensure that future development should, so far as possible, be sited in Uganda and Tanzania, the first priority being given to development in Uganda, and in particular that—

- i) A workshop be established in Uganda for the overhaul of all Pratt and Whitney piston engines; and
- ii) the maintenance and overhaul base for Friendship, Dakota and other piston-engined aircraft be transferred to Entebbe.

(Article 90)

ANNEX XV—TRANSITIONAL PROVISIONS

- I. The amounts collected by the East African Income Tax Department and the East African Customs and Excise Department which immediately before the coming into force of this Treaty fall to be paid to the Distributable Pool Fund of the Common Services Organization but have not been so paid, shall, upon the coming into force of this Treaty, be paid to the Distributable Pool Fund of the Community.
- II. Until rules governing the procedure of the Assembly are made under paragraph 17 of Annex XI to this Treaty, the Standing Orders of the Central Legislative Assembly, established by Article 16 of the Constitution of the Common Services Organization, shall apply for regulating the procedure of the Assembly with such modifications as the Authority may prescribe by order published in the Gazette of the Community.
- III. The Service Commission established by Article 62 of this Treaty shall assume its functions under this Treaty on such date as may be appointed by the Authority by notice published in the Gazette of the Community and until that date those functions shall be performed by the Secretary General.
- IV. Upon the coming into force of this Treaty, the Secretary General and the Legal Secretary of the Common Services Organization shall assume the offices of Secretary General of the Community and Counsel to the Community respectively and shall be deemed to have been appointed thereto under Article 63 of this Treaty.
- V. Until provision is made by Act of the Community for the salary of an office to which Article 69 of this

Treaty applies there shall be paid to the holder of that office such salary as shall be determined by the Authority.

- VI. Until the Assembly first meets after the coming into force of this Treaty, the Authority may, in anticipation of the enactment of an Appropriation Act in accordance with Article 66 of this Treaty and notwithstanding the provisions of that Article, authorize money to be paid from the General Fund for any purpose for which the Assembly might lawfully appropriate money in accordance with this Treaty in any case where the payment of such money is not already provided for in any law.

1. References—

(a) in sub-paragraph (a) of paragraph 5 of Article 82 of this Treaty to a charge upon the funds of the East African Posts and Telecommunications Corporation shall, in respect of any period commencing on the day of the coming into force of this Treaty and ending on the day of the establishment of that Corporation, be construed as references to a charge upon the Posts and Telecommunications Fund; and

(b) in sub-paragraph (b) of paragraph 5 of Article 82 of this Treaty, to a charge upon the funds of the East African Railways Corporation or of the East African Harbours Corporation shall, in respect of any period commencing on the day of the coming into force of this Treaty and ending on the day of the establishment of those Corporations, be construed as references to a charge upon the Railways and Harbours Fund.

DONE at Kampala, Uganda, on the sixth day of June, in the year one thousand nine hundred and sixty-seven.

IN FAITH WHEREOF the undersigned have placed their signatures at the end of this Treaty and the Annexes thereto

APPENDIX 3: THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY

Signed on 30th November 1999 Entered into force on 7th July 2000

*(Amended on 14th December, 2006 and on 20th August, 2007) **

Published by East African Community

CHAPTER ONE INTERPRETATION

ARTICLE 1

Interpretation

1. In this Treaty, except where the context otherwise requires -

“Act of the Community” means an Act of the Community in accordance with this Treaty;

“Audit Commission” means the Audit Commission established by Article 134 of this Treaty;

“Assembly” means the East African Legislative Assembly established by Article 9 of this Treaty;

“Attorney General” means the Attorney General of a Partner State;

“Bill” means a Bill of the East African Legislative Assembly;

“civil society” means a realm of organised social life that is voluntary, self-generating, self-supporting, autonomous from the state, and bound by a legal set of shared rules;

“Clerk of the Assembly” means the Clerk of the East African Legislative Assembly appointed under Article 48 of this Treaty;

“common carrier” includes a person or an undertaking engaged in the business of providing services for the carriage of goods and passengers for hire and operating as such under the laws of a Partner State;

“Common external tariff” means an identical rate of tariff imposed on goods imported from third countries;

“common market” means the Partner States’ markets integrated into a single market in which there is free movement of capital, labour, goods and services;

“common standard travel document” means a passport or any other valid travel document establishing the identity of the holder, issued by or on behalf of the Partner State of which he or she is a citizen and shall also include inter-state passes;

“Community” means the East African Community established by Article 2 of this Treaty;

“Contracting Parties” means the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania;

“co-operation” includes the undertaking by the Partner States in common, jointly or in concert, of activities undertaken in furtherance of the objectives of the Community as provided for under this Treaty or under any contract or agreement made hereunder or in relation to the objectives of the Community;

“Co-ordination Committee” means the Co-ordination Committee established by Article 9 of this Treaty;

“Council” means the Council of Ministers of the Community established by Article 9 of this Treaty;

“Counsel to the Community” means the Counsel to the Community provided for under Article 69 of this Treaty;

“countervailing duty” means a specific duty levied for purposes of offsetting a subsidy bestowed directly or indirectly upon the manufacture, production or export of that product;

“Court” means the East African Court of Justice established by Article 9 of this Treaty;

“Customs clearing agent” means a person who is licensed in any of the Partner States to provide a service at a fee, in connection with documentation and customs clearance of import and export of consignments of goods;

“Designated airline” means an airline which has been designated and authorised by a competent authority of a Partner State to operate the agreed services;

“Duty drawback” means a refund of all or part of any excise or import duty paid in respect of goods confirmed to have been exported or used in a manner or for a purpose prescribed as a condition for granting duty drawback.

“East African Industrial Development Strategy” means the strategy provided for under Article 80 of this Treaty;

“East African Law Reports” means the published reports of the judgments of the former Court of Appeal for East Africa and the High Courts of Uganda, Kenya and Tanzania;

“East African Trade Regime” means a trade regime provided for under Article 74 of this Treaty;

“Elected member” means an elected member of the Assembly elected under Article 50 of this Treaty;

“environment” means the natural resources of air, water, soil, fauna and flora, ecosystems, land, the man-made physical features, cultural heritage, the characteristic aspects of the landscape and the socio-economic interaction between the said factors and any living and non-living organisms;

“Equitable distribution of benefits” means fair and proportionate distribution of

“Financial year” means the financial year referred to under Article 132 of this Treaty;

“Foreign country” means any country other than a Partner State;

“freight forwarder” means a person engaged at a fee, either as an agent for other transport operators or on his own account, in the management of transport services and related documentation;

“Gazette” means the Official Gazette of the Community;

Gender means the role of women and men in society;

“Head of Government” means a person designated as such by a Partner State’s Constitution;

“Head of State” means a person designated as such by a Partner State’s Constitution;

“Import” with its grammatical variations and cognate expressions means to bring or cause to be brought into the territories of the Partner States from a foreign country;

“Indigenous entrepreneur” means a citizen who is a business person of a Partner State but who does not possess a foreign nationality;

“International standards” means standards that are adopted by international standardising or standards organisations made available to the public;

“Judge” means a Judge of the Court serving on the First Instance Division or the Appellate Division;

“Judgment” shall where appropriate include a ruling, an opinion, an order, a directive or a decree of the Court;

“Minister” in relation to a Partner State, means a person appointed as a Minister of the Government of that Partner State and any other person, however entitled, who, in accordance with any law of that Partner State, acts as or performs the functions of a Minister in that State;

“multimodal transport” means the transport of goods and services from one point to another by two or more modes of transport on the basis of a single contract issued by the person organizing such services and while such person assumes responsibility for the execution of the whole operation and also includes any other similar equipment or facility which may hereafter be used;

“multimodal transport facilities” includes items such as heavy lift swinging devices, twin deck cranes, gantry cranes, elevators, large carriers, mechanized storage, low loaders, access facilities, low-profile straddle carriers, mobile cranes, container gantry cranes, side loaders, heavy duty forklifts, heavy duty tractors, heavy duty trailers, portable ramps, flat wagons (flats) for containers, low tare special user wagons and trucks for containers, pallets, web-slings for pre-slung cargoes for different commodities and any other similar equipment or facility which may hereafter be used.”

“National Assemblies” with its grammatical variation and cognate expression means the national legislatures however designated of the Partner States;

“Non-tariff barriers” means administrative and technical requirements imposed by a Partner State in the movement of goods;

“Organs of the Community” means the organs of the Community established by Article 9 of this Treaty;

“Other charges of equivalent effect” means any tax, surtax, levy or charge imposed on imports and not on like locally produced products but does not include

Fees and similar charges commensurate with the cost of services rendered;

“Partner States” means the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership to the Community under Article 3 of this Treaty;

“Person” means a natural or legal person;

“Principle of asymmetry” means the principle which addresses variances in the implementation of measures in an economic integration process for purposes of achieving a common objective;

“Principle of complementarity” means the principle which defines the extent to which economic variables support each other in economic activity;

“Principle of subsidiarity” means the principle which emphasizes multi-level participation of a wide range of participants in the process of economic integration;

“Principle of variable geometry” means the principle of flexibility which allows for progression in co-operation among a sub-group of members in a larger integration scheme in a variety of areas and at different speeds;

“Private sector” means the part of the economy that is not owned or directly controlled by a state;

“Protocol” means any agreement that supplements, amends or qualifies this Treaty;

“Registrar” means the Registrar of the Court appointed under Article 45 of this Treaty;

“Safeguard measures” means the measures taken by any Partner State as provided under Article 78 and 88 of this Treaty as the case may be;

“salary” and “terms and conditions of service” includes wages, overtime pay, salary and wage structures, leave, passages, transport for leave purposes, pensions and other retirement benefits, redundancy and severance payments, hours of duty, grading of posts, medical arrangements, housing, arrangements for transport and travelling on duty, and allowances;

“Secretariat” means the Secretariat of the Community established by Article 9 of this Treaty’ **“Sectoral Committees”** means Sectoral Committees established by Article 20 of this Treaty;

Secretary General” means the secretary general of the community provided for under Article 67 of this treaty;
Sectoral committees’ means sectoral committees established by Article 20 of this treat
“**Sectoral Council**” means the Sectoral Council provided for under Article 14 of this Treaty;
“**shipping agent**” means a local representative of a shipping company;
“**Speaker of the Assembly**” means the Speaker of the Assembly provided for under Article 53 of this Treaty.
“**subsidy**” means a financial contribution by Government or any public body within the territory of a Partner State or where there is any form of income or price support in the sense of Article XVI of GATT 1994;
“**Summit**” means the Summit established by Article 9 of this Treaty.
“**surviving institutions of the former East African Community**” means the East African Civil Aviation Academy, Soroti, the East African Development Bank, the East African School of Librarianship and the Inter-University Council for East Africa;
“**telecommunications**” means any form of transmission, emission or reception signal, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems;
“**trade procedure**” means activities related to the collection, presentation, processing and dissemination of data and information concerning all activities constituting international trade;
“**Treaty**” means this Treaty establishing the East African Community and any annexes and protocols thereto;

2. In this Treaty, a reference to a law or protocol shall be construed as a reference to the law or protocol as from time to time amended, added to or repealed.

ESTABLISHMENT AND PRINCIPLES OF THE COMMUNITY

ARTICLE 2

ESTABLISHMENT OF THE COMMUNITY

1. By this treaty the contracting parties establish among themselves an east African community hereinafter referred to as the community
2. In furtherance of the provisions of paragraph 1 of this article and in accordance with the protocols to be concluded, in this regard, the contracting parties shall establish an east African customs union and a common market as transitional stages to an integral parts of the community.

Article 3

Membership of the community

1. The members of the community, in this Treaty referred as the partner states, shall be the republic of Uganda, the republic of Kenya and the united republic of Tanzania and any other country granted membership to the community under this article
2. The partners states may, upon such terms and in such manner as they may determine together negotiation with any foreign country the granting of membership to, or association of that country with, the community or its participation in any of the activities of the community.
3. Subject to paragraph 4 of this article, the matters to be taken into account by the partner states in considering the application by a foreign country to become a member of, be associated with, or participate in any of the activities of the community, shall include that foreign country’s:
 - (a) acceptance of the Community is set out in this Treaty;
 - (b) adherence to universally acceptable principles of good governance, democracy; the rule of law, observance of human rights and social justice;
 - (c) potential contribution to the strengthening of integration within the East African region;
 - (d) geographical proximity to and inter-dependence between it and the Partner States;
 - (e) establishment and maintenance of a market driven economy; and
 - (f) Social and economic policies being compatible with those of the Community.
4. The conditions and other considerations that shall govern the membership or association of a foreign country with the community or its participation in any of the activities of the Community shall be as those prescribed in this Article.
5. The granting of observer status with respect to the community shall:
 - (a) In case of a foreign country, be the prerogative of the summit; and heads of partner state.
 - (b) in case of an inter-governmental organization or civil society organization, be the prerogative of the Council.
6. The procedure to be followed with respect to the foregoing provisions of this Article shall be prescribed by the Council.

ARTICLE 4

Legal Capacity of the Community

1. The Community shall have the capacity, within each of the Partner States, of a body corporate with perpetual succession, and shall have power to acquire, hold, manage and dispose of land and other property, and to sue and be sued in its own name.
2. The Community shall have power to perform any of the functions conferred upon it by this Treaty and to do all things, including borrowing, that are necessary or desirable for the performance of those functions.
3. The Community shall, as a body corporate, be represented by the Secretary General.

ARTICLE 5

OBJECTIVES OF THE COMMUNITY

1. The objective of the community shall be to develop policies and programmes aimed at widening and deepening co-operation among the partner states in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs, for their mutual benefit.
2. In pursuance of the provisions of paragraph 1 of this Article, the Partner States undertake to establish among themselves and in accordance with the provisions of this Treaty, a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation in order to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of the Partner States to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities, the benefit of which shall be equitably shared.
3. For purposes set out in paragraph 1 of this Article and as subsequently provided in particular provisions of this Treaty, the Community shall ensure:
 - (a) the attainment of sustainable growth and development of the Partner States by the promotion of a more balanced and harmonious development of the Partner States;
 - (b) the strengthening and consolidation of co-operation in agreed fields that would lead to equitable economic development within the Partner States and which would in turn, raise the standard of living and improve the quality of life of their populations;
 - (c) the promotion of sustainable utilization of the natural resources of the Partner States and the taking of measures that would effectively protect the natural environment of the Partner States;
 - (d) the strengthening and consolidation of the long standing political, economic, social, cultural and traditional ties and associations between the peoples of the Partner States so as to promote a people-centered mutual development of these ties and associations;
 - (e) the mainstreaming of gender in all its endeavours and the enhancement of the role of women in cultural, social, political, economic and technological development;
 - (f) the promotion of peace, security, and stability within, and good „neighbourliness among, the Partner States;
 - (g) the enhancement and strengthening of partnerships with the private sector and civil society in order to achieve sustainable socio-economic and political development; and
 - (h) the undertaking of such other activities calculated to further the objectives of the Community, as the Partner States may from time to time decide to undertake in common.

ARTICLE 6

Fundamental Principles of the Community

The fundamental principles that shall govern the achievement of the objectives of the Community by the Partner States shall include:

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

ARTICLE 7

Operational Principles of the Community

1. The principles that shall govern the practical achievement of the objectives of the Community shall include:
 - a) people-centered and market-driven co-operation;
 - b) the provision by the Partner States of an adequate and appropriate enabling environment, such as conducive policies and basic infrastructure;
 - c) the establishment of an export oriented economy for the Partner States in which there shall be free movement of goods, persons, labour, services, capital, information and technology;
 - d) the principle of "subsidiarity with emphasis on multi-level participation and the involvement of a wide range of stake- holders in the process of integration;
 - e) the principle of variable geometry ,which allows for progression in cooperation among groups within the Community for wider integration schemes in various fields and at different speeds;
 - f) the equitable distribution of benefits accruing or to be derived from the operations of the Community and measures to address economic imbalances that may arise from such operations;
 - g) the principle of complementarity; and
 - h) the principle of asymmetry. – lack of equality
2. The Partner States undertake to abide by the principles of good governance, including adherence to the principles of democracy, the rule of law, social justice and the maintenance of universally accepted standards of human rights.

ARTICLE 8

General Undertaking as to Implementation

1. The Partner States shall:
 - (a) plan and direct their policies and resources with a view to creating conditions favourable for the development and achievement of the objectives of the Community and the implementation of the provisions of this Treaty;
 - (b) co-ordinate, through the institutions of the Community, their economic and other policies to the extent necessary to achieve the objectives of the Community; and
 - (c) abstain from any measures likely to jeopardize the achievement of those objectives or the implementation of the provisions of this Treaty.
2. Each Partner State shall, within twelve months from the date of signing this Treaty, secure the enactment and the effective implementation of such legislation as is necessary to give effect to this Treaty, and in particular -
 - (a) to confer upon the Community the legal capacity and personality required for the performance of its functions; and
 - (b) to confer upon the legislation, regulations and directives of the Community and its institutions as provided for in this Treaty, the force of law within its territory.Each Partner State shall -
 - (a) designate a Ministry with which the Secretary General may communicate in connection with any matter arising out of the implementation or the application of this Treaty, and shall notify the Secretary General of that designation;
 - (b) transmit to the Secretary General copies of all relevant existing and proposed legislation and its official gazettes; and
 - (c) where it is required under this Treaty, to supply to or exchange with another Partner State any information, send copies of such information to the Secretary General.
3. Community organs, institutions and laws shall take precedence over similar national ones on matters pertaining to the implementation of this Treaty.
4. In pursuance of the provisions of paragraph 4 of this Article, the Partner States undertake to make the necessary legal instruments to confer precedence of Community organs, institutions and laws over similar national ones.

CHAPTER THREE
ESTABLISHMENT OF THE ORGANS AND
INSTITUTIONS OF THE COMMUNITY
ARTICLE 9

Establishment of the Organs and Institutions of the Community

- 1) There are hereby established organs of the community:
 - a) The summit
 - b) The council
 - c) The co-ordination committee
 - d) Sectorial committees
 - e) The east African court of justice
 - f) The east African legislative assembly
 - g) The secretariat; and
 - h) Such other groups as may be established by the Summit.
- 2) The institutions of the Community shall be such bodies, departments and services as may be established by the Summit.
- 3) Upon the entry into force of this Treaty, the East African Development Bank established by the Treaty Amending and Re-enacting the Charter of the East African Development Bank, 1980 and the Lake Victoria Fisheries Organisation established by the Convention (Final Act) for the Establishment of the Lake Victoria Fisheries Organisation, 1994 and surviving institutions of the former East African Community shall be deemed to be institutions of the Community and shall be designated and function as such.
- 4) The organs and institutions of the Community shall perform the functions, and act within the limits of the powers conferred upon them by or under this Treaty.
- 5) In the appointment of staff and composition of the organs and institutions of the Community, gender balance shall be taken into account.

CHAPTER FOUR
THE SUMMIT
ARTICLE 10 Membership of the Summit

- 1) The Summit shall consist of the Heads of State or Government of the Partner States.
- 2) If a member of the Summit is unable to attend a meeting of the Summit and it is not convenient to postpone the meeting, that member may, after consultation with other members of the Summit, appoint a Minister of Government to attend the meeting. A Minister so appointed shall, for purposes of that meeting, have all the powers, duties and responsibilities of the member of the Summit for whom that person is acting.

ARTICLE 11
Functions of the Summit

- 1) The Summit shall give general directions and impetus as to the development and achievement of the objectives of the Community.
- 2) The Summit shall consider the annual progress reports and such other reports submitted to it by the Council as provided for by this Treaty.
- 3) The Summit shall review the state of peace, security and good governance within the Community and the progress achieved towards the establishment of a Political Federation of the Partner States.
- 4) The Summit shall have such other functions as may be conferred upon it by this Treaty.
- 5) Subject to this Treaty, the Summit may delegate the exercise of any of its functions, subject to any conditions which it may think fit to impose, to a member of the Summit, to the Council or to the Secretary General.
- 6) An Act of the Community may provide for the delegation of any powers, including legislative powers, conferred on the Summit by this Treaty or by any Act of the Community, to the Council or to the Secretary General.
- 7) Subject to the provisions of any Act of the Community, the acts and decisions of the Summit may be signified under the hand of the Secretary General or of any officer in the service of the Community authorized in that behalf by the Summit.
- 8) The Summit shall cause all rules and orders made by it under this Treaty to be published in the Gazette; and any such rules or orders shall come into force on the date of publication unless otherwise provided in the rule or order.

- 9) The delegation of powers and functions referred to in paragraphs 5 and 6 of this Article, shall not include:
 - a) The giving of general directions and impetus;
 - b) The appointment of judges to the East African Court of Justice;
 - c) The admission of new Members and granting of Observer Status to foreign countries; and
 - d) Assent to Bills

**ARTICLE 12
MEETINGS OF THE SUMMIT**

- 1) The Summit shall meet at least once in every year and may hold extraordinary meetings at the request of any member of the Summit.
- 2) The tenure of office of the Chairperson of the Summit is one year and the office of the Chairperson shall be held in rotation among the Partner States.
- 3) The decisions of the Summit shall be by consensus.
- 4) The Summit shall discuss business submitted to it by the Council and any other matter which may have a bearing on the Community.
- 5) Subject to the provisions of this Treaty, the Summit shall determine its own procedure, including that for convening its meetings, for the conduct of business thereat and at other times, and for the rotation of the office of Chairperson among the members of the Summit.

**CHAPTER FIVE
THE COUNCIL**

**ARTICLE 13
Membership of the Council**

The Council shall consist of:

- (a) the Minister responsible for East African Community affairs of each Partner State;
- (b) such other Minister of the Partner States as each Partner State may determine; and
- (c) the Attorney General of each Partner State,

**ARTICLE 14
Functions of the Council**

- 1) The Council shall be the policy organ of the Community.
- 2) The Council shall promote, monitor and keep under constant review the implementation of the programmes of the Community and ensure the proper functioning and development of the Community in accordance with this Treaty.
- 3) For purposes of paragraph 1 of this Article, the Council shall:
 - a. make policy decisions for the efficient and harmonious functioning and development of the Community;
 - b. initiate and submit Bills to the Assembly;
 - c. subject to this Treaty, give directions to the Partner States and to all other organs and institutions of the Community other than the Summit, Court and the Assembly;
 - d. make regulations, issue directives, take decisions, make recommendations and give opinions in accordance with the provisions of this Treaty;
 - e. consider the budget of the Community;
 - f. consider measures that should be taken by Partner States in order to promote the attainment of the objectives of the Community;
 - g. make staff rules and regulations and financial rules and regulations of the Community;
 - h. submit annual progress reports to the Summit and prepare the agenda for the meetings of the Summit;
 - i. establish from among its members, Sectoral Councils to deal with such matters that arise under this Treaty as the Council may delegate or assign to them and the decisions of such Sectoral Councils shall be deemed to be decisions of the Council;
 - j. establish the Sectoral Committees provided for under this Treaty;
 - k. implement the decisions and directives of the Summit as may be addressed to it;
 - l. endeavour to resolve matters that may be referred to it; and
 - m. exercise such other powers and perform such other functions as are vested in or conferred on it by this Treaty.
- 4) The Council may request advisory opinions from the Court in accordance with this Treaty.
- 5) The Council shall cause all regulations and directives made or given by it under this Treaty to be published in the Gazette; and such regulations or directives shall come into force on the date of publication unless

otherwise provided therein.

ARTICLE 15
Meetings of the Council

1. The Council shall meet twice in each year, one meeting of which shall be held immediately preceding a meeting of the Summit. Extraordinary meetings of the Council may be held at the request of a Partner State or the Chairperson of the Council.
2. The Council shall determine its own procedure including that for convening its meetings, for the conduct of business thereat and at other times, and for the rotation of the office of Chairperson among its members who are Ministers responsible for regional co-operation in the Partner States.
3. A member of the Council who is the leader of his or her Partner State's delegation to a meeting of the Council 1, may record his or her objection to a proposal submitted for the decision of the Council and, if any such objection is recorded, the Council shall not proceed with the proposal and shall, unless the objection is withdrawn refer the matter to the Summit for decision.
4. Subject to a protocol on decision-making, the decisions of the Council shall be by consensus.
5. The protocol referred to in paragraph 4 of this Article shall be concluded within a period of six months from the entry into force of this Treaty.

ARTICLE 16
Effects of Regulations, Directives, Decisions and Recommendations of the Council

Subject to the provisions of this Treaty, the regulations, directives and decisions of the Council taken or given in pursuance of the provisions of this Treaty shall be binding on the Partner States, on all organs and institutions of the Community other than the Summit, the Court and the Assembly within their jurisdictions, and on those to whom they may under this Treaty be addressed.

CHAPTER SIX
THE CO-ORDINATION COMMITTEE

ARTICLE 17
Composition of the Co-ordination Committee

The Co-ordination Committee shall consist of the *Permanent Secretaries responsible for East African Community affairs* in each Partner State and such other Permanent Secretaries of the Partner States as each Partner State may determine.

ARTICLE 18

Functions of the Co-ordination Committee

The Co-ordination Committee:

- a. shall submit from time to time, reports and recommendations to the Council either on its own initiative or upon the request of the Council, on the implementation of this Treaty;
- b. shall implement the decisions of the Council as the Council may direct;
- c. shall receive and consider reports of the Sectoral Committees and coordinate their activities;
- d. may request a Sectoral Committee to investigate any particular matter; and
- e. shall have such other functions as are conferred upon it by this Treaty.

ARTICLE 19

Meetings of the Co-ordination Committee

Subject to any directions which may be given by the Council, the Co-ordination Committee

1. shall meet at least twice in each year preceding the meetings of the Council and may hold extraordinary meetings at the request of the Chairperson of the Co-ordination Committee.
2. The Co-ordination Committee shall determine its own procedure including that for convening its meetings, for the conduct of business thereat and at other times, and for the rotation of the office of Chairperson among its members who are *Permanent Secretaries responsible for East African Community affairs in each Partner State*.

**CHAPTER SEVEN
SECTORAL COMMITTEES
ARTICLE 20**

Establishment and Composition of Sectoral Committees

The Co-ordination Committee shall recommend to the Council the establishment, composition and functions of such Sectoral Committees as may be necessary for the achievement of the objectives of this Treaty.

**ARTICLE 21
Functions of the Sectoral Committees**

Subject to any directions the Council may give, each Sectoral Committee shall:

- a. be responsible for the preparation of a comprehensive implementation programme and the setting out of priorities with respect to its sector;
- b. monitor and keep under constant review the implementation of the programmes of the Community with respect to its sector;
- c. submit from time to time, reports and recommendations to the Coordination Committee either on its own initiative or upon the request of the Co-ordination Committee concerning the implementation of the provisions of this Treaty that affect its sector; and
- d. have such other functions as may be conferred on it by or under this Treaty.

**ARTICLE 22
Meetings of the Sectoral Committees**

Subject to any directions that may be given by the Council, the Sectoral Committees shall meet as often as necessary for the proper discharge of their functions and shall determine their own procedure.

**CHAPTER 8
THE EAST AFRICAN COURT OF JUSTICE
ARTICLE 23**

Role of the Court

- 1) The Court shall be a judicial body which shall ensure the adherence to law in the interpretation and application of and compliance with this Treaty.
- 2) The Court shall consist of a First Instance Division and an Appellate Division.
- 3) The First Instance Division shall have jurisdiction to hear and determine, at first instance, subject to a right of appeal to the Appellate Division under Article 35A, any matter before the Court in accordance with this Treaty.

**ARTICLE 24
Judges of the Court**

- 1) Judges of the Court shall be appointed by the Summit from among persons recommended by the Partner States who are of proven integrity, impartiality and independence and who fulfill the conditions required in their own countries for the holding of such high judicial office, or who are jurists of recognized competence, in their respective Partner States:

Provided that no more than-

- a. two judges of the First Instance Division; or
- b. one Judge of the Appellate Division,

shall be appointed on the recommendation of the same Partner State.

- 2) The Court shall be composed of a maximum of fifteen Judges of whom not more than ten shall be appointed to the First Instance Division and not more than five shall be appointed to the Appellate Division:

Provided that of the Judges first appointed to the Court, the terms of one third of the Judges shall expire at the end of five years, the terms of another one third of the Judges shall expire at the end of six years and the remaining one third of the Judges shall serve their full terms of seven years.

- 3) The Judges whose terms are to expire at the end of each of the initial periods mentioned in paragraph 2 of this Article shall be chosen by lot to be drawn by the Summit immediately after their first appointment.
- 4) The Summit shall designate two of the Judges of the Appellate Division as the President and Vice-President respectively, who shall be responsible for the performance of such functions as are set out in this Treaty.

- 5) The Summit shall designate two of the Judges of the First Instance Division as the Principal Judge and Deputy Principal Judge respectively, who shall be responsible for the performance of such functions as, may be set out in this Treaty.
- 6) The President and Vice-President, the Principal Judge and the Deputy Principal Judge, shall not be nationals of the same Partner State.
- 7) The President shall:
 - a. be the Head of the Court and shall be responsible for the administration and supervision of the Court;
 - b. direct work of the Appellate Division, represent it, regulate the disposition of the matters brought before the Court and preside over its sessions.
- 8) The Principal Judge shall direct work of the First Instance Division, represent it, regulate the disposition of the matters brought before the Court and preside over its sessions.
- 9) The office of President of the Court shall be held in rotation after the completion of any one term.
- 10) The President of the Court shall direct the work of the Court, represent it, regulate the disposition of matters brought before the Court, and preside over its sessions.

ARTICLE 25

Tenure of Office of Judges

- 1) Subject to paragraph 2 of Article 24, a Judge appointed under paragraph 1 of Article 24 of this Treaty, shall hold office for a maximum period of seven years.
- 2) A Judge shall hold office for the full term of his or her appointment unless he or she resigns or attains seventy (70) years of age or dies or is removed from office in accordance with this Treaty.
- 3) Where the term of office of a Judge comes to an end by effluxion of time or on resignation before a decision or opinion of the Court with respect to a matter which has been argued before the Court of which he or she was a member is delivered, that Judge shall, only for the purpose of completing that particular matter, continue to sit as a Judge.
- 4) A Judge may, at any time, resign his or her office by giving three months' written notice to the Chairman of the Summit through the Secretary General.
- 5) The salary and other terms and conditions of service of a Judge not provided for in this Treaty shall be determined by the Summit on the recommendation of the Council.

ARTICLE 26

Removal from Office and Temporary Membership of the Court

- 1) A Judge shall not be removed from office except by the Summit-
 - a. for misconduct or for inability to perform the functions of his or her office due to infirmity of mind or body;
Provided that a Judge shall only be removed from office under this sub paragraph if the question of his or her removal from office has been referred to an ad hoc independent tribunal appointed for this purpose by the Summit and the tribunal has recommended that the Judge be removed from office for misconduct or inability to perform the functions of his or her office; or
 - b. in the case of a Judge who also holds judicial office or other public office in a Partner State—
 - i. is removed from that office for misconduct or due to inability to perform the functions of the office for any reason; or
 - ii. resigns from that office following allegation of misconduct or of inability to perform the functions of the office for any reason;
 - c. if the Judge is adjudged bankrupt under any law in force in a Partner State; or
 - d. if the Judge is convicted of an offence involving dishonesty or fraud or moral turpitude under any law in force in a Partner State.
- 2) Where-
 - a. the question of removing a Judge has been referred to a tribunal under paragraph 1(a); or
 - b. a Judge is subject to investigation by a tribunal or other relevant authority of a Partner State with a view to his or her removal from an office referred to in paragraph 1(b); or
 - c. a Judge is charged with an offence referred to in paragraph 1(d) under any law in force in a Partner State,

the Summit may, subject to paragraph 2B, suspend the Judge from the exercise of the functions of his or her office

2A. Where a Judge is suspended under paragraph 2, his or her respective Partner State shall recommend a person qualified in terms of Article 24 to the Summit for appointment as a temporary Judge for the duration of such suspension.

2B. The suspension of a Judge under paragraph 2 may, at any time, be revoked by the Summit and shall, in any case, cease to have effect if-

- (a) the tribunal appointed under paragraph 1(a) recommends to the Summit that the Judge should not be removed from office; or a tribunal or other relevant authority of a Partner State recommends that the Judge should not be removed from an office referred to in paragraph 1(b); or
 - (b) the Judge is acquitted of an offence referred to in paragraph 1(d) by a court of competent jurisdiction in a Partner State.
- 3) The tribunal appointed under paragraph 1(a) of this Article shall consist of three eminent Judges drawn from within the Commonwealth of Nations.
 - 4) At any time when the President of the Appellate Division, or the Principal Judge of the First Instance Division of the Court is for any reason unable to perform the functions of his or her office, those functions shall be performed by the Vice- President or the Deputy Principal Judge, as the case may be.
 - 5) The procedure for filling vacancies in the Court shall be prescribed in rules of the Court.
 - 6) If a Judge is directly or indirectly interested in a case before the Court, and if he or she considers that the nature of his or her interest is such that it would be prejudicial for him or her to take part in that case, such a Judge shall, if in the First Instance Division, make a report to the Principal Judge, or, if in the Appellate Division, make a report to the President, and if the President or Principal Judge considers the Judge 's interest in the case prejudicial, the President or Principal Judge, as the case may be, all make a report to the Chairperson of the Summit, and the Summit shall appoint a temporary Judge to act for that case only in place of the substantive Judge.
 - 7) If the President or **Principal Judge** of the Court is directly or indirectly interested in a case before the Court he or she shall, if he or she considers that the nature of his or her interest is such that it would be prejudicial for him or her to take part in that case, make a report to the Chairperson of the Summit and the Summit shall appoint a temporary President or **Principal Judge** of the Court to act as President or **Principal Judge** of the Court for that case only in place of the substantive President or **Principal Judge** of the Court.

ARTICLE 27

Jurisdiction of the Court

- 1) The Court shall initially have jurisdiction over the interpretation and application of this Treaty:
Provided that the Court's jurisdiction to interpret under this paragraph shall not include the application of any such interpretation to jurisdiction conferred by the Treaty on organs of Partner States.
- 2) The Court shall have such other original, appellate, human rights and other jurisdiction as will be determined by the Council at a suitable subsequent date. To this end, the Partner States shall conclude a protocol to operationalise the extended jurisdiction.

ARTICLE 28

REFERENCE BY PARTNER STATES

1. A Partner State which considers that another Partner State or an organ or institution of the Community has failed to fulfill an obligation under this Treaty or has infringed a provision of this Treaty, may refer the matter to the Court for adjudication.
2. A Partner State may refer for determination by the Court, the legality of any Act, regulation, directive, decision or action on the ground that it is ultra vires or unlawful or an infringement of the provisions of this Treaty or any rule of law relating to its application or amounts to a misuse or abuse of power.

ARTICLE 29

Reference by the Secretary General

1. Where the Secretary General considers that a Partner State has failed to fulfill an obligation under this Treaty or has infringed a provision of this Treaty, the Secretary General shall submit his or her findings to the Partner State concerned for that Partner State to submit its observations on the findings.
2. If the Partner State concerned does not submit its observations to the Secretary General within four months, or if the observations submitted are unsatisfactory, the Secretary General shall refer the matter to the Council which shall decide whether the matter should be referred by the Secretary General to the Court immediately or be resolved by the Council.
3. Where a matter has been referred to the Council under the provisions of paragraph 2 of this Article and the Council fails to resolve the matter, the Council shall direct the Secretary General to refer the matter to the Court.

ARTICLE 30

Reference by Legal and Natural Persons

1. Subject to the provisions of Article 27 of this Treaty, any person who is resident in a Partner State may refer for determination by the Court, the legality of any Act, regulation, directive, decision or action of a Partner State or an institution of the Community on the grounds that such Act, regulation, directive, decision or action is unlawful or is an infringement of the provisions of this Treaty
2. The proceedings provided for in this Article shall be instituted within two months of the enactment, publication, directive, decision or action complained of, or in the absence thereof, of the day in which it came to the knowledge of the complainant, as the case may be;
3. The Court shall have no jurisdiction under this Article where an Act, regulation, directive, decision or action has been reserved under this Treaty to an institution of a Partner State.

ARTICLE 31

Disputes between the Community and its Employees

The Court shall have jurisdiction to hear and determine disputes between the Community and its employees that arise out of the terms and conditions of employment of the employees of the Community or the application and interpretation of the staff rules and regulations and terms and conditions of service of the Community.

ARTICLE 32

Arbitration Clauses and Special Agreements

The Court shall have jurisdiction to hear and determine any matter:

- a. arising from an arbitration clause contained *in* a contract or agreement which confers such jurisdiction to which the Community or any of its institutions is a party; or
- b. arising from a dispute between the Partner States regarding this Treaty if the dispute is submitted to it under a special agreement between the Partner States concerned; or
- c. Arising from an arbitration clause contained in a commercial contract or agreement in which the parties have conferred jurisdiction on the Court.

ARTICLE 33

Jurisdiction of National Courts

1. Except where jurisdiction is conferred on the Court by this Treaty, disputes to which the Community is a party shall not on that ground alone, be excluded from the jurisdiction of the national courts of the Partner States.
2. Decisions of the Court on the interpretation and application of this Treaty shall have precedence over decisions of national courts on a similar matter.

ARTICLE 34

Preliminary Rulings of National Courts

Where a question is raised before any court or tribunal of a Partner State concerning the interpretation or application of the provisions of this Treaty or the validity of the regulations, directives, decisions or actions of the Community, that court or tribunal shall, if it considers that a ruling on the question is necessary to enable it to give judgment, request the Court to give a preliminary ruling on the question.

ARTICLE 35

Judgment of the Court

1. The Court shall consider and determine every reference made to it pursuant to this Treaty in accordance with rules of the Court and shall deliver in public session, a reasoned judgment:
Provided that if the Court considers that in the special circumstances of the case it is undesirable that its judgment be delivered in open court, the Court may make an order to that effect and deliver its judgment before the parties privately.
2. The Court shall deliver one judgment only in respect of every reference to it, which shall be the judgment of the Court reached in private by majority verdict:
Provided that a Judge may deliver a dissenting judgment.
3. An application for review of a judgment may be made to the Court only if it is based upon the discovery of some fact which by its nature might have had a decisive influence on the judgment if it had been known to the Court at the time the judgment was given, but which fact, at that time, was unknown to both the Court and the party making the application, and which could not, with reasonable diligence, have been discovered by that party before the judgment was made, or on account of some mistake, fraud or error on the face of the record or because an injustice has been done.

ARTICLE 35 A

Appeals

An appeal from the judgment or any order of the First Instance Division of the Court shall lie to the Appellate Division on-

- a) points of law;
- b) grounds of lack of jurisdiction; or
- c) procedural irregularity.

ARTICLE 36

Advisory Opinions of the Court

1. The Summit, the Council or a Partner State may request the Court to give an advisory opinion regarding a question of law arising from this Treaty which affects the Community, and the Partner State, the Secretary General or any other Partner State shall in the case of every such request have the right to be represented and take part in the proceedings.
2. A request for an advisory opinion under paragraph 1 of this Article shall contain an exact statement of the question upon which an opinion is required and shall be accompanied by all relevant documents likely to be of assistance to the Court.
3. Upon the receipt of the request under paragraph 1 of this Article, the Registrar shall immediately give notice of the request, to all the Partner States, and shall notify them that the Court shall be prepared to accept, within a time fixed by the President of the Court, written submissions, or to hear oral submissions relating to the question. In the exercise of its advisory function, the Court shall be governed by this Treaty and rules of the Court relating to references of disputes to the extent that the Court considers appropriate.

ARTICLE 37

Appearance before the Court

1. Every party to a dispute or reference before the Court may be represented by an advocate entitled to appear before a superior court of any of the Partner States appointed by that party.
2. The Counsel to the Community shall be entitled to appear before the Court in any matter in which the Community or any of its institutions is a party or in respect of any matter where the Counsel to the Community thinks that such an appearance would be desirable.

ARTICLE 38

Acceptance of Judgments of the Court

1. Any dispute concerning the interpretation or application of this Treaty or any of the matters referred to the Court pursuant to this Chapter shall not be subjected to any method of settlement other than those provided for in this Treaty.
2. Where a dispute has been referred to the Council or the Court, the Partner States shall refrain from any action which might be detrimental to the resolution of the dispute or might aggravate the dispute.
3. A Partner State or the Council shall take, without delay, the measures required to implement a judgment of the Court.

ARTICLE 39

Interim Orders

The Court may, in a case referred to it, make any interim orders or issue any directions which it considers necessary or desirable. Interim orders and other directions issued by the Court shall have the same effect *ad interim* as decisions of the Court.

ARTICLE 40

Intervention

A Partner State, the Secretary General or a resident of a Partner State who is not a party to a case before the Court may, with leave of the Court, intervene in that case, but the submissions of the intervening party shall be limited to evidence supporting or opposing the arguments of a party to the case

ARTICLE 42

Rules of the Court and Oaths of Office

1. The Court shall make rules of the Court which shall, subject to the provisions of this Treaty, regulate the detailed conduct of the business of the Court.
2. The Secretary General shall prepare the oath and declarations that the Judges and the Registrar of the Court shall take before the Summit upon their appointment or make upon entering into their duties.

ARTICLE 43

Immunity of the Judges and the Holding of Other Offices

1. The Judges of the Court shall be immune from legal action for any act or omission committed in the discharge of their judicial functions under this Treaty.
2. A Judge of the Court shall neither hold any political office or any office in the service of a Partner State or the Community nor engage in any trade, vocation or profession that is likely to interfere or create a conflict of interest to his or her position.

ARTICLE 44

Execution of Judgments

The execution of a judgment of the Court which imposes a pecuniary obligation on a person shall be governed by the rules of civil procedure in force in the Partner State in which execution is to take place. The order for execution shall be appended to the judgment of the Court which shall require only the verification of the authenticity of the judgment by the Registrar whereupon, the party in whose favour execution is to take place, may proceed to execute the judgment.

ARTICLE 45

Registrar of the Court and Other Staff

The Council shall appoint a Registrar of the Court from among citizens of the Partner

1. States qualified to hold such high judicial office in their respective Partner States.
2. The Court shall employ such other staff as may be required to enable it to perform its functions and who shall hold office in the service of the Court.
3. The salary and other conditions of service of the Registrar and other staff of the Court shall be determined by the Council.
4. Notwithstanding the provisions of paragraph 1 of this Article the Registrar shall be responsible to the President of the Court for the day to day administration of the business of the Court. The Registrar shall also carry out the duties imposed upon him by this Treaty and rules of the Court.

ARTICLE 46

Official Language of the Court

The official language of the Court shall be English.

ARTICLE 47

Seat of the Court

The Seat of the Court shall be determined by the Summit.

CHAPTER NINE

THE EAST AFRICAN LEGISLATIVE ASSEMBLY

ARTICLE 48

Membership of the Assembly

1. The membership of the Assembly shall comprise-
 - (a) nine members elected by each Partner State; and
 - (b) ex-officio members consisting of:
 - (i) the Minister responsible for East African Community affairs from each Partner State; and
 - (ii) the Assistant Minister or Deputy Minister or Minister of State responsible for East African Community affairs from each Partner State:Provided that an Assistant Minister, Deputy Minister or Minister of State may only participate in the meetings of the Assembly when the substantive Minister responsible for East African Community affairs is for any reason unable to participate; and
 - (iii) **The** Secretary General and the Counsel to the Community.
2. The Speaker of the Assembly shall preside over and take part in its proceedings in accordance with the rules of procedure of the Assembly. The Assembly shall have committees which shall be constituted in the manner provided in the rules of procedure of the Assembly and shall perform the functions provided in respect thereof in the said rules of procedure.
3. The Council shall appoint a Clerk of the Assembly and other officers of the Assembly whose salaries and other terms and conditions of service shall be determined by the Council.

ARTICLE 49

Functions of the Assembly

1. The Assembly shall be the legislative organ of the Community.
2. The Assembly:
 - a. shall liaise with the National Assemblies of the Partner States on matters relating to the Community;
 - b. shall debate and approve the budget of the Community;

- c. shall consider annual reports on the activities of the Community, annual audit reports of the Audit Commission and any other reports referred to it by the Council;
- d. shall discuss all matters pertaining to the Community and make recommendations to the Council as it may deem necessary for the implementation of the Treaty;
- e. may for purposes of carrying out its functions, establish any committee or committees for such purposes as it deems necessary;
- f. shall recommend to the Council the appointment of the Clerk and other officers of the Assembly; and
- g. shall make its rules of procedure and those of its committees.

The Assembly may perform any other functions as are conferred upon it by this Treaty

ARTICLE 50

Election of Members of the Assembly

- 1. The National Assembly of each Partner State shall elect, not from among its members, nine members of the Assembly, who shall represent as much as it is feasible, the various political parties represented in the National Assembly, shades of opinion, gender and other special interest groups in that Partner State, in accordance with such procedure as the National Assembly of each Partner State may determine.
- 2.
- 3. A person shall be qualified to be elected a member of the Assembly by the National Assembly of a Partner State in accordance with paragraph 1 of this Article if such a person:
 - (a) is a citizen of that Partner State;
 - (b) is qualified to be elected a member of the National Assembly of that Partner State under its Constitution is not holding office as a Minister in that Partner State;
 - (c) is not an officer in the service of the Community; and
 - (d) has proven experience or interest in consolidating and furthering the aims and the objectives of the Community.

ARTICLE 51

Tenure of Office of Elected Members

- 1. Subject to this Article, an elected member of the Assembly shall hold office for five years and be eligible for re-election for a further term of five years.
- 2. The terms and conditions of service of the Members of the Assembly shall be determined by the Summit on the recommendation of the Council.
- 3. An elected member of the Assembly shall vacate his or her seat in the Assembly upon the happening of any of the following events:
 - (a) upon the delivery of his or her resignation in writing to the Speaker of the Assembly;
 - (b) upon his or her ceasing to be qualified for election as an elected member;
 - (c) upon his or her election or nomination as a member of the National Assembly of a Partner State;
 - (d) upon his or her appointment as a Minister in the Government of a Partner State;
 - (e) upon his or her having been absent from the Assembly for such period and in such circumstances as are prescribed by the rules of procedure of the Assembly; or
 - (f) upon his or her conviction by a Court of competent jurisdiction of an offence and sentenced to imprisonment for a term exceeding six months and if no appeal has been preferred against such a decision.

ARTICLE 52

Questions as to Membership of the Assembly

- 1. Any question that may arise whether any person is an elected member of the Assembly or whether any seat on the Assembly is vacant shall be determined by the institution of the Partner State that determines questions of the election of members of the National Assembly responsible for the election in question.
- 2. The National Assembly of the Partner States shall notify the Speaker of the Assembly of every determination made under paragraph 1 of this Article.

ARTICLE 53

Speaker of the Assembly

- 1. The Speaker of the Assembly shall be elected on rotational basis by the elected members of the Assembly from among themselves to serve for a period of five years.

2. The Speaker of the Assembly shall vacate his or her office:
 - a. upon the expiry of the period for which he or she was elected;
 - b. if he or she delivers his or her resignation in writing to the elected members; or
 - c. if he or she ceases to be qualified for election as Speaker of the Assembly.
3. The Speaker of the Assembly may be removed from office by a resolution supported by not less than two thirds majority of the elected members for inability to perform the functions of his or her office, whether arising from infirmity of mind or body or for misconduct.

ARTICLE 54

Invitation of Persons to Assist the Assembly

1. The Speaker of the Assembly may invite any person to attend the Assembly, notwithstanding that he or she is not a member of the Assembly, if in his or her opinion the business before the Assembly renders his or her presence desirable.
 2. The rules of procedure of the Assembly shall make provisions for a person so invited to take part in the proceedings of the Assembly relating to the matters in respect of which he or she was invited

ARTICLE 55

Meetings of the Assembly

1. The meetings of the Assembly shall be held at such times and places as the Assembly may appoint.
2. Subject to the provisions of paragraph 1 of this Article, the Assembly shall meet at least once in every year at Arusha in the United Republic of Tanzania and at a time to be determined by the Assembly.

ARTICLE 56

Presiding in the Assembly

There shall preside at any sitting of the Assembly:

- a) the Speaker of the Assembly; or
- b) in the absence of the Speaker of the Assembly, such elected member of the Assembly as the elected members may elect for the sitting.

ARTICLE 57

Quorum and Vacancies in the Assembly

1. Subject to this Article, the rules of procedure of the Assembly shall make provision as to the number and composition of the elected members that shall constitute a quorum of the Assembly.
2. In reckoning the number of members who are present for the purposes of paragraph 1 of this Article, the person presiding shall not be taken into account.
3. The Assembly may transact business notwithstanding that there is a vacancy among its members, and the attendance or participation of any person not entitled to attend or participate in the proceedings of the Assembly shall not invalidate those proceedings.

ARTICLE 58

VOTING IN THE ASSEMBLY

Voting in the Assembly

1. All questions proposed for decision in the Assembly shall be determined by a majority of the votes of the members present and voting.
2. The ex-officio members of the Assembly shall not be entitled to vote in the Assembly.
3. When in the absence of the Speaker of the Assembly a member is presiding in the Assembly, the member presiding shall retain his or her right to vote.
4. If the votes of the members are equally divided upon any motion before the Assembly, the motion shall be lost.

ARTICLE 59

Bills and Motions in the Assembly

1. Subject to the rules of procedure of the Assembly, any member may propose any motion or introduce any Bill in the Assembly:
 Provided that a motion which does not relate to the functions of the Community shall not be proposed in the Assembly, and a Bill which does not relate to a matter with respect to which Acts of the Community may be enacted shall not be introduced into the Assembly.
2. The Assembly shall not:
 - a. proceed on any Bill, including an amendment to any Bill, that, in the opinion of the person presiding, makes provision for any of the following purposes:

- (i) for the imposition of any charge upon any fund of the Community;
- b. for the payment, issue or withdrawal from any fund of the Community of any moneys not charged thereon or the increase in the amount of any such payment, issue or withdrawal; for the remission of any debt due to the Community; or proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the said purposes.
- 3. In addition to the provisions of paragraphs 1 and 2 of this Article:
 - c. the Council shall publish annually and present to a meeting of the Assembly a general report on the activities of the Community and which the Assembly shall consider at its meeting;
 - d. the Assembly may by a majority of votes cast request the Council to submit any appropriate proposals on matters on which it considers that action is required on the part of the Community for the purpose of implementing this Treaty; and
 - e. the Assembly shall hold an annual debate on the report to be submitted to it by the Council on progress made by the Community in the development of its common foreign and security policies.

ARTICLE 60

Rules of Procedure of the Assembly

The Assembly may make, amend, add to or revoke rules governing the procedure of the Assembly.

ARTICLE 61

Powers, Privileges and Immunities of the Assembly and its Members

- 1. The Members of the Assembly shall be immune from legal action for any acts of omission or commission in the discharge of their functions under this Treaty.
- 2. The Community may, for the orderly and effective discharge of the business of the Assembly, enact legislation for the powers, privileges and immunities of the Assembly, its Committees and members.

ARTICLE 62

ACTS OF THE COMMUNITY

- i. The enactment of legislation of the Community shall be effected by means of Bills passed by the Assembly and assented to by the Heads of State, and every Bill that has been duly passed and assented to shall be styled an Act of the Community.
- ii. When a Bill has been duly passed by the Assembly the Speaker of the Assembly shall submit the Bill to the Heads of State for assent.
- iii. Every Bill that is submitted to the Heads of State under paragraph 2 of this Article shall contain the following words of enactment:

Enacted by the East African Community and assented to by the Heads of State.

ARTICLE 63

Assent to Bills

- 1. The Heads of State may assent to or withhold assent to a Bill of the Assembly.
- 2. A Bill that has not received assent as provided for in paragraph 1 of this Article within three months from the date on which it was passed by the Assembly shall be referred back to the Assembly, giving reasons, and with a request that the Bill or a particular provision thereof be reconsidered by the Assembly.
- 3. If the Assembly discusses and approves the Bill, the Bill shall be re-submitted to the Heads of State for assent.
- 4. If a Head of State withholds assent to a re-submitted Bill, the Bill shall lapse.

ARTICLE 64

Publication of Acts of the Community

The Secretary General shall cause every Act of the Community to be published in the Gazette.

ARTICLE 65

RELATIONS BETWEEN THE ASSEMBLY AND THE NATIONAL ASSEMBLIES OF THE PARTNER STATES

In pursuance of the policy of the Community of popular participation in the achievement of its objectives and so that the Council may be able to take into account in the exercise of its functions, the opinion of the general public in the

Partner States on matters relating to the achievement of the objectives of the Community as expressed through the debates of the elected members of their National Assemblies, and those of the Assembly and to foster co-operation between the Assembly and the National Assemblies of the Partner States hereinafter referred to as “the National Assemblies”:

- a) the Clerk of the Assembly shall as soon as practicable transmit to the Clerks of the National Assemblies copies of the records of all relevant debates of the meetings of the Assembly to be laid before the National Assemblies, by the respective Ministers responsible for *East African Community affairs*;
- b) the Clerk of the Assembly shall as soon as practicable transmit to the Clerks of the National Assemblies copies of the Bills introduced into the Assembly and Acts of the Community to be laid before the National Assemblies for information;
- c) the Clerks of the National Assemblies shall as soon as practicable transmit to the Clerk of the Assembly copies of the records of all relevant debates of the meetings of their National Assemblies other than those with respect to the matters laid before their National Assemblies in pursuance of the provisions of sub-paragraph (a) of this paragraph; and
- d)** the Clerk of the Assembly shall as soon as practicable transmit to the Secretary General copies of all the records of debate referred to in sub- paragraphs (a) and (b) of this paragraph for information to the Council.

CHAPTER TEN THE SECRETARIAT AND STAFF OF THE COMMUNITY

ARTICLE 66 Establishment of the Secretariat

1. The Secretariat shall be the executive organ of the Community.
2. There shall be the following offices in the service of the Community:
 - a) Secretary General;
 - b) Deputy Secretaries General;
 - c) Counsel to the Community; and
 - d) such other offices as may be deemed necessary by the Council.

ARTICLE 67 Secretary General

1. The Secretary General shall be appointed by the Summit upon nomination by the relevant Head of State under the principle of rotation.
2. Upon the appointment of the Secretary General the Partner State from which he or she is appointed shall forfeit the post of Deputy Secretary General.
3. The Secretary General shall be the principal executive officer of the Community and shall:
 - a) be the head of the Secretariat;
 - b) be the Accounting Officer of the Community;
 - c) be the Secretary of the Summit; and
4. Carry out such other duties as are conferred upon him by this Treaty or by the Council from time to time.
5. The Secretary General shall serve a fixed five year term.
6. The terms and conditions of service of the Secretary General shall be determined by the Council and approved by the Summit.

ARTICLE 68 DEPUTY SECRETARIES GENERAL

1. The Council shall determine the number of Deputy Secretaries General.
2. The Deputy Secretaries General shall be appointed by the Summit on recommendations of the Council and on a rotational basis.
3. The Deputy Secretaries General shall:
 - (a) deputise for the Secretary General; and
 - (b) perform such other duties as may be prescribed by the Council.
4. The Deputy Secretaries General shall each serve a three year term, renewable once.
5. The terms and conditions of service of the Deputy Secretaries General shall be determined by the Council and approved by the Summit.

ARTICLE 69 Counsel to the Community

1. There shall be a Counsel to the Community who shall be the principal legal adviser to the Community.

2. The Counsel to the Community shall perform such duties as are conferred upon him or her by this Treaty and by the Council.
3. The Counsel to the Community shall be appointed on contract and in accordance with the staff rules and regulations and terms and conditions of service of the Community.
4. The other terms and conditions of service of the Counsel to the Community shall be determined by the Council.

ARTICLE 70

Other Officers and Staff of the Secretariat

- i. There shall be such other officers and staff in the service of the Community as the Council may determine.
- ii. All staff of the Secretariat shall be appointed on contract and in accordance with staff rules and regulations and terms and conditions of service of the Community.
 - iii. The salaries, job design and other terms and conditions of service of the staff in the service of the Community shall be determined by the Council.

ARTICLE 71

Functions of the Secretariat

1. The Secretariat shall be responsible for:
 - a) initiating, receiving and submitting recommendations to the Council, and forwarding of Bills to the Assembly through the Co-ordination Committee;
 - b) the initiation of studies and research related to, and the implementation of, programmes for the most appropriate, expeditious and efficient ways of achieving the objectives of the Community;
 - c) the strategic planning, management and monitoring of programmes for the development of the Community;
 - d) the undertaking either on its own initiative' or otherwise, of such investigations, collection of information, or verification of matters relating to any matter affecting the Community that appears to it to merit examination;
 - e) the co-ordination and harmonization of the policies and strategies relating to the development of the Community through the Co-ordination Committee;
 - f) the general promotion and dissemination of information on the Community to the stakeholders, the general public and the international community;
 - g) the submission of reports on the activities of the Community to the Council through the Co-ordination Committee;
 - h) the general administration and financial management of the Community;
 - i) the mobilization of funds from development partners and other sources for the implementation of projects of the Community;
 - j) subject to the provisions of this Treaty, the submission of the budget of the Community to the Council for its consideration;
 - k) proposing draft agenda for the meetings of the organs of the Community other than the Court and the Assembly
 - l) the implementation of the decision of the summit and the council
 - m) the organization and the keeping of records of meetings of the institutions of the community other than those of the court and the assembly;
 - n) the custody of the property of the community
 - o) the establishment of practical working relations with the Court and the Assembly, and
 - p) Such other matters that may be provided for under this Treaty.
2. For the purposes of paragraph 1 of this Article, the Secretary General shall where he or she thinks it appropriate, act on behalf of the Secretariat.
3. The Deputy Secretaries General shall assist the Secretary General in the discharge of his or her functions.
4. The Counsel to the Community shall be the principal legal adviser to the Community in connection with matters pertaining to this Treaty and the Community and he or she shall by virtue of this paragraph be entitled to appear in the Courts of the Partner States in respect of matters pertaining to the Community and this Treaty.

ARTICLE 72

Relationship between the Secretariats and the Partner States

1. In the performance of their functions, the staff of the Community shall not seek or receive instructions from any Partner State or from any other authority external to the Community. They shall refrain from any actions which may adversely reflect on their position as international civil servants and shall be responsible

- only to the Community.
2. A Partner State shall not, by or under any law of that Partner State, confer any power or impose any duty upon an officer, organ or institution of the Community as such, except with the prior consent of the Council.
 3. Each Partner State undertakes to respect the international character of the responsibilities of the institutions and staff of the Community and shall not seek to influence them in the discharge of their functions.
 4. The Partner States agree to co-operate with and assist the Secretariat in the performance of its functions as set out in Article 71 of this Treaty and agree in particular to provide any information which the Secretariat may request for the purpose of discharging its functions.

ARTICLE 73

Immunities

1. Persons employed in the service of the Community:
 - a. shall be immune from civil process with respect to omissions or acts performed by them in their official capacity; and
 - b. shall be accorded immunities from immigration restrictions and alien registration.
2. Experts or consultants rendering services to the Community and delegates of the Partner States while performing services to the Community or while in transit in the Partner States to perform the services of the Community shall be accorded such immunities and privileges in the Partner States as the Council may determine.

CHAPTER ELEVEN

CO-OPERATION IN TRADE LIBERALISATION AND DEVELOPMENT

ARTICLE 74

East African Trade Regime

In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty, and in furtherance of Article 2 of this Treaty, the Partner States shall develop and adopt an East African Trade Regime and co-operate in trade liberalization and development in accordance therewith.

ARTICLE 75

Establishment of a Customs Union

- 1) For purposes of this Chapter, the Partner States agree to establish a Customs Union details of which shall be contained in a Protocol which shall, inter alia, include the following:
 - (a) The application of the principle of asymmetry;
 - (b) The elimination of internal tariffs and other charges of equivalent effect;
 - (c) The elimination of non-tariff barriers;
 - (d) Establishment of a common external tariff;
 - (e) Rules of origin;
 - (f) Dumping;
 - (g) Subsidies and countervailing duties;
 - (h) Security and other restrictions to trade;
 - (i) Competition;
 - (j) Duty drawback, refund and remission of duties and taxes;
 - (k) Customs co-operation;
 - (l) Re-exportation of goods; and
 - (m) Simplification and harmonization of trade documentation and procedures.
- 2) The establishment of the Customs Union shall be progressive in the course of a transitional period as shall be determined by the Council.
- 3) For purposes of this Article, the Council may establish and confer powers and authority upon such institutions as it may deem necessary to administer the Customs Union.
- 4) With effect from a date to be determined by the Council, the Partner States shall not impose any new duties and taxes or increase existing ones in respect of products traded within the Community and shall transmit to the Secretariat all information on any tariffs for study by the relevant institutions of the Community.
- 5) Except as may be provided for or permitted under this Treaty, the Partner States agree to remove all the existing non-tariff barriers on the importation into their territory of goods originating from the other partner states and thereafter to refrain from imposing any further non-tariff barriers.
- 6) The Partner States shall refrain from enacting legislation or applying administrative measures which directly or indirectly discriminate against the same or like products of other Partner States.

- 7) For purposes of this Article, the Partner States shall within a period of four years conclude the Protocol on the Establishment of a Customs Union.

ARTICLE 76

Establishment of a Common Market

1. There shall be established a Common Market among the Partner States. Within the Common Market, and subject to the Protocol provided for in paragraph 4 of this Article, there shall be free movement of labour, goods, services, capital, and the right of establishment.
2. The establishment of the Common Market shall be progressive and in accordance with schedules approved by the Council.
3. For purposes of this Article, the Council may establish and confer powers and authority upon such institutions as it may deem necessary to administer the Common Market.
4. For the purpose of this Article, the Partner States shall conclude a Protocol on a Common Market.

ARTICLE 77

Measures to Address Imbalances Arising from the Application of the Provisions for the Establishment of a Customs Union and a Common Market

For purposes of this Article, the Partner States shall within the framework of the protocols provided for under Articles 75 and 76 of this Treaty, take measures to address imbalances that may arise from the application of the provisions of this Treaty.

ARTICLE 78

Safeguard Clause

1. In the event of serious injury occurring to the economy of a Partner State following the application of the provisions of this Chapter, the Partner State concerned shall, after informing the Council through the Secretary General and the other Partner States, take necessary safeguard measures.
2. The Council shall examine the method and effect of the application of existing safeguard measures and take decisions thereon.

CHAPTER TWELVE

CO-OPERATION IN INVESTMENT AND INDUSTRIAL DEVELOPMENT

ARTICLE 79

Industrial Development

In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty, the Partner States shall take such steps in the field of industrial development that will:

- a) promote self-sustaining and balanced industrial growth;
- b) improve the competitiveness of the industrial sector so as to enhance the expansion of trade in industrial goods within the Community and the export of industrial goods from the Partner States in order to achieve the structural transformation of the economy that would foster the overall socio-economic development in the Partner States; and
- c) Encourage the development of indigenous entrepreneurs.

ARTICLE 80

Strategy and Priority Areas

1. For purposes of Article 79 of this Treaty, the Partner States shall take measures to:
 - a) develop an East African Industrial Development Strategy;
 - b) promote linkages among industries within the Community through diversification, specialization and complementarity, in order to enhance the spread effects of industrial growth and to facilitate the transfer of technology;
 - c) facilitate the development of:
 - i. small-and-medium scale industries including sub-contracting and other relations between larger and smaller firms;
 - ii. basic capital and intermediate goods industries for the purposes of obtaining the advantages of economies of scale; and obtaining the advantages of economies of scale; and
 - iii. food and agro industries;
 - d) rationalise investments and the full use of established industries so as to promote efficiency in production;
 - e) promote industrial research and development and the transfer, acquisition, adaptation and development of modern technology, training, management and consultancy services through the establishment of joint industrial institutions and other infrastructural facilities;

- f) harmonise and rationalise investment incentives including those relating to taxation of industries particularly those that use local materials and labour with a view to promoting the Community as a single investment area;
 - g) disseminate and exchange industrial and technological information;
 - h) avoid double taxation; and
 - i. Maintain the standardisation, quality assurance, metrology and testing currently applicable and such other standards as may be adopted by the Council after the signing of this Treaty for goods and services produced and traded among the Partner States pending the conclusion of a protocol under paragraph 4 of Article 81 of this Treaty.
2. The Partner States shall take such other measures for the purposes of Article 79 of this Treaty as the Council may determine.

CHAPTER THIRTEEN
CO-OPERATION IN STANDARDIZATION, QUALITY ASSURANCE, METROLOGY AND TESTING

ARTICLE 81

Standardization, Quality Assurance, Metrology and Testing

1. The Partner States agree that standardisation, quality assurance, metrology and testing can facilitate sustainable modernisation in the Community.
2. The Partner States also recognise the significance of standardisation, quality assurance, metrology and testing in the enhancement of the standard of living, reduction of unnecessary variety of products, the facilitation of interchangeability of products, the promotion of trade
3. The Partner States undertake to evolve and apply a common policy for the standardisation, quality assurance, metrology and testing of goods and services produced and traded within the Community.
4. The Partner States agree to conclude a protocol on Standardisation, Quality Assurance, Metrology and Testing for the goods and services produced and traded in the Community.

CHAPTER FOURTEEN
MONETARY AND FINANCIAL CO-OPERATION

ARTICLE 82

Scope of Co-Operation

1. In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty, the Partner States undertake to co-operate in monetary and fiscal matters in accordance with the approved macro-economic policies harmonisation programmes and convergence framework of the Community in order to establish monetary stability within the Community aimed at facilitating economic integration efforts and the attainment of sustainable economic development of the Community. To this end, the Partner States shall:
 - a) co-operate in monetary and financial matters and maintain the convertibility of their currencies as a basis for the establishment of a Monetary Union;
 - b) harmonise their macro-economic policies especially in exchange rate policy, interest rate policy, monetary and fiscal policies; and
 - c) remove obstacles to the free movement of goods, services and capital within the Community.
2. The Partner States shall in order to implement the provisions of paragraph 1 of this Article, inter alia:
 - a) maintain the existing convertibility of their currencies to promote the use of national currencies in the settlement of payments for all transactions among the Partner States thereby economising on the use of foreign currency;
 - b) take measures that would facilitate trade and capital movement within the Community;
 - c) develop, harmonise and eventually integrate the financial systems of the Partner States; and
 - d) implement the provisions of this Treaty relating to monetary and financial co-operation.

ARTICLE 83

MONETARY AND FISCAL POLICY HARMONISATION

- I. The Partner States undertake to adopt policy measures in accordance with an agreed macro-economic policy framework.

- II. For the purposes of paragraph I. of this Article, the Partner States undertake to:
- (a) remove all exchange restrictions on imports and exports within the Community;
 - (b) maintain free market determined exchange rates and enhance the levels of their international reserves;
 - (c) adjust their fiscal policies and net domestic credit to the government to ensure monetary stability and the achievement of sustained economic growth;
 - (d) liberalise their financial sectors by freeing and deregulating interest rates with a view to achieving positive real interest rates in order to promote savings for investment within the Community and to enhance competition and efficiency in their financial systems; and
 - (e) harmonise their tax policies with a view to removing tax distortions in order to bring about a more efficient allocation of resources within the Community.

ARTICLE 84
MACRO-ECONOMIC CO-ORDINATION
WITHIN THE COMMUNITY

1. The Partner States shall co-ordinate through the Council their macro-economic policies and economic reform programmes with a view to promoting the socioeconomic development of the Community.
2. In order to achieve balanced development within the Community, the Partner States undertake to evolve policies designed to improve their resource and production base.

ARTICLE 85
BANKING AND CAPITAL MARKET DEVELOPMENT

The Partner States undertake to implement within the Community, a capital market development programme to be determined by the Council and shall create a conducive environment for the movement of capital within the Community. To this end, the Partner States shall:

- a. take steps to achieve wider monetisation of the region's economies under a liberalised market economy;
- b. harmonise their banking Acts;
- c. harmonise capital market policies on cross-border listing, foreign portfolio investors, taxation of capital market transactions, accounting, auditing and financial reporting standards, procedures for setting commissions and other charges;
- d. harmonise the regulatory and legislative frameworks and regulatory structures;
- e. harmonise and implement common standards for market conduct;
- f. harmonise policies impacting on capital markets, particularly the granting of incentives for the development of capital markets within the region;
- g. promote co-operation among the stock-exchanges and capital markets and securities regulators within the region through mutual assistance and the exchange of information and training;
- h. promote the establishment of a regional stock exchange within the Community with trading floors in each of the Partner States;
- i. ensure adherence by their appropriate national authorities to harmonised stock trading systems, the promotion of monetary instruments and to permitting residents of the Partner States to acquire and negotiate monetary instruments freely within the Community;
- j. establish within the Community a cross listing of stocks, a rating system of listed companies and an index of trading performance to facilitate the negotiation and sale of shares within and external to the Community; and
- k. institute measures to prevent money laundering activities.

ARTICLE 86
Movement of Capital

The Partner States shall in accordance with the time table to be determined by the Council, permit the free movement of capital within the Community, develop, harmonise and eventually integrate their financial systems. In this regard, the Partner States shall:

- a) ensure the unimpeded flow of capital within the Community through the removal of controls on the transfer of capital among the Partner States;
- b) ensure that the citizens of and persons resident in a Partner State are allowed to acquire stocks, shares and other securities or to invest in enterprises in the other Partner States; and
- c) Encourage cross-border trade in financial instruments.

ARTICLE 87
Joint Project Financing

1. The Partner States undertake to co-operate in financing projects jointly in each other's territory, especially those that facilitate integration within the Community.
2. The Partner States undertake to co-operate in the mobilisation of foreign capital for the financing of national and joint projects.

ARTICLE 88
Safeguard Measures

The Council may approve measures designed to remedy any adverse effects a Partner State may experience by reason of the implementation of the provisions of this Chapter, provided that such a Partner State shall furnish to the Council proof that it has taken all reasonable steps to overcome the difficulties, and that such measures are applied on a non-discriminatory basis.

CHAPTER FIFTEEN
CO-OPERATION IN INFRASTRUCTURE AND SERVICES

ARTICLE 89 Common Transport and Communications Policies

In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty, the Partner States undertake to evolve co-ordinated, harmonised and complementary transport and communications policies; improve and expand the existing transport and communication links; and establish new ones as a means of furthering the physical cohesion of the Partner States, so as to facilitate and promote the movement of traffic within the Community. To this end, the Partner States shall take steps, inter alia, to:

- (a) develop harmonised standards and regulatory laws, rules, procedures and practices;
- (b) construct, maintain, upgrade, rehabilitate and integrate roads, railways, airports, pipelines and harbours in their territories;
- (c) review and re-design their intermodal transport systems and develop new routes within the Community for the transport of the types of goods and services produced in the Partner States;
- (d) maintain, expand and upgrade communication facilities to enhance interaction between persons and businesses in the Partner States and promote the full exploitation of the market and investment opportunities created by the Community;
- (e) grant special treatment to land-locked Partner States in respect of the application of the provisions of this Chapter;
- (f) provide security and protection to transport systems to ensure the smooth movement of goods and persons within the Community;
- (g) take measures directed towards the harmonisation and joint use of facilities and programmes within their existing national institutions for the training of personnel in the field of transport and communications; and
- (h) Exchange information on technological developments in transport and communications.

ARTICLE 90
Roads and Road Transport

The Partner States shall:

- a. take measures to ratify or accede to international conventions on road traffic and road signs and signals and take such steps as may be necessary to implement these conventions;
- b. harmonise their traffic laws, regulations and highway codes and adopt a common definition of classes of roads and route numbering systems;
- c. harmonise the provisions of their laws concerning licensing, equipment, markings and registration numbers of vehicles for travel and transport within the Community;
- d. adopt common standards for vehicle construction, vehicle inspection and vehicle inspection centres;
- e. adopt common standards and regulations for driver training and licensing;
- f. adopt common requirements for the insurance of goods and vehicles;
- g. adopt common regulations governing speed limits on urban roads and highways;
- h. adopt and establish common road safety regulations, accident rescue, first aid, medical care and post-trauma systems within the Community;
- i. prescribe minimum safety requirements for packaging, loading and transporting of dangerous substances;

- j. establish common measures for the facilitation of road transit traffic;
- k. harmonise rules and regulations concerning special transport requiring security;
- l. adopt common rules and regulations governing the dimensions, technical requirements, gross weight and load per axle of vehicles used in trunk roads within the Community;
- m. co-ordinate activities with respect to the construction of trunk roads connecting the Partner States to common standards of design and in the maintenance of existing road networks to such standards as will enable the carriers of other Partner States to operate to and from their territories efficiently;
- n. co-ordinate their activities in the maintenance, rehabilitation, upgrading and reconstruction of the trunk road networks connecting the Partner States and ensure that such road networks once rehabilitated will not be allowed to disintegrate;
- o. adopt a co-ordinated approach in the implementation of trunk road projects connecting the Partner States;
- p. Agree on common policies and standards for the manufacture and the maintenance of road transport equipment;
- q. ensure that the treatment of motor transport operators engaged in transport within the Community from other Partner States is not less favourable than that accorded to the operators of similar transport from their own territories;
- r. adopt common and simplified documentation procedures for road transportation within the community and harmonise road transit charges;
- s. gradually reduce and finally eliminate non-physical barriers to road transport within the community
- t. ensure that common and simplified eliminate non-physical barriers to road transport within the community
- u. ensure that common carriers from other partner states have the same opportunities and facilities as common carriers in their territories in the undertaking of transport operations within the community
- v. make road transport efficient and cost effective by promoting competition and introducing regulatory framework to facilitate the road haulage industry operations;
- w. exchange information and experience on issues common to roads and road transport within the Community; and
- x. encourage the use and development of low cost and non-motorised transport in the community's transport policies.

ARTICLE 91

Railways and Rail Transport

1. The Partner States agree to establish and maintain co-ordinated railway services that would efficiently connect the Partner States within the Community and, where necessary, to construct additional railway connections.
2. The Partner States shall, in particular:
 - a. adopt common policies for the development of railways and railway transport in the Community;
 - b. make their railways more efficient and competitive through, *inter alia*, autonomous management and improvement of infrastructure;
 - c. adopt common safety rules, regulations and requirements with regard to signs, signals, rolling stock, motive power and related equipment and the transport of dangerous substances;
 - d. adopt measures for the facilitation, harmonisation and rationalisation of railway transport within the Community;
 - e. harmonise and simplify documents required for railway transport within the Community;
 - f. harmonise procedures with respect to the packaging, marking and loading of goods and wagons for railway transport within the Community;
 - g. agree to charge non-discriminatory tariffs in respect of goods transported by railway within the Community;
 - h. consult each other on proposed measures that may affect railway transport within the Community;
 - i. integrate the operations of their railway administrations including the synchronisation of train schedules and the operations of unit trains;
 - j. establish common standards for the construction and maintenance of railway facilities;
 - k. agree on common policies for the manufacture of railway transport equipment and railway facilities;
 - l. agree to allocate space for the storage of goods transported by railway from each other within their

- goods sheds;
- m. take measures to facilitate thorough working of trains within the Community;
- n. facilitate the deployment of railway rolling stock, motive power and related equipment for the conveyance of goods to and from each other without discrimination;
- o. endeavour to maintain the existing physical facilities of their railways to such standards as will enable the Partner States to operate their own systems within the Community in an efficient manner;
- p. provide efficient railway transport services among the Partner States on a non-discriminatory basis;
- q. facilitate joint utilisation of railway facilities including manufacture, maintenance and training facilities to ensure their optimal use; and
- r. Promote co-operation in the fields of research and exchange of information.

ARTICLE 92

Civil Aviation and Civil Air transport

1. The Partner States shall harmonise their policies on civil aviation to promote the development of safe, reliable, efficient and economically viable civil aviation with a view to developing appropriate infrastructure, aeronautical skills and technology, as well as the role of aviation in support of other economic activities.
2. The Partner States shall take necessary steps to facilitate the establishment of joint air services and the efficient use of aircraft as steps towards the enhancement of air transportation within the Community.
3. The Partner States shall in particular:
 - (a) adopt common policies for the development of civil air transport in the Community in collaboration with other relevant international organisations including the African Civil Aviation Commission (AFCAC), the African Airlines Association (AFRAA), the International Air Transport Association (IATA), and International Civil Aviation Organisation (ICAO); undertake to make civil air transport services safe, efficient and profitable through, inter alia, autonomous management;
 - (b) liberalise the granting of air traffic rights for passengers and cargo operations with a view to increasing efficiency; harmonise civil aviation rules and regulations by implementing the provisions of the Chicago Convention on International Civil Aviation, with particular reference to Annex 9 thereof;
 - (c) establish a Unified Upper Area Control system;
 - (d) establish common measures for the facilitation of passenger and cargo air services in the Community;
 - (e) co-ordinate the flight schedules of their designated airlines;
 - (f) consider ways to develop, maintain and co-ordinate in common, their navigational, communications and meteorological facilities forth provision of safe air navigation and the joint management of their air space;
 - (g) encourage the joint use of maintenance and overhaul facilities and other services for aircraft, ground handling equipment and other facilities;
 - (j) agree to take common measures for the control and protection of the air space of the Community;
 - (k) apply the ICAO policies and guidelines in determining user charges and apply the same rules and regulations relating to scheduled air transport services among themselves;
 - (l) adopt common aircraft standards and technical specifications for the types of aircraft to be operated in the Community; and
 - (m) co-ordinate measures and co-operates in the maintenance of the high security required in respect of air services operations and operate joint search and rescue operations.

ARTICLE 93

Maritime transport and ports

The Partner States shall:

- a. promote the co-ordination and harmonisation of their maritime transport policies and establish a common maritime transport policy;
- b. promote the development of efficient and profitable sea port services through the liberalisation and commercialisation of port operations;
- c. make rational use of existing port installations;
- d. in the case of the coastal Partner States, co-operate with the land-locked Partner States and grant them easy access to port facilities and opportunities to participate in provision of port and maritime services;
- e. take measures to ratify or accede to international conventions on maritime transport;

- f. establish a harmonious traffic organisation system for the optimal use of maritime transport services;
- g. co-operate in the elaboration and application of measures to facilitate the arrival, stay and departure of vessels;
- h. promote co-operation among their port authorities in the management and operations of their ports and maritime transport coast facilitate the efficient movement of traffic between their territories;
- i. agree to charge non-discriminatory tariffs in respect of goods from their territories and goods from other Partner States, except where their goods enjoy domestic transport subsidies, and apply the same rules and regulations in respect of maritime transport among themselves without discrimination;
- j. agree to allocate space on board their ships for goods consigned to or from the territories of other Partner States;
- k. install and maintain efficient cargo handling equipment, cargo storage facilities and general operations and train related manpower and where feasible shall undertake these jointly;
- l. agree to allocate adequate space for the storage of goods traded among(m) co-ordinate measures with respect to, and co-operate in the maintenance of, the safety of maritime transport services, including joint search and rescue operations;
- m. provide adequate facilities with good communication systems that would receive and respond to signals promptly;
- n. inter-connect their national communication systems so as to identify polluted points in oceans for concerted marine pollution control;
- o. encourage their respective national shipping lines to form international shipping associations;
- p. review their national maritime legislation in accordance with the existing international maritime conventions.

ARTICLE 94

Inland Waterways Transport

The Partner States shall:

- a. harmonise their inland waterways transport policies and shall adopt, harmonise and simplify rules, regulations and administrative procedures governing waterways transport on their common navigable inland waterways;
- b. install and maintain efficient cargo handling equipment, cargo storage facilities and general operations and train related manpower resources and where possible shall undertake these jointly;
- c. encourage joint use of maintenance facilities;
- d. harmonise tariffs structure for waterways transport on their common navigable inland waterways;
- e. adopt common rules to govern the packaging, marking, loading and other procedures for waterways transport on their common navigable inland waterways;
- f. agree to charge the same tariffs in respect of goods transported within the Community and apply the same rules and regulations in respect of inland
- g. agree to provide space without discrimination on board vessels registered in their territories for goods consigned to and from their territories;
- h. wherever possible, promote co-operation among themselves by undertaking joint ventures in inland waterways transport including the establishment of joint shipping services;
- i. co-ordinate measures with respect to, and co-operate in the maintenance of, safety in inland waterways transport services including the provision and maintenance of communication equipment to receive distress positions promptly and joint search and rescue operations;
- j. facilitate the deployment of inland waterways vessels and equipment for efficient conveyance of all classes of traffic to and from each Partner State;
- k. integrate efforts to control and eradicate the water hyacinth menace and its effects on inland waterways transport;
- l. facilitate joint studies in the use and management of inland waterways;
- m. provide regional training and research facilities for the promotion and development of marine operations and meteorology;
- n. undertake joint surveying, mapping and production of navigational charts and provision of navigational aids;
- o. facilitate provision of adequate meteorological equipment, communication and safety facilities to vessels plying the lakes within the Partner States;
- p. jointly tackle issues on inland water pollution with a view to achieving effective monitoring and control

thereof;

q. jointly explore utilisation of unexploited inland waterways transport resources and tackle matters related to shipping and port services; and

r. harmonise national policies on inland waterways transport.

Multimodal Transport

The Partner States shall:

- (a) harmonise and simplify regulations, goods classification, procedures and documents required for multimodal transport within the Community;
- (b) apply uniform rules and regulations with respect to the packaging, marking and loading of goods;
- (c) provide where feasible, technical and other facilities for direct transshipment of goods at main transshipment points including intermodal cargo exchange points, inland clearance depots, dry ports or inland container depots;
- (d) agree to allocate multimodal transport facilities for goods consigned to or from the Partner States;
- (e) take measures to ratify or accede to international conventions on multimodal transport and containerisation and take such steps as may be necessary to implement them; and
- (f) promote communication and information exchange to enhance the efficiency of multimodal transport.

ARTICLE 96

Freight Booking Centres

The Partner States shall encourage the establishment of freight booking centres.

ARTICLE 97

Freight Forwarders, Customs Clearing Agents and Shipping Agents

1. The Partner States shall harmonise the requirements for registration and licensing of freight forwarders, customs clearing agents and shipping agents.
2. The Partner States shall allow any person to register, and be licensed, as a freight forwarder, customs clearing agent and shipping agent, provided that, that person fulfils the legal and customs requirements of that Partner State.
3. The Partner States shall not restrict the commercial activities, rights and obligations of a lawfully registered and licensed freight forwarder or clearing agent.

ARTICLE 98

Postal Services

The Partner States shall harmonise their policies on postal services and promote close co-operation between their postal administrations and devise ways and means to achieve fast, reliable, secure, economic and efficient services among themselves through:

- (a) strengthening of postal sorting, routing, transit and distribution centres within the Community;
- (b) pooling financial, technical and human resources to modernise, mechanise and automate mail and postal financial services so as to provide timely and efficient services to postal users or customers and, further introduce value-added postal services thus turning postal outlets one-shop for communication services;
- (c) adopting competitive marketing strategies to increase market shares in the international courier services and further introduce on-line track and trace system Electronic Data Inter-Change (EDI) for customer information and expedited inquiry handling systems;
- (d) conducting joint market research activities with a view to launching new postal products or services;
- (e) introducing appropriate postal security systems and procedures in the postal networks; and
- (f) co-operating in the development and design of relevant human resources training and development programmes.

ARTICLE 99

Telecommunications

The Partner States shall;

- (a) adopt common telecommunications policies to be developed within the Community in collaboration with other relevant international organisations including the Pan-African Telecommunications Union

(PATU), International Telecommunications Union (ITU), Regional African Satellite Communication (RASCOM), International Telecommunication Satellite Organisation (INTELSAT), International Maritime Satellite Organisation (INMARSAT), Commonwealth Telecommunications Organisation (CTO) and other related organisations;

(b) improve and maintain inter-connectivity and modernize equipment to meet the common standards required for efficient telecommunications traffic within the Community;

(c) harmonise and apply non-discriminatory tariffs among themselves and where possible, agree on preferential tariff treatment applicable within the Community;

(d) co-operate and co-ordinate their activities in the maintenance of telecommunications facilities including training and the exchange of manpower;

(e) encourage co-operation in local manufacturing of info-telecommunication equipment, research and development;

(f) facilitate a conducive environment to promote private sector investors in the info-telecommunication equipment within the Community; and

(g) adopt a common frequency management and monitoring scheme, assign mutually agreed upon frequencies for cross-border mobile radio communications and issue operating licences agreed upon by the Partner States.

ARTICLE 100

Meteorological Services

1. Each Partner State shall collect and disseminate to the other Partner States meteorological information in order to facilitate the efficient operation of air navigation, coastal shipping, inland waterways transport and the issuing of cyclone warnings and other adverse weather phenomena and co-operate in the following areas:
 - (a) Expansion and upgrading of meteorological observations network and telecommunications;
 - (b) Training and research in meteorology, by using common facilities such as the Regional Meteorology Training Centre (RMTC), Drought Monitoring Centre (DMC) and other similar institutions;
 - (c) Provision of meteorological services which would include the exchange of observations and products for safety of air navigation, coastal shipping, inland waterways and transport as well as meteorological support to key sectors of the economy which include agriculture, water resources, tourism and construction;
 - (d) Support to early warning systems and remote sensing for food security;
 - (e) Meteorological support to environment management;
 - (f) Harmonisation of policies for the provision of meteorological services;
 - (g) Co-operation in human resources development and information exchange; and
 - (h) Climate analysis and seasonal forecast.
2. The Partner States shall co-operate and support each other in all activities of the World Meteorological Organisation (WMO) affecting the interests of the Community especially the monitoring of the atmospheric and climatic changes on the planet.
3. The Partner States shall exchange information and expertise concerning new developments in meteorological science and technology including the calibration and comparison of instruments.

ARTICLE 101

Energy

- I. The Partner States shall adopt policies and mechanisms to promote the efficient exploitation, development, joint research and utilisation of various energy resources available within the region.
- II. For the purposes of paragraph 1 of this Article, the Partner States shall in particular promote within the Community:
 - a. the least cost development and transmission of electric power, efficient exploration and exploitation of fossil fuels and utilisation of new and renewable energy sources;
 - b. the joint planning, training and research in, and the exchange of information on the exploration, exploitation, development and utilisation of available energy resources;
 - c. the development of integrated policy on rural electrification;
 - d. the development of inter-Partner State electrical grid inter-connections;
 - e. the construction of oil and gas pipelines; and
 - f. all such other measures to supply affordable energy to their people taking cognisance of the protection of the environment as provided for by this Treaty.

CHAPTER SIXTEEN
CO-OPERATION IN THE DEVELOPMENT OF HUMAN RESOURCES, SCIENCE AND TECHNOLOGY
ARTICLE 102

Education and Training

- (1) In order to promote the achievement of the objectives of the Community as set out in Article 5 of the Treaty, the Partner States agree to undertake concerted measures to foster co-operation in education and training within the Community.
- (2) The Partner States shall, with respect to education and training:
 - a. co-ordinate their human resources development policies and programmes;
 - b. strengthen existing and where necessary establish new common research and training institutions;
 - c. co-operate in industrial training;
 - d. develop such common programmes in basic, intermediary and tertiary education and a general programme for adult and continuing education in the Partner States as would promote the emergence of well trained personnel in all sectors relevant to the aims and objectives of the Community;
 - e. harmonise curricula, examination, certification and accreditation of education and training institutions in the Partner States through the joint action of their relevant national bodies charged with the preparation of such curricula;
 - f. revive and enhance the activities of the Inter-University Council for East Africa;
 - g. encourage and support the mobility of students and teachers within the Community;
 - h. exchange information and experience on issues common to the educational systems of the Partner States;
 - i. collaborate in putting in place education and training programmes for people with special needs and other disadvantaged groups;
 - j. encourage and support the participation of the private sector in the development of human resources through education and training; and
 - k. identify and develop centres of excellence in the region including universities.
- (3) For the purposes of paragraph 1 of this Article, the Partner States shall undertake such additional activities in respect of the development of human resources as the Council may determine.

ARTICLE 103

Science and Technology

1. Recognising the fundamental importance of science and technology in economic development, the Partner States undertake to promote co-operation in the development of science and technology within the Community through:
 - a. the joint establishment and support of scientific and technological research and of institutions in the various disciplines of science and technology;
 - b. the creation of a conducive environment for the promotion of science and technology within the Community;
 - c. the encouragement of the use and development of indigenous science and technologies;
 - d. the mobilisation of technical and financial support from local and foreign sources and from international organisations or agencies for the development of science and technology in the Community;
 - e. the exchange of scientific information, personnel and the promotion and publication of research and scientific findings;
 - f. the collaboration in the training of personnel in the various scientific and technological disciplines at all levels using existing institutions and newly established ones;
 - g. the promotion, development and application of information technology and other new ones throughout the Community; the harmonisation of policies on commercialisation of technologies and promotion and protection of intellectual property rights.
2. For purposes of paragraph 1 of this Article, the Partner States shall undertake such additional activities with regard to science and technology as the Council may determine.

CHAPTER SEVENTEEN
FREE MOVEMENT OF PERSONS, LABOUR, SERVICES, RIGHT OF ESTABLISHMENT AND RESIDENCE

ARTICLE 104
Scope of Co-operation

1. The Partner States agree to adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the Community.
2. For purposes of paragraph 1 of this Article, the Partner States agree to conclude a Protocol on the Free Movement of Persons, Labour, Services and Right of Establishment and Residence at a time to be determined by the Council.
3. The Partner States shall as may be determined by the Council:
 - a. ease border crossing by citizens of the Partner States;
 - b. maintain common standard travel documents for their citizens;
 - c. effect reciprocal opening of border posts and keep the posts opened and manned for twenty four hours;
 - d. maintain common employment policies;
 - e. harmonise their labour policies, programmes and legislation including those on occupational health and safety;
 - f. establish a regional centre for productivity and employment promotion and exchange information on the availability of employment;
 - g. make their training facilities available to persons from other Partner States; and
 - h. enhance the activities of the employers' and workers' organisations with a view to strengthening them.
4. The Partner States undertake to co-operate in the enhancement of the social partnership between the governments, employers and employees so as to increase the productivity of labour through efficient production.

AGRICULTURE AND FOOD SECURITY

ARTICLE 105

Scope of Co-operation

1. The overall objectives of co-operation in the agricultural sector are the achievement of food security and rational agricultural production within the Community. To this end, the Partner States undertake to adopt a scheme for the rationalisation of agricultural production with a view to promoting complementarity and specialisation in and the sustainability of national agricultural programmes in order to ensure:
 - (a) a common agricultural policy;
 - (b) food sufficiency within the Community;
 - (c) an increase in the production of crops, livestock, fisheries and forest products for domestic consumption, exports within and outside the Community and as inputs to agro-based industries within the Community; and
 - (d) post harvest preservation and conservation and improved food processing.
2. For purposes of paragraph 1 of this Article, the Partner States undertake to cooperate in specific fields of agriculture, including:
 - a. the harmonisation of agricultural policies of the Partner States;
 - b. the development of food security within the Partner States and the Community as a whole, through the production and supply of foodstuffs;
 - c. agro-meteorology and climatology to promote the development of early climatological warning systems within the Community;
 - d. the development and application of agricultural training and research and extension services;
 - e. the adoption of internationally accepted quality standards for food processing
 - f. the establishment of joint programmes for the control of animal and plant diseases and pests;

 - g. the marketing of food and the co-ordination of the export and import of agricultural commodities;
 - h. joint actions in combating drought and desertification ; and
 - i. in such other fields of agriculture as the Council may determine.

ARTICLE 106

Seed Multiplication and Distribution

The partner states shall

- (a) strengthen co-operation in quality seed development and production through research and plant breeding;
- (b) support co-operation in the establishment of gene banks;
- (c) enhance capacity in seed technology;
- (d) initiate and maintain strategic seed reserves;
- (e) harmonise quarantine policies, legislation and regulations to ease trade in seeds; and
- (f) Create an enabling environment for private sector seed multiplication and distribution.

ARTICLE 107

Livestock Multiplication and Distribution

The Partner States shall:

- (a) develop mechanism for co-operation in livestock breeding, including artificial insemination institutions and livestock breeding centres;
- (b) encourage and facilitate exchange of genetic material to widen the base of livestock development;
- (c) encourage private sector participation in livestock multiplication and distribution;
- (d) develop common regulatory framework in livestock multiplication, trade in semen, embryos, breeding stock, drugs and vaccines; and
- (e) harmonise quarantine regulations in artificial insemination and livestock breeding centres.

ARTICLE 108

Plant and Animal Diseases Control

The Partner States shall:

- (a) harmonise policies, legislation and regulations for enforcement of pests and disease control;
- (b) harmonise and strengthen regulatory institutions;

- (c) harmonise and strengthen zoo-sanitary and phyto-sanitary services inspection and certification;
- (d) establish regional zoo-sanitary and phyto-sanitary laboratories to deal with diagnosis and identification of pests and diseases;
- (e) adopt common mechanism to ensure safety, efficacy and potency of agricultural inputs including chemicals, drugs and vaccines; and
- (f) co-operate in surveillance, diagnosis and control strategies of transboundary pests and animal diseases.

ARTICLE 109

Irrigation and Water Catchment Management

The Partner States agree to take concerted effort to expand agricultural land through irrigation and water catchments strategies and for this purpose, shall:

- a. co-operate in formulating and implementing national and Community irrigation programmes;
- b. co-operate in developing and preserving traditional irrigation systems;
- c. improve water catchments management, including rainwater harvesting; and
- d. adopt and promote the use of environmentally safe methods of land use.

ARTICLE 110

Food Security

The Partner States shall:

- a. establish a mechanism for exchange of information on demand and supply surpluses and deficits, trade, forecasting and state of food nutrition;
- b. harmonise quality and standards of inputs and products including food additives;
- c. develop modalities to have timely information on market prices;
- d. harmonise food supply, nutrition and food security policies and strategies;
- e. initiate and maintain strategic food reserves; and
- f. Develop marine and inland aquaculture and fish farming.

CO-OPERATION IN ENVIRONMENT AND NATURAL RESOURCES MANAGEMENT

ARTICLE 111

Environmental Issues and Natural Resources

The Partner States recognise that development activities may have negative impacts on the environment leading to the degradation of the environment and depletion of natural resources and that a clean and healthy environment is a prerequisite for sustainable development. The Partner States therefore:

- (a) agree to take concerted measures to foster co-operation in the joint and efficient management and sustainable utilisation of natural resources within the Community;
- (b) undertake, through environmental management strategy, to co-operate and co-ordinate their policies and actions for the protection and conservation of the natural resources and environment against all forms of degradation and pollution arising from developmental activities;
- (c) undertake to co-operate and adopt common policies for control of transboundary movement of toxic and hazardous waste including nuclear materials and any other undesirable materials;
- (d) shall provide prior and timely notification and relevant information to each other on natural and human activities that may or are likely to have significant trans-boundary environmental impacts and shall consult with each other at an early stage; and
- (e) shall develop and promote capacity building programmes for sustainable management of natural resources.

3. Action by the Community relating to the environment shall have the following objectives:

- (a) to preserve, protect and enhance the quality of the environment;
- (b) to contribute towards the sustainability of the environment;
- (c) to ensure sustainable utilisation of natural resources like lakes, wetlands, forests and other aquatic and terrestrialecosystems;and
- (d) to jointly develop and adopt water resources conservation and management policies that ensure sustenance and preservation of ecosystems.

ARTICLE 112

Management of the Environment

1. For purposes of Article 111 of this Treaty, the Partner States undertake to cooperate in the management of the environment and agree to:
 - a. develop a common environmental management policy that would sustain the eco-systems of the Partner States, prevent, arrest and reverse the effects of environmental degradation;
 - b. develop special environmental management strategies to manage fragile ecosystems, terrestrial and marine resources, noxious emissions and toxic and hazardous chemicals;
 - c. take measures to control trans-boundary air, land and water pollution arising from developmental activities;
 - d. take necessary disaster preparedness, management, protection and mitigation measures especially for the control of natural and man-made disasters. These include oil spills, bio-hazards, floods, earthquakes, marine accidents, drought and bush fires; and
 - e. integrate environmental management and conservation measures in all developmental activities such as trade, transport, agriculture, industrial development, mining and tourism in the Community.
2. For purposes of paragraph 1 of this Article, the Partner States undertake to:
 - a. adopt common environment control regulations, incentives and standards;
 - b. develop capabilities and measures to undertake environmental impact assessment of all development project activities and programmes;
 - c. encourage the manufacture and use of bio-degradable pesticides, herbicides and packaging materials;
 - d. encourage public awareness and education on the use of agricultural and industrial chemicals and fertilisers;
 - e. adopt environmentally sound management techniques for the control of land degradation, such as soil erosion, desertification and forest encroachment;
 - f. promote the use of non-ozone depleting substances and environment- friendly technologies;
 - g. promote and strengthen the utilisation of training facilities and research institutions within the Community;
 - h. adopt common environmental standards for the control of atmospheric, terrestrial and water pollution arising from urban and industrial development activities;
 - i. exchange information on atmospheric, industrial and other forms of pollution and conservation technology;
 - j. harmonise their policies and regulations for the sustainable and integrated management of shared natural resources and ecosystems;
 - k. adopt measures and policies to address the existing demographic profiles such as high growth rates and fertility rates, high dependency ratio, poor social conditions and poverty in order to mitigate their adverse impact on the environment and development
 - l. adopt community environmental management programmes;
 - m. promote enhancement of the quality of the environment through adoption of common measures and programmes of tree planting, afforestation and reforestation, soil conservation and recycling of materials; and
 - n. adopt common policies for conservation of biodiversity and common regulations for access to, management and equitable utilisation of genetic resources.

ARTICLE 113

Prevention of Illegal Trade in and Movement of Toxic Chemicals, Substances and Hazardous Wastes

1. The Partner States undertake to co-operate and adopt common positions against illegal dumping of toxic chemicals, substances and hazardous wastes within the Community from either a Partner State or any third party.
2. The Partner States shall harmonise their legal and regulatory framework for the management, movement, utilisation and disposal of toxic substances.
3. The Partner States undertake to ratify or accede to international environmental conventions that are designed to improve environmental policies and management.

ARTICLE 114

Management of Natural Resources

1. For purposes of Article 1.11 of this Treaty, the Partner States agree to take concerted measures to foster co-operation in the joint and efficient management and the sustainable utilisation of natural resources within the Community for the mutual benefit of the Partner States. In particular, the Partner States shall:
 - (A) take necessary measures to conserve their natural resources;
 - (B) co-operate in the management of their natural resources for the conservation of the eco-systems and the arrest of environmental degradation; and
 - (C) adopt common regulations for the protection of shared aquatic and terrestrial resources.
2. For purposes of paragraph 1 of this Article, the Partner States:
 - (a) with regard to the conservation and management of forests, agree to take necessary measures through:
 - i. the adoption of common policies for, and the exchange of information on, the development, conservation and management of natural forests, commercial plantations and natural reserves;
 - ii. the joint promotion of common forestry practices within the Community;
 - iii. the joint utilisation of forestry training and research facilities;
 - iv. the adoption of common regulations for the conservation and management of all catchments forests within the Community;
 - v. the establishment of uniform regulations for the utilisation of forestry resources in order to reduce the depletion of natural forests and avoid desertification within the Community; and
 - vi. the establishment of Api-Agro Forestry Systems
 - (b) with regard to the management of their water and marine resources, agree to co-operate through:
 - (i) the establishment and adoption of common regulations for the better management and development of marine parks, reserves, wetlands and controlled areas;
 - (ii) the adoption of common policies and regulations for the conservation, management and development of fisheries resources;
 - (iii) the establishment of common fisheries management and investment guidelines for inland and marine waters;
 - (iv) the strengthening of regional natural resources management bodies;
 - (v) the establishment of common rules of origin for flora and fauna; and
 - (vi) the establishment of a body for the management of Lake Victoria;
 - (c) with regard to the management of the mineral resources sector, agree:
 - (i) to promote joint exploration, efficient exploitation and sustainable utilisation of shared mineral resources;
 - (ii) to pursue the creation of an enabling environment for investment in the mining sector;
 - (iii) to promote the establishment of databases, information exchange networks and the sharing of experiences in the management and development of the mineral sector using electronic mail, internet and other means for the interactive dissemination of mineral information;
 - (iv) to harmonise mining regulations to ensure environmentally friendly and sound mining practices;
 - (v) to adopt common policies to ensure joint fossil exploration and exploitation along the coast and rift valley, and
 - (vi) to establish a regional seismological network whose primary objective is to monitor seismicity and advice on mitigation measures.

CHAPTER TWENTY

CO-OPERATION IN TOURISM AND WILDLIFE MANAGEMENT

ARTICLE 115

Tourism

1. In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty, the Partner States undertake to develop a collective and co-ordinated approach to the promotion and marketing of quality tourism into and within the Community. To this end, the Partner States shall co-ordinate their policies in the tourism industry and undertake to establish a framework of cooperation in the sector that will ensure equitable distribution of benefits.
2. The Partner States shall establish a common code of conduct for private and public tour and travel operators, standardise hotel classifications and harmonise the professional standards of agents in the tourism and travel industry within the Community.

3. The Partner States undertake to develop a regional strategy for tourism promotion whereby individual efforts are reinforced by regional action.

ARTICLE 116

Wildlife Management

The Partner States undertake to develop a collective and co-ordinated policy for the conservation and sustainable utilisation of wildlife and other tourist sites in the Community. In particular, the Partner States shall:

- (a) harmonise their policies for the conservation of wildlife, within and outside protected areas;
- (b) exchange information and adopt common policies on wildlife management and development;
- (c) co-ordinate efforts in controlling and monitoring encroachment and coaching activities;
- (d) encourage the joint use of training and research facilities and develop common management plans for trans-border protected areas; and
- (e) take measures to ratify or accede to, and, implement relevant international conventions.

CHAPTER TWENTY ONE

HEALTH, SOCIAL AND CULTURAL ACTIVITIES

ARTICLE 117

Scope of Co-operation

In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty, the Partner States undertake to co-operate in health, cultural and sports and social welfare activities within the Community.

ARTICLE 118

Health

With respect to co-operation in health activities, the Partner States undertake to:

- (a) take joint action towards the prevention and control of communicable and non-communicable diseases and to control pandemics and epidemics of communicable and vector-borne diseases such as HIV-AIDS, cholera, malaria, hepatitis and yellow fever that might endanger the health and welfare of the residents of the Partner States, and to co-operate in facilitating mass immunization and other public health community campaigns;
- (b) promote the management of health delivery systems and better planning mechanisms to enhance efficiency of health care services within the Partner States;
- (c) develop a common drug policy which would include establishing quality control capacities and good procurement practices;
- (d) harmonise drug registration procedures so as to achieve good control of pharmaceutical standards without impeding or obstructing the movement of pharmaceutical products within the Community;
- (e) harmonise national health policies and regulations and promote the exchange of information on health issues in order to achieve quality health within the Community;
- (f) co-operate in promoting research and the development of traditional, alternate or herbal medicines;
- (g) co-operate in the development of specialised health training, health research, reproductive health, the pharmaceutical products and preventive medicine;
- (h) promote the development of good nutritional standards and the popularisation of indigenous foods; and
- (i) develop a common approach through the education of the general public and their law enforcement agencies for the control and eradication of the trafficking and consumption of illicit or banned drugs.

ARTICLE 119

Culture and Sports

The Partner States shall promote close co-operation amongst themselves in culture and sports, with respect to:

- (a) the promotion and enhancement of diverse sports activities;
- (b) the development of mass media programmes on matters that will promote the development of culture and sports within the Community;
- (c) the promotion of cultural activities, including the fine arts, literature, music, the performing arts and other artistic creations, and the conservation, safeguarding and development of the cultural heritage of the Partner States including, historical materials and antiquities;
- (d) the development and promotion of indigenous languages especially Kiswahili as a lingua franca;
- (e) the regulation of cross border trade in ethnographic materials, licensing of antique dealers and adoption of a common approach and co-operation in tackling the illicit cross border trade in cultural property;

- (f) acceding to and ratification of international conventions that directly bear upon culture such as:
- (i) the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict; and
- (g) the UNESCO Convention on the Means of Prohibition and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property; harmonising their policies for the conservation of their national antiquities and museums and the prevention of illegal trade in cultural property; and
- (h) any other activities aimed at promoting an East African identity.

ARTICLE 120

Social Welfare

The Partner States undertake to closely co-operate amongst themselves in the field of social welfare with respect to:

- (a) employment, poverty alleviation programmes and working conditions;
- (b) vocational training and the eradication of adult illiteracy in the Community; and
- (c) the development and adoption of a common approach towards the disadvantaged and marginalised groups, including children, the youth, the elderly and persons with disabilities through rehabilitation and provision of, among others, foster homes, health care education and training.

CHAPTER TWENTY TWO

ENHANCING THE ROLE OF WOMEN IN SOCIO-ECONOMIC DEVELOPMENT

ARTICLE 121

The Role of Women in Socio-economic Development

The Partner States recognise that women make a significant contribution towards the process of socio-economic transformation and sustainable growth and that it is impossible to implement effective programmes for the economic and social development of the Partner States without the full participation of women. To this end, the Partner States shall through appropriate legislative and other measures:

- (a) promote the empowerment and effective integration and participation of women at all levels of socio-economic development especially in decision-making;
- (b) abolish legislation and discourage customs that are discriminatory against women;
- (c) promote effective education awareness programmes aimed at changing negative attitudes towards women;
- (d) create or adopt technologies which will ensure the stability of employment and professional progress for women workers; and
- (e) take such other measures that shall eliminate prejudices against women and promote the equality of the female gender with that of the male gender in every respect.

ARTICLE 122

The Role of Women in Business

Having recognised the importance of women as a vital economic link between agriculture, industry and trade, the Partner States undertake to:

- (a) increase the participation of women in business at the policy formulation and implementation levels;
- (b) promote special programmes for women in small, medium and large scale enterprises;
- (c) eliminate all laws, regulations and practices that hinder women's access to financial assistance including credit;
- (d) initiate changes in educational and training strategies to enable women to improve their technical and industrial employment levels through the acquisition of transferable skills offered by various forms of vocational and on-the-job training schemes; and
- (e) recognize and support the National and regional associations of women in business established to promote the effective participation of women in the trade and development activities of the community.

CHAPTER TWENTY THREE

CO-OPERATION POLITICAL MATTERS

ARTICLE 123

POLITICAL AFFAIRS

1. In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty particularly with respect to the eventual establishment of a Political Federation of the Partner States, the Partner

- States shall establish common foreign and security policies.
2. For purposes of paragraph 1 of this Article, the Community and its Partner States shall define and implement common foreign and security policies.
 3. The objectives of the common foreign and security policies shall be to:
 - (a) safeguard the common values, fundamental interests and independence of the Community;
 - (b) strengthen the security of the Community and its Partner States in all ways;
 - (c) develop and consolidate democracy and the rule of law and respect for human rights and fundamental freedoms;
 - (d) preserve peace and strengthen international security among the Partner States and within the Community;
 - (e) promote co-operation at international form; and
 - (f) enhance the eventual establishment of a Political Federation of the Partner States.
 4. The Community shall pursue the objectives set out in paragraph 3 of this Article by:
 - (a) Establishing systematic co-operation between the partner states on any matter of foreign or security policies of general interest within the community in order to define a common position to be applied by the partner states
 - (b) the co-ordination of the actions of the Partner States and the upholding by them of such co-ordinated actions in international organisations and at international conferences;
 - (c) the unreserved support of the Partner States of the Community's foreign and security policies and the avoidance by the Partner States of any action on their part which is contrary to the interests of the Community or is likely to impair the effectiveness of the Community as a cohesive force in international relations;
 - (d) peaceful resolution of disputes and conflicts between and within the partner states;
 - (e) the co-ordination of the defence policies of the Partner States and
 - (f) the promotion of co-operation among the National Assemblies of the Partner States and also with the Assembly.
 5. The Council shall determine when the provisions of paragraphs 2, 3 and 4 of this Article shall become operative and shall prescribe in detail how the provisions of this Article shall be implemented.
 6. The Summit shall initiate the process towards the establishment of a Political Federation of the Partner States by directing the Council to undertake the process.
 7. For purposes of paragraph 6 of this Article, the Summit may order a study to be first undertaken by the Council.

ARTICLE 124

Regional Peace and Security

1. The Partner States agree that peace and security are pre-requisites to social and economic development within the Community and vital to the achievement of the objectives of the Community. In this regard, the Partner States agree to foster and maintain an atmosphere that is conducive to peace and security through cooperation and consultations on issues pertaining, to peace and security of the Partner States with a view to prevention, better management and resolution of disputes and conflicts between them.
2. The Partner States undertake to promote and maintain good neighbourliness as a basis for promoting peace and security within the Community.
3. The Partner States shall evolve and establish regional disaster management mechanisms which shall harmonise training operations, technical co-operation and support in this area.
4. The Partner States undertake to establish common mechanisms for the management of refugees
5. The Partner States agree to enhance co-operation in the handling of cross border crime, provision of mutual assistance in criminal matters including the arrest and repatriation of fugitive offenders and the exchange of information on national mechanisms for combating criminal activities. To this end the Partner States undertake to adopt the following measures for maintaining and promoting security in their territories to:
 - (a) enhance the exchange of criminal intelligence and other security information between the Partner State central criminal intelligence information centers
 - (b) enhance joint operations such as hot pursuit of criminals and joint patrols to promote border security;
 - (c) establish common communication facilities for border security;
 - (d) adopt the United Nations model law on mutual assistance on criminal matters;
 - (e) conclude a Protocol on Combating Illicit Drug Trafficking;
 - (f) enhance the exchange of visits by security authorities;

- (g) exchange training programmes for security personnel; and
 - (h) establish common mechanisms for the management of refugees.
6. The Partner States undertake to co-operate in reviewing the region's security particularly on the threat of terrorism and formulate security measures to combat terrorism.
 - 7.

ARTICLE 125 Defence

1. In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty particularly with respect to the promotion of peace, security and stability within, and good neighbourliness among the Partner States, and in accordance with Article 124 of this Treaty, the Partner States agree to closely co-operate in defence affairs.
2. For purposes of paragraph 1 of this Article, the Partner States agree to establish a framework for co-operation.

CHAPTER TWENTY FOUR LEGAL AND JUDICIAL AFFAIRS

ARTICLE 126

Scope of Co-operation

1. In order to promote the achievement of the objectives of the Community as set out in Article 5 of this Treaty, the Partner States shall take steps to harmonise their legal training and certification; and shall encourage the standardisation of the judgements of courts within the Community.
2. For purposes of paragraph 1 of this Article, the Partner States shall through their appropriate national institutions take all necessary steps to:
 - (a) establish a common syllabus for the training of lawyers and a common standard to be attained in examinations in order to qualify and to be licensed to practice as an advocate in their respective superior courts;
 - (b) harmonise all their national laws appertaining to the Community; and
 - (c) revive the publication of the East African Law Reports or publish similar law reports and such law journals as will promote the exchange of legal and judicial knowledge and enhance the approximation and harmonization of legal learning and the standardisation of judgements of courts within the Community.
3. For purposes of paragraph 1 of this Article, the Partner States may take such other additional steps the Council may determine.

CHAPTER TWENTY FIVE THE PRIVATE SECTOR AND THE CIVIL SOCIETY

ARTICLE 127

Creation of an Enabling Environment for the Private Sector and the Civil Society

1. The Partner States agree to provide an enabling environment for the private sector and the civil society to take full advantage of the Community. To this end, the Partner States undertake to formulate a strategy for the development of the private sector and to:
 - a. promote a continuous dialogue with the private sector and civil society at the national level and at that of the Community to help create an improved business environment for the implementation of agreed decisions in all economic sectors; and
 - b. provide opportunities for entrepreneurs to participate actively in improving the policies and activities of the institutions of the Community that affect them so as to increase their confidence in policy reforms and raise the productivity and lower the costs of the entrepreneurs.
2. For purposes of paragraph 1 of this Article, the Partner States undertake to:
 - (a) improve the business environment through the promotion of conducive investment codes, the protection of property rights and other rights and the proper regulation of the private sector;
 - (b) stimulate market development through infrastructural linkages and the removal of barriers and constraints to market development and production;
 - (c) regularly provide up-to-date commercial intelligence to speed up market response through co-operation among the chambers of commerce and industry and other similar organisations of the Partner States;
 - (d) facilitate and support the exchange of experience and the pooling of resources

through, inter alia, cross-border investments;

strengthen the role of their national business organisations or associations in the formulation of their economic policies; and

(e) Collaborate with their national chambers of commerce and industry to establish lending institutions that shall primarily cater for the private sector especially the small-scale entrepreneurs who find it difficult to obtain credit from commercial banks and financing institutions.

3. The Partner States agree to promote enabling environment for the participation of civil society in the development activities within the Community.
4. The Secretary General shall provide the forum for consultations between the private sector,
5. civil society organisations, other interest groups and appropriate institutions of the Community.

ARTICLE 128

Strengthening the Private Sector

1. The Partner States shall endeavour to adopt programmes that would strengthen and promote the role of the private sector as an effective force for the development of their respective economies.
2. For purposes of paragraph 1 of this Article, the Partner States undertake to:
 - (a) encourage the efficient use of scarce resources and to promote the development of private sector organizations which are engaged in all types of economic activity, such as, the chambers of commerce and industry, confederations and associations of industry, agriculture, manufacturers, farmers, traders, and service providers and professional groups;
 - (b) encourage and sponsor practical and resourceful methods of income generation in the private sector: and
 - (c) establish a quality information system which will allow collection, harmonized processing and timely dissemination of data and information.
3. For purposes of paragraph 1 of this Article, the Partner States may take such other additional steps as the Council may determine.

ARTICLE 129

Co-operation among Business Organisations and Professional Bodies

1. The Partner States undertake to co-operate in promoting common measures to ensure the strengthening of linkages among their business organisations, employees' and employers' organisations and professional bodies. To this end, the Partner States agree to:
 - (a) support joint activities which will promote trade and investment among the Partner States;
 - (b) recognize and contribute to the efficient operation of federations of business organisations, professional and commercial interest groups and similar associations within the Community; and
 - (c) encourage and promote the taking of useful decisions by the Council and other relevant institutions of the Community in areas affecting the private sector, and to monitor the implementation of such decisions.
2. The Council shall establish modalities that would enable the business organisations or associations, professional bodies and the civil society in the Partner States to contribute effectively to the development of the Community. The Council shall formulate a business and business related dispute settlement mechanism.

CHAPTER TWENTY SIX

RELATIONS WITH OTHER REGIONAL AND INTERNATIONAL ORGANISATIONS AND DEVELOPMENT PARTNERS

ARTICLE 130

International Organisations and Development Partners

- 1) The Partner States shall honour their commitments in respect of other multinational and international organisations of which they are members.
- 2) The Partner States reiterate their desire for a wider unity of Africa and regard the Community as a step towards the achievement of the objectives of the Treaty Establishing the African Economic Community.
- 3) With a view to contributing towards the achievement of the objectives of the Community, the Community shall foster co-operative arrangements with other regional and international organisations whose activities have a bearing

on the objectives of the Community.

- 4) The Partner States shall accord special importance to co-operation with the Organisation of African Unity, United Nations Organisation and its agencies, and other international organisations, bilateral and multi-lateral development partners interested in the objectives of the Community

CO-OPERATION IN OTHER FIELDS

ARTICLE 131

Other Fields

1. Subject to the provisions of this Treaty, the Partner States undertake to consult with one another through the appropriate institutions of the Community for the purpose of harmonising their respective policies in such other fields as they may, from time to time, consider necessary or desirable for the efficient and harmonious functioning and development of the Community and the implementation of the provisions of this Treaty.
2. For purposes of paragraph 1 of this Article, the Partner States may take in common such other steps as are calculated to further the objectives of the Community and the implementation of the provisions of this Treaty.

CHAPTER TWENTY EIGHT FINANCIAL PROVISIONS

ARTICLE 132 Budget

1. There shall be a budget for the organs and institutions of the Community, save for the self accounting institutions.
2. Subject to this Treaty, a budget for the Community for each financial year shall be prepared by the Secretary General for consideration by the Council and approval by the Assembly.
3. All expenditures of the Community in respect of each financial year shall be considered and approved by the Council and shall be met from the budget.
4. The budget of the Community shall be funded by equal contributions by the Partner States and receipts from regional and international donations and any other sources as may be determined by the Council.
5. The resources of the Community shall be utilised to finance activities of the Community as shall be determined by the Assembly on the recommendation of the Council.
6. The budget and accounts of the Community shall be kept and maintained in United States dollars.
7. The financial year of the Community shall run from 1st July to 30th June.

ARTICLE 133

Other Resources

Other resources of the Community shall include such extra budgetary resources as:

- (a) grants, donations, funds for projects and programmes and technical assistance; and
- (b) income earned from activities undertaken by the Community.

ARTICLE 134

AUDIT ACCOUNTS

1. There shall be an Audit Commission made up of the Auditors General of the Partner States whose functions will be to audit the accounts of the Community.
2. It shall be the duty of the Audit Commission to verify that any contributions received or revenue collected by the Community have been allocated and distributed in accordance with this Treaty and to include a certificate to that effect in its report.
3. The Audit Commission shall submit its reports under paragraph 2 of this Article to the Council which shall cause the same to be laid before the Assembly within six months of receipt for debate and for such other consultations and action as the Assembly may deem necessary.
4. In the performance of its functions under this Article, the Audit Commission shall not be subject to the direction or control of any person or authority.

ARTICLE 135

Financial Rules and Regulations

1. The Council shall make financial rules and regulations of the Community.
2. Self-accounting institutions of the Community shall make their own financial rules and regulations in line with the provisions of their respective enabling legislation.

CHAPTER TWENTY NINE

GENERAL, TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 136

Headquarters and Other Offices of the Community

1. The headquarters of the Community shall be in Arusha in the United Republic of Tanzania.
2. There may be established such offices of the Community in the Partner States and elsewhere as the Council may determine.

ARTICLE 137

Official Language

1. The official language of the Community shall be English.
2. Kiswahili shall be developed as a lingua franca of the Community.

ARTICLE 138

Status, Privileges and Immunities

1. The Community shall enjoy international legal personality.
2. The Secretary General shall conclude with the Governments of the Partner States in whose territory the headquarters or offices of the Community shall be situated, agreements relating to the privileges and immunities to be recognised and granted in connection with the Community.
3. Each of the Partner States undertakes to accord to the Community and its officers the privileges and immunities accorded to similar international organisations in its territory.

Article 139

***Dissolution of the Permanent Tripartite
Commission and its Secretariat***

Upon the coming into force of this Treaty, hereinafter referred to as “the appointed day”, the Tripartite Commission and the Secretariat of the Tripartite Commission respectively established on the 30th day of November, 1993, by the Agreement for the Establishment of a Permanent Tripartite Commission for Co-operation Between the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania, and on the 26th day of November, 1994, by the Protocol on the Establishment of the Secretariat of the Permanent Tripartite Commission for Co-operation Between the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania, shall both cease to exist.

ARTICLE 140

Transitional Provisions

1. On the appointed day, the Executive Secretary, the Deputy Executive Secretaries, the Legal Counsel and other staff of the Secretariat of the Tripartite Commission shall assume the offices of the Secretary General, Deputy Secretaries General, Counsel to the Community and other staff of the Community respectively and shall be deemed to have been appointed thereto under the provisions of Articles 67, 68, 69 and 70 of this Treaty respectively: Provided that the Executive Secretary and the Deputy Executive Secretaries shall serve for the remaining period of their current contractual terms.
2. Until the Council adopts its procedure, the procedure that applies to the Tripartite Commission shall apply to the Council.
3. Until the Community adopts its own staff rules and regulations and terms and conditions of service and financial rules and regulations, those of the Secretariat of the Tripartite Commission shall apply.
4. Until such time as the Council determines that the Court is fully operational, a Judge appointed under Article 24 of this Treaty shall serve on an ad hoc basis. Notwithstanding the provisions of paragraph 5 of Article 25 of this Treaty, the salary and other terms and conditions of service of a Judge serving on an ad

hoc basis shall be determined by the Summit on the recommendation of the Council.

5. Until the Assembly is elected at a time to be determined by the Summit and first meets, the functions of the Assembly in respect of the approval of the budget of the Community, consideration of annual reports on the activities of the Community and annual audit reports of the Audit Commission, shall be performed by the Council.
6. Until the adoption of Protocols referred to in Article 151(1), the Council may make regulations, issue directives, take decisions, make recommendations and give opinions in accordance with the provisions of this Treaty.
7. Pending the conclusion of a Protocol under paragraph 1 of Article 75 of this Treaty, the Partner States agree to maintain the rules of origin currently applicable for the purpose of the preferential treatment of goods traded among them and originating in the Partner States.

ARTICLE 140 (A)

Transition

- 1) Any judgment or order made by the Court since the entry into force of the Treaty shall be deemed to have been made by the First Instance Division of the Court.
- 2) A Judge serving in the East African Court of Justice existing immediately before the entry into force of this Article shall continue as a Judge of the First Instance Division for the purposes of the Treaty and is eligible for appointment to the Appellate Division.

ARTICLE 141

Transfer of Assets and Liabilities

1. On the appointed day there shall be transferred to and vested in the Community by virtue of this Article and without further assurance, all the assets and liabilities of the Secretariat of the Tripartite Commission and from that day, the Community shall, in respect of the assets and liabilities so transferred and vested in it, have all the rights, and be subject to all the liabilities, which the Secretariat of the Tripartite Commission had, or is subject to, immediately before that day.
2. Every contract made by or on behalf of the Secretariat of the Tripartite Commission in writing and whether or not of such a nature that rights and liabilities there under can be assigned by the Secretariat of the Tripartite Commission, shall have effect as if made by or, on behalf of the Community and as if references therein to the Secretariat of the Tripartite Commission or any officer or authority thereof, were references to the Community and to the corresponding officer or authority thereof.
3. Any proceedings by or against the Secretariat of the Tripartite Commission pending on the appointed day, shall be continued by or against the Community.
4. Reference to the Secretariat of the Tripartite Commission, in any law or document shall on and after the appointed day, be construed as references to the Community.

ARTICLE 142

Saving Provisions

1. Subject to the provisions of this Treaty, the operation of the following tripartite agreements after the coming into force of this Treaty shall not be affected by such coming into force, but the agreements shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Treaty:
 - (a) Agreement for the Establishment of The Permanent Tripartite Commission for Co-operation Between the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania;
 - (b) Protocol on the Establishment of a Secretariat of the Permanent Tripartite Commission for Co-operation Between the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania;
 - (c) Headquarters Agreement between the Secretariat of the Commission for East African Co-operation and the Government of the United Republic of Tanzania;
 - (d) Tripartite Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income;
 - (e) Memorandum of Understanding on Co-operation in Defence;
 - (f) Tripartite Agreement on Road Transport;
 - (g) Tripartite Agreement on Inland Waterways Transport;
 - (h) Memorandum of Understanding on Foreign Policy Co-ordination; and

(i) Memorandum of Understanding between the Republic of Uganda and the Republic of Kenya and the United Republic of Tanzania for Co-operation on Environment Management.

2. The dissolution of the Tripartite Commission in terms of Article 139 of this Treaty shall not affect the decisions of the Tripartite Commission but such decisions shall be construed and implemented with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Treaty.

ARTICLE 143

Sanctions

A Partner State which defaults in meeting its financial and other obligations under this Treaty shall be subject to such action as the Summit may on the recommendation of the Council, determine.

ARTICLE 144

Duration of the Treaty

This Treaty shall have perpetual duration.

ARTICLE 145

Withdrawal of a Member

1. A Partner State may withdraw from the Community provided:
 - (a) the National Assembly of the Partner State so resolves by resolution supported by not less than two-thirds majority of all the members entitled to vote; and
 - (b) the Partner State gives to the Secretary General twelve month's written notice of its intention to withdraw, unless that State cancels the notice before the expiry of the twelve months.
2. A Partner State wishing to withdraw from the Community shall, during the period of twelve months referred to in paragraph 1 of this Article, continue to be liable to discharge her obligations under the Treaty.
3. Notwithstanding the effective withdrawal from membership by such State, upon expiry of the notice that State shall remain liable to discharge all subsisting obligations and long term commitments incurred during membership.

Suspension of a Member

ARTICLE 146

SUSPENSION OF A MEMBERS

1. The Summit may suspend a Partner State from taking part in the activities of the Community if that State fails to observe and fulfill the fundamental principles and objectives of the Treaty including failure to meet financial commitments to the Community within a period of eighteen (18) months.
2. A Partner State suspended, in accordance with paragraph 1 of this Article, shall cease to enjoy the benefits provided for under this Treaty but shall continue to be bound by membership obligations until the suspension is lifted.

ARTICLE 147

Expulsion of a Member

1. The Summit may expel a Partner State from the Community for gross and persistent violation of the principles and objectives of this Treaty after giving such Partner State twelve months' written notice.
2. Upon the expiration of the period specified in paragraph 1 of this Article, the Partner State concerned shall cease to be a member of the Community unless the notice is cancelled
3. During the period referred to in paragraphs 1 and 2 of this Article the Partner State concerned shall continue to comply with the provisions of this Treaty and be liable to discharge all subsisting obligations and long-term commitments incurred during membership.

ARTICLE 148

Exceptions to the Rule of Consensus

Notwithstanding the provisions of paragraph 3 of Article 12 of this Treaty, the views of the Partner State being considered for suspension or expulsion shall not count, for the purposes of reaching a decision under the provisions of Articles 146 and 147 of this Treaty. Rights over Property and Assets of the Community upon Cessation of Membership

Article 149
RIGHTS OVER PROPERTY AND ASSETS OF THE COMMUNITY UPON CESSATION OF MEMBERSHIP

1. Where a Partner State withdraws or is expelled in accordance with Articles 145 and 147 respectively of this Treaty the property of the Community in that Partner State's territory shall remain vested in the Community.
2. A State that has ceased to be a Partner State of the Community shall have no claim to or any rights over any property and assets of the Community.
3. The Community shall continue with its remaining membership notwithstanding withdrawal or expulsion of any Partner State.

ARTICLE 150
Amendment of the Treaty

1. This Treaty may be amended at any time by agreement of all the Partner States.
2. Any Partner State or the Council may submit proposals for the amendment of this Treaty.
3. Any proposals for the amendment of this Treaty shall be submitted to the Secretary General in writing who shall, within thirty days (30) of its receipt, communicate the proposed amendment to the Partner States.
4. The Partner States which wish to comment on the proposals shall do so within ninety days (90) from the date of the dispatch of the proposal by the Secretary General.
5. After the expiration of the period prescribed under paragraph 4 of this Article, the Secretary General shall submit the proposals and any comments thereon received from the Partner States to the Summit through the Council.
6. Any amendment to this Treaty shall be adopted by the Summit and shall enter into force when ratified by all the Partner States.

Annexes and Protocols to the Treaty

ARTICLE 151
ANNEXES AND PROTOCOLS TO THE TREATY

1. The Partner States shall conclude such Protocols as may be necessary in each area of co-operation which shall spell out the objectives and scope of, and institutional mechanisms for co-operation and integration.
2. Each Protocol shall be approved by the Summit on the recommendation of the Council.
3. Each Protocol shall be subject to signature and ratification by the parties hereto.
4. The Annexes and Protocols to this Treaty shall form an integral part of this Treaty.

ARTICLE 152
Entry into Force

This Treaty shall enter into force upon ratification and deposit of instruments of ratification with the Secretary General by all Partner States.

ARTICLE 153
Depositary and Registration

1. This Treaty and all instruments of ratification shall be deposited with the Secretary General who shall transmit certified true copies thereof to all the Partner States.
2. The Secretary General shall register this Treaty with the Organisation of African Unity, the United Nations, and such other organisations as the Council may determine.

DONE at Arusha, Tanzania, on the 30th day of November, in the year One Thousand Nine Hundred and Ninety-Nine.

IN FAITH WHEREOF the undersigned have appended their signatures hereto:

APPENDIX 4: PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN CUSTOMS UNION

Pursuant to the provisions of article 75 of the treaty for the establishment of the east African community, the provisions for the establishment of the east African customs union are hereby set forth:

PREAMBLE

WHEREAS the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania (hereinafter referred to as "the Partner States") signed the Treaty for the Establishment of the East African Community (hereinafter referred to as "the Treaty") on the 30th day of November, 1999;

AND WHEREAS

(a) under the provisions of Articles 2 and 5 of the Treaty, the Partner States undertake to, *inter alia*, establish among themselves a customs union, as a transitional stage to, and an integral part of the Community; and

(b) under the provisions of paragraph 2 of Article 75 of the Treaty, the Partner States have determined that the establishment of a customs union shall be progressive in the course of a transitional period;

AND WHEREAS by the provisions of paragraph 7 of Article 75 of the Treaty, the Partner States agreed to conclude the Protocol on the Establishment of a Customs Union within a period of four years;

AND WHEREAS by the provisions of paragraph 1 of Article 151 of the Treaty, the Partner States undertook to conclude such Protocols as may be necessary in each area of co-operation, which shall spell out the objectives and scope of, and institutional mechanisms for co-operation and integration;

AND WHEREAS the Partner States, while aware that they have reached different stages of development with each Partner State having a comparative advantage on trade in some commodities, are resolved and determined to reduce existing imbalances and to foster and encourage the accelerated and sustained development of the Community;

AND WHEREAS the Partner States are desirous to deepen and strengthen trade among themselves and are resolved to abolish tariff and non-tariff barrier to create the most favourable environment for the development of regional trade;

RECOGNIZING that a customs union would enhance economic growth and the development of the Community;

CONSCIOUS of their obligations, as contracting parties to the Marrakesh Agreement Establishing the World Trade Organisation, 1994 (the WTO Agreement), and to the Convention Establishing a Customs Co-operation Council, 1950 to contribute, in the common interest, to the harmonious development of world trade;

CONSCIOUS of their other individual obligations and commitments under other regional economic partnerships;

RESOLVING to act in concert for the establishment of a Customs Union; **AGREE AS FOLLOWS:**

PART A INTERPRETATION

ARTICLE 1

Interpretation

1 In this Protocol, except where the context otherwise requires:

"Acts of the Community" means Acts of the Community enacted in accordance with the Treaty;

"anti-dumping measures" means measures taken by the investigating authority of the importing Partner State after conducting an investigation and determining dumping and material injury resulting from the dumping;

"common external tariff" means an identical rate of tariff imposed on goods imported from foreign countries;

"Community" means the East African Community established by Article 2 of the Treaty;

"community goods" means goods originating from the Community;

"community tariff" means a five year interim tariff imposed on specific goods originating from the Republic of Uganda to the Republic of Kenya, and from the Republic of Uganda to the United Republic of Tanzania under the principle of asymmetry;

"compensating product" means a product resulting from the manufacturing, processing or repair of goods for which the use of the inward processing procedure is authorised;

"competent authority" means a body or organisation designated by the Community to administer the customs law of the Community;

"co-operation" includes any undertaking by the Partner States, jointly or in concert, of activities undertaken in furtherance of the objectives of the Community, as provided for under the Treaty or under any contract or agreement made under the Treaty or in relation to the objectives of the Community;

"Council" means the Council of Ministers of the Community established by Article 9 of the Treaty;

"countervailing duty" means a specific duty levied for the purpose of offsetting any subsidy bestowed directly or indirectly upon the manufacture, production or export of a product;

"countervailing measures" means measures taken to counteract the effect of injurious subsidies;

"Court" means the East African Court of Justice established by Article 9 of the Treaty;

"customs area" means that area licenced by a competent authority for purposes of specific customs operations;

"customs and excise authority" means a body or an institution designated as such by a Government of a Partner State;

"customs data bank" means a depository of customs and trade data and information;

"customs duties" means import or export duties and other charges of equivalent effect levied on goods by reason of their importation or exportation, respectively, on the basis of legislation in the Partner States and includes fiscal duties or taxes where such duties or taxes affect the importation or exportation of goods but does not include internal duties and taxes such as sales, turnover or consumption taxes, imposed otherwise than in respect of the importation or exportation of goods;

"customs law of the Community" means the customs law of the Community as provided under Article 39 of this Protocol;

"customs offence" means any breach or attempted breach of customs law;

"customs territory" means the geographical area of the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership of the Community under Article 3 of the Treaty;

"Customs Union" means the East African Community Customs Union established by Article 2 of this Protocol;

"Days" means working days in any calendar month;

"dumping" in relation to goods means the situation where the export price of goods imported or intended to be imported into the Community is less than the normal value of like goods in the market of a country of origin as determined in accordance with the provisions of this Protocol, and "dumped product" has the corresponding meaning;

"duty" means any duty leviable under any customs law and includes surtax;

"duty drawback" means a refund of all or part of any excise or import duty paid in respect of goods confirmed to have been exported or used in a manner or for a purpose prescribed as a condition for granting duty drawback;

"excise duty" means a non-discriminative duty imposed by a Partner State on locally produced or similar imported goods;

"export" with its grammatical variations and cognate expressions means to take or cause goods to be taken out of the customs territory;

"export duties" means customs duties and other charges of equivalent effect levied on goods by reason of their exportation;

"export processing zone" means a designated area or region in which firms can import duty free as long as the imports are used as inputs into the production of exports;

"export promotion" means an undertaking in the facilitation of production or manufacturing for purposes of export;

"freeport" means a customs controlled area within a Partner State where imported duty free goods are stored for the purpose of trade;

"freeport authority" means an authority appointed by a Partner State under national legislation to establish, co-ordinate and operate freeport related facilities in a Partner State and it shall include all the staff thereof;

"freeport zone" means a designated area placed at the disposal of the freeport authority where goods introduced into the designated area are generally regarded, in so far as import duties are concerned, as being outside the customs territory;

"foreign country" means a country other than a Partner State;

"goods" includes all wares, articles, merchandise, animals, matter, baggage, stores, materials, currency and includes postal items other than personal correspondence, and where any such goods are sold under the auspices of this Protocol, the proceeds of sale;

"goods in transit" means goods being conveyed through the customs territory to a foreign country;

"import" with its grammatical variations and cognate expressions means to bring or cause goods to be brought into the customs territory;

"import duties" means customs duties and other charges of equivalent effect levied on goods by reason of their importation;

"imported goods" means goods other than Community goods;

"importing Partner State" means a Partner State into which goods are imported;

"international standards" means standards that are adopted by international standardising or standards organisations made available to the public;

"inward processing" means the customs procedure under which certain goods can be brought into a customs

territory conditionally relieved from payment of import duties and taxes, on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation;

"Legislative Assembly" means the East African Legislative Assembly established by Article 9 of the Treaty;

"manufacturing under bond" means a facility extended to manufacturers to import plant, machinery, equipment and raw materials tax free, exclusively for use in the manufacture of goods for export;

"non-tariff barriers" means laws, regulations, administrative and technical requirements other than tariffs imposed by a Partner State whose effect is to impede trade;

"other charges of equivalent effect" means any tax, surtax, levy or charge imposed on imports and not on like locally produced products and does not include fees and similar charges commensurate with the cost of services rendered;

"Partner States" means the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership to the Community under Article 3 of the Treaty;

"person" means a natural or legal person;

"primary production" means initial or basic production of goods using raw materials or original inputs which have not undergone processing;

"principle of asymmetry" means the principle which addresses variances in the implementation of measures in an economic integration process, for purposes of achieving a common objective;

"Protocol" means this Protocol establishing the East African Community Customs Union and any annexes to the Protocol;

"publications" means printed material in hard or soft form;

"refund" means the return or repayment of duties and taxes already collected;

"re-exports" means goods which are imported and re-exported from the customs territory;

"remission" means the waiver of duty or refrainment from exacting of duty;

"safeguard measures" means protective measures taken by a Partner State to prevent serious injury to her economy as provided under this Protocol;

"Secretariat" means the Secretariat of the Community established by Article 9 of the Treaty;

"Secretary General" means the Secretary General of the Community appointed under Article 67 of the Treaty;

"subsidy" means assistance by a government of a Partner State or a public body to the production, manufacture, or export of specific goods, taking the form of either direct payments, such as grants or loans, or of measures with equivalent effect, such as guarantees, operational or support services or facilities, and fiscal incentives;

"tariff" means any customs duty on imports or exports;

"trade data" means trade related information and statistics on trade;

"trade facilitation" means the co-ordination and rationalisation of trade procedures and documents relating to the movement of goods from their place of origin to their destination;

"trade procedures" means activities related to the collection, presentation, processing and dissemination of data and information concerning all activities constituting trade;

"Treaty" means the Treaty for the Establishment of the East African Community.

1. In this Protocol, a reference to a law or protocol shall be construed as reference to the law or protocol as from time to time amended.

PART B
ESTABLISHMENT OF
THE EAST AFRICAN COMMUNITY
CUSTOMS UNION

ARTICLE 2
Establishment of the East African Community
Customs Union

1. In order to promote the objectives of the Community provided under Article 5 of the Treaty
2. and in accordance with the provisions of this Protocol, the Partner States hereby establish a customs union as an integral part of the Community.
3. The Customs Union established under Paragraph 1 of this Article, shall be called the East African Community Customs Union (hereinafter referred to as "the Customs Union").
4. The Customs Union shall be managed in accordance with the customs law of the Community.
5. Within the Customs Union:

- (a) customs duties and other charges of equivalent effect imposed on imports shall be eliminated save as is provided for in this Protocol; on-tariff barriers to trade among the Partner States shall be removed; and
- (b) a common external tariff in respect of all goods imported into the Partner States from foreign countries shall be established and maintained.
6. In accordance with the provisions of Article 75 of the Treaty, this Protocol, *inter alia*, provides for the following:

(a)	the application of the principle of asymmetry;
(b)	the elimination of internal tariffs and other charges of equivalent effect;
(c)	the elimination of non-tariff barriers;
(d)	establishment of a common external tariff;
(e)	rules of origin;
(f)	anti-dumping measures;
(g)	subsidies and countervailing duties;
(h)	security and other restrictions to trade;
(j)	competition;
(l)	duty drawback, refund and remission of duties and taxes;
(m)	re-exportation of goods;
(n)	simplification and harmonization of trade documentation and procedures;
(o)	exemption regimes;
(p)	harmonized commodity description and coding system; and
(q)	free ports.

ARTICLE 3

Objectives of the Customs Union

The objectives of the Customs Union shall be to:

- (a) further liberalize intra-regional trade in goods on the basis of mutually beneficial trade arrangements among the Partner States;
- (b) promote efficiency in production within the Community;
- (c) enhance domestic, cross border and foreign investment in the Community; and
- (d) promote economic development and diversification in industrialization in the Community.

ARTICLE 4

Scope of Co-operation in the Customs Union

1. The provisions of this Part of the Protocol shall apply to any activity undertaken in co-operation by the Partner States in the field of customs management and trade and shall include:
- (a) matters concerning trade liberalization;
- (b) trade related aspects including the simplification and harmonization of trade documentation, customs regulations and procedures with particular reference to such matters as the valuation of goods, tariff classification, the collection of customs duties, temporary admission, warehousing, cross-border trade and export drawbacks;
- (c) trade remedies and the prevention, investigation and suppression of customs offences;
- (d) national and joint institutional arrangements;
- (e) training facilities and programmes on customs and trade;
- (f) production and exchange of customs and trade statistics and information; and
- (g) the promotion of exports.

2. For purposes of sub-paragraph 1(a) of this Article, the Partner States shall co-operate in:
- (a) adopting uniform, comprehensive and systematic tariff classification of goods with a specific description and interpretation in accordance with internationally accepted standards;
 - (b) adopting a standard system of valuation of goods based on principles of equity, uniformity and simplicity of application in accordance with internationally accepted standards and guidelines;
 - (c) establishing common terms and conditions governing temporary importation procedures including the list or range of goods to be covered and the nature of manufacturing or processing to be authorized;
 - (d) implementing the customs requirements for re-exportation of goods;
 - (e) implementing the customs requirements for the transit of goods;
 - (f) harmonizing and simplifying customs and trade formalities and documentation and dissemination of information;
 - (g) harmonising the customs requirements for the control of warehoused goods; and
 - (h) adopting common procedures for the establishment and operation of export promotion schemes and free ports.

PART C
CUSTOMS ADMINISTRATION
ARTICLE 5

Communication of Customs and Trade Information

The Partner States shall exchange information on matters relating to customs and trade and in particular:

- (a) the prevention, investigation and suppression of customs offences; and
- (b) the operation of a harmonized information system to facilitate the sharing of customs and trade information.

ARTICLE 6
Trade Facilitation

The Partner States shall initiate trade facilitation by:

- (a) reducing the number and volume of documentation required in respect of trade among the Partner States;
- (b) adopting common standards of trade documentation and procedures within the Community where international requirements do not suit the conditions prevailing among the Partner States;
- (c) ensuring adequate co-ordination and facilitation of trade and transport activities within the Community;
- (d) regularly reviewing the procedures adopted in international trade and transport facilitation with a view to simplifying and adopting them for use by the Partner States;
- (e) collecting and disseminating information on trade and trade documentation;
- (f) promoting the development and adoption of common solutions to problems in trade facilitation among the Partner States; and
- (g) establishing joint training programmes on trade.

ARTICLE 7
Simplification, Standardisation and Harmonisation of Trade Information and Documentation

1. The Partner States agree to simplify their trade documentation and procedures in order to facilitate trade in goods within the Community.
2. Subject to the provisions of Article 6 of this Protocol, the Partner States agree to design and standardize their trade information and documentation in accordance with internationally accepted standards, taking into account the use of electronic data processing systems in order to ensure the efficient and effective application of the provisions of this Protocol.
3. For purposes of this Article:
 - (a) a customs data bank shall be established at the Secretariat; and
 - (b) the Partner States hereby agree to adopt the Harmonised Customs Documentation to be specified in the

customs law of the Community.

ARTICLE 8

Commodity Description and Coding System

1. The Partner States agree to harmonise their customs nomenclature and standardize their foreign trade statistics to ensure comparability and reliability of the relevant information.
2. The Partner States hereby adopt the Harmonized Commodity Description and Coding System specified in Annex I to this Protocol.

ARTICLE 9

Prevention, Investigation and Suppression of Customs Offences

1. The Partner States agree to co-operate in the prevention, investigation and suppression of customs offences within their territories.
2. For purposes of paragraph 1 of this Article, the Partner States shall:
 - (a) afford each other mutual assistance with a view to preventing, repressing and investigating customs offences;
 - (b) exchange information on goods and publications known to be the subject of illicit traffic and maintain special surveillance over the movement of such goods and publications; and
 - (c) consult each other on the establishment of common border posts and take steps as may be deemed appropriate to ensure that goods exported or imported through common frontiers pass through the competent and recognized customs offices and along approved routes.
3. The implementation of this Part of the Protocol shall be in accordance with the provisions of the customs law of the Community.

PART D

TRADE LIBERALIZATION

ARTICLE 10

Internal Tariff

1. Save as is provided in Article 11 of this Protocol, the Partner States shall, upon the coming into force of this Protocol, eliminate all internal tariffs and other charges of equivalent effect on trade among them, in accordance with the provisions of Article 14 of this Protocol.
2. The Council may, at any time, decide that any tariff rate shall be reduced more rapidly or eliminated earlier than is provided for in accordance with paragraph 1 of this Article.

ARTICLE 11

Transitional Provisions on the Elimination of Internal Tariffs

1. The establishment of the Customs Union shall be progressive in the course of a transitional period of five years from the coming into force of this Protocol.
2. The Partner States agree that upon the coming into force of this Protocol and for the purpose of the transition into a Customs Union:
 - (a) goods to and from the Republic of Uganda and the United Republic of Tanzania shall be duty free; and
 - (b) goods from the Republic of Uganda and the United Republic of Tanzania into the Republic of Kenya shall be duty free.
3. Goods from the Republic of Kenya into the Republic of Uganda and the United Republic of Tanzania shall be categorised as follows:
 - (a) Category A goods, which shall be eligible for immediate duty free treatment; and

- (b) Category B goods, which shall be eligible for gradual tariff reduction.
4. Category B goods from the Republic of Kenya into the Republic of Uganda shall have a phase out tariff reduction period of five years for all products as follows:
- (a) 10 per centum during the first year;
 - (b) 8 per centum during the second year;
 - (c) 6 per centum during the third year;
 - (d) 4 per centum during the fourth year;
 - (e) 2 per centum during the fifth year; and
 - (f) 0 per centum thereafter,
- as specified in Annex II to this Protocol.
5. Category B goods from the Republic of Kenya into the United Republic of Tanzania shall have a phase out tariff reduction period as specified in Annex II to this Protocol.
6. Internal tariffs specified under the provisions of this Article shall not exceed the Common External Tariff with regard to any of the specified products.

ARTICLE 12
Common External Tariff

1. The Partner States hereby establish a three band common external tariff with a minimum rate of 0 per centum, a middle rate of 10 per centum and a maximum rate of 25 per centum in respect of all products imported into the Community.
2. The Partner States hereby undertake to review the maximum rate of the common external tariff after a period of five years from the coming into force of the Customs Union.
3. The Council may review the common external tariff structure and approve measures designed to remedy any adverse effects which any of the Partner States may experience by reason of the implementation of this part of the Protocol or, in exceptional circumstances, to safeguard Community interests.
4. For purposes of this Article, the Partner States shall use the Harmonised Customs Commodity Description and Coding System referred to in Article 8 of this Protocol.

ARTICLE 13
Non-tariff Barriers

1. Except as may be provided for or permitted by this Protocol, each of the Partner States agrees 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.
2. The Partner States shall formulate a mechanism for identifying and monitoring the removal of non-tariff barriers.

ARTICLE 14
Rules of Origin

1. For purposes of this Protocol, goods shall be accepted as eligible for Community tariff treatment if they originate in the Partner States.
2. Goods shall be considered to originate in the Partner States if they meet the criteria set out in the Rules of Origin adopted under this Article.
3. The Partner States hereby adopt the East African Community Rules of Origin specified in Annex III to this Protocol.

ARTICLE 15
National Treatment

1. The Partner States shall not:
- (a) enact legislation or apply administrative measures which directly or indirectly discriminate against the same or like products of other Partner States; or
 - (b) impose on each other's products any internal taxation of such a nature as to afford indirect protection to other products.
2. No Partner State shall impose, directly or indirectly, on the products of other Partner States any internal

taxation of any kind in excess of that imposed, directly or indirectly, on similar domestic products.

3. Where products are exported to the territory of any Partner State, any repayment of internal taxation shall not exceed the internal taxation imposed on them, whether directly or indirectly.

ARTICLE 16

Anti-dumping Measures

1. The Partner States recognise that dumping is prohibited if it causes or threatens material injury to an established industry in any of the Partner States, materially retards the establishment of a domestic industry therein or frustrates the benefits expected from the removal or absence of duties and quantitative restrictions of trade between the Partner States.

2. The Secretariat shall notify the World Trade Organisation on the antidumping measures taken by the Partner States.

3. The implementation of this Part of the Protocol shall be in accordance with the East African Community Customs Union (Anti Dumping Measures) Regulations, specified in Annex IV to this Protocol.

4. For purposes of this Article, the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that:

(a) when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term "domestic industry" may be interpreted as referring to the rest of the producers;

(b) in exceptional circumstances, the territory of the Partner States may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry where:

(i) the producers within that market sell all or most of their production of the product in question in that market; and

(ii) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory.

(c) In the circumstances referred to in sub-paragraph (b) of this Article, industry is not injured, except where there is concentration of dumped imports into such an isolated market and provided the dumped imports are causing injury to the producers of all or most of the production within such market.

ARTICLE 17

Subsidies

1. If a Partner State grants or maintains any subsidy, including any form of income or price support which operates directly or indirectly to distort competition by favouring certain undertakings or the production of certain goods in the Partner State, it shall notify the other Partner States in writing.

2. The notification in paragraph 1 of this Article shall contain the extent and nature of the subsidisation, the estimated effect of the subsidisation, the quantity of the affected product or products exported to the Partner States and the circumstances making the subsidisation necessary.

ARTICLE 18

Countervailing Measures

1. (a) The Community may, for the purposes of offsetting the effects of subsidies and subject to regulations made under this Article, levy a countervailing duty on any product of any foreign country imported into the Customs Union.

(b) The countervailing duty shall be equal to the amount of the estimated subsidy determined to have been granted directly or indirectly, on the manufacture, production or export of that product in the country of origin or exportation.

2. The implementation of Articles 17 and 18 of this Protocol shall be in accordance with the East African Community Customs Union (Subsidies and Countervailing Measures) Regulations, specified in Annex V to this Protocol.

ARTICLE 19

Safeguard Measures

1. The Partner States agree to apply safeguard measures to situations where there is a sudden surge of a

product imported into a Partner State, under conditions which cause or threaten to cause serious injury to domestic producers in the territory of like or directly competing products within the territory.

2. (a) During a transitional period of five years, after the coming into force of the Protocol, where a Partner State demonstrates that its economy will suffer serious injury as a result of the imposition of the common external tariff

on industrial inputs and raw materials, the Partner State concerned shall, inform the Council and the other Partner States through the Secretary General on the measures it proposes to take.

(b) The Council shall examine the merits of the case and the proposed measures and take appropriate decisions.

3. The implementation of this Article shall be in accordance with the East African Community Customs Union (Safeguard Measures) Regulations, specified in Annex VI to this Protocol.

ARTICLE 20

Co-operation in the Investigation of Dumping, Subsidies and Application of Safeguard Measures

1. The Partner States shall co-operate in the detection and investigation of dumping, subsidies and sudden surge in imports and in the imposition of agreed measures to curb such practices.

2. Where there is evidence of any sudden surge in imports, or dumping, or export of subsidised goods by a foreign country into any of the Partner States that threatens or distorts competition within the Community, the affected Partner State may request the Partner State in whose territory there is a sudden surge in imports, or goods are dumped or subsidised, to impose anti-dumping duties or countervailing duties or safeguard measures on such goods.

3. If the Partner State to which the request is made does not act within thirty days of notification of the request, the requesting Partner State shall report to the appropriate customs union authority which shall take the necessary action.

ARTICLE 21

Competition

1 The Partner States shall prohibit any practice that adversely affects free trade including any agreement, undertaking or concerted practice which has as its objective or effect the prevention, restriction or distortion of competition within the Community.

2 The provision of paragraph 1 of this Article shall not apply in the case of:

- (a) any agreement or category of agreements between undertakings;
- (b) any decision by association of undertakings; or
- (c) any concerted practice or category of concerted practises,

which improves production or distribution of goods, promotes technical or economic development or which has the effect of promoting consumer welfare and does not impose restrictions inconsistent with the attainment of the objectives of the Customs Union or has the effect of eliminating competition.

3 The implementation of this Article shall be in accordance with the East African Community competition policy and law.

ARTICLE 22

Restrictions and Prohibitions to Trade

1. A Partner State may, after giving notice to the Secretary General of her intention to do so, introduce or continue to execute restrictions or prohibitions affecting:

- (a) the application of security laws and regulations;
- (a) the control of arms, ammunition and other military equipment or items;
- (b) the protection of human life, the environment and natural resources, public safety, public health or public morality; and

- (c) the protection of animals and plants.
- 2. A Partner State shall not exercise the right to introduce or continue to execute the restrictions or prohibitions conferred by this Article in order to restrict the free movement of goods within the Community.
- 3. Notwithstanding the provisions of Article 10(1) of this Protocol, the Partner States agree to specify in the customs law of the Community goods to be restricted and prohibited from trade.
- 4.

ARTICLE 23
Re-exportation of Goods

- 1. The Partner States shall ensure that re-exports shall be exempt from payment of import or export duties in accordance with the customs law of the Community.
- 2. Paragraph (1) of this Article shall not preclude the levying of normal administrative and service charges applicable to the import or export of similar goods in accordance with the national laws and regulations of the Partner States.

ARTICLE 24
East African Community Committee on Trade Remedies

- 1. For purposes of this Protocol, there is hereby established an East African Community Committee on Trade Remedies (hereinafter referred to as "the Committee") to handle any matters pertaining to:
 - (a) rules of origin provided for under the East African Community Customs Union (Rules of Origin) Rules, specified in Annex III to this Protocol;
 - (b) anti-dumping measures provided for under the East African Community Customs Union (Anti-Dumping Measures) Regulations, specified in Annex IV to this Protocol;
 - (c) subsidies and countervailing measures provided for under the East African Community Customs Union (Subsidies and Countervailing Measures) Regulations, specified in Annex V to this Protocol;
 - (d) safeguard measures provided for under the East African Community Customs Union (Safeguard Measures) Regulations, specified in Annex VI to this Protocol;
 - dispute settlement provided for under the East African Community Customs Union (Dispute Settlement Mechanism) Regulations, specified in Annex IX to this Protocol; and
 - (e) any other matter referred to the Committee by the Council.
- 2.
 - (a) The Committee shall be composed of nine members, qualified and competent in matters of trade, customs and law.
 - (b) Each Partner State shall nominate three members to the Committee.
- 3. Each Partner State shall notify the Committee, of the investigating authority within its territory designated to initiate and conduct investigations on behalf of the Committee.
- 4. The functions of the Committee shall be to:
 - (a) initiate, through the investigating authorities of the Partner States, investigation on disputes under the Regulations in paragraph 1 of this Article;
 - (b) make affirmative or negative determinations on investigation arising from sub-paragraph (a) of this paragraph;
 - (c) recommend provisional measures to prevent injury to a domestic industry where preliminary affirmative determination has been made under any matter in paragraph 1 of this Article;
 - (d) undertake consultations with Partner States and other countries on matters before it;
 - (e) report to the Council on all determinations in relations to matters that are submitted to it and decisions made by it;
 - (f) provide advisory opinions to the Partner States in relation to matters under paragraph 1 of this Article;
 - (g) review annually the implementation and operation of the matters in paragraph 1 of this Article;
 - (h) issue public notices under the matters in paragraph 1 of this Article;
 - (i) facilitate consultations by Partner States and parties to the dispute before it, to ensure timely fulfilment of all requirements by parties to the dispute and provide advice as may be appropriate;

- (j) administer and manage the dispute settlement mechanism; and
 - (k) undertake any function that may be assigned to it by any regulation under this Protocol or by the Council.
5. Except as otherwise provided under the East African Community Customs Union (Dispute Settlement Mechanism) Regulations, or under any other regulation under this Protocol, the decisions of the Committee with respect to the settlement of disputes shall be final.
6. The Committee shall determine its own procedure.

PART F

EXPORT PROMOTION SCHEMES

ARTICLE 25

Principles of Export Promotion Schemes

1. The Partner States agree to support export promotion schemes in the Community for the purposes of accelerating development, promoting and facilitating export oriented investments, producing export competitive goods, developing an enabling environment for export promotion schemes and attracting foreign direct investment.
2. (a) The Partner States agree that goods benefiting from export promotion schemes shall primarily be for export.
(b) In the event that such goods are sold in the customs territory such goods shall attract full duties, levies and other charges provided in the Common External Tariff.
3. The sale of goods in the customs territory shall be subject to authorization by a competent authority and such sale shall be limited to 20 per centum of the annual production of a company.

ARTICLE 26

Duty Drawback Schemes

1. The Partner States agree that, upon exportation to a foreign country, drawback of import duties may be allowed in such amounts and on such conditions as may be prescribed by the competent authority.
2. Duty drawback shall be paid:
 - a) upon submission of an application to the competent authority within such a period from the date of exportation or performance of the conditions on which drawback may be allowed as the competent authority may prescribe; and
 - b) on goods or any material used in the manufacture or processing of such goods may be granted in accordance with and subject to such limitations and conditions as may be prescribed by the competent authority.
3. The implementation of this Article shall be in accordance with the duty drawback schemes specified in the customs law of the Community.

ARTICLE 27

Duty and Value Added Tax Remission Schemes

1. The Partner States agree to support export promotion by facilitating duty and value added tax remission schemes.
2. For purposes of this Article the Partner States may establish duty and value added tax remission schemes.
3. The implementation of this Article shall be in accordance with the duty and value added tax remission schemes specified in the customs law of the Community.

ARTICLE 28

Manufacturing under Bond Schemes

1. The Partner States agree to support export promotion by facilitating manufacturing under bond schemes within their respective territories.
2. The procedure for manufacturing under bond shall allow imported goods to be used in a customs territory for processing or manufacture.

3. Duty and taxes shall be payable on compensating products at the rate of import duty appropriate to them.
4. The implementation of this Article shall be in accordance with the manufacturing under bond schemes specified in the customs law of the Community.

ARTICLE 29

Export Processing Zones

1. The Partner States agree to support the establishment of export processing zones. Entry into an export processing zone shall allow total relief from payment of duty on imported goods used directly in the production of goods for export by a person
2. Authorised to carry out that activity in the zone.
3. The implementation of the provisions of this Article shall be in accordance with the East African Community Customs Union (Export Processing Zones) Regulations, specified in Annex VII to this Protocol and the customs law of the Community.

ARTICLE 30

Other Export Promotion Schemes

The Council may, from time to time, approve the establishment of such other export promotion schemes, as may be deemed necessary.

ARTICLE 31 Freeports

1. The Partner States may provide for the establishment of freeports for the purpose of facilitating and promoting international trade and accelerating development within the Customs Union.
2. The functions of the freeports shall include the following:
 - a. promotion and facilitation of trade in goods imported into freeports;
 - b. provision of facilities relating to freeports including storage, warehouses and simplified customs procedures; and
 - c. provision for the establishment of international trade supply chain, where persons from within and outside the Community access and harness market opportunities and enhance competitiveness in import and export trade within the global setting.
3. Goods entering into freeport shall be granted total relief from payment of duty and any other import levies except where the goods are removed from the freeport for home use.
4. For purposes of this Article, the Partner States may establish an authority to manage the freeports.
5. The implementation of this Article shall be in accordance with the East African Community Customs Union (Freeport Operations) Regulations, specified in Annex VIII to this protocol.

ARTICLE 32

OTHER ARRANGEMENTS

1. The Council may, from time to time, approve the establishment of other special economic arrangements for purposes of the development of the economies of the Partner States.
2. Freeport zones may be established at seaports, riverports, airports and places with similar geographic or economic advantage.

PART H

EXEMPTION REGIMES

Article 33

Exemption Regimes

The Partner States agree to harmonise their exemption regimes in respect of goods that are excluded from payment of import duties.

The Partner States hereby agree to adopt a harmonised list on exemption regimes which shall be specified in the customs law of the Community.

PART H
GENERAL PROVISIONS
ARTICLE 34

Administration of the Customs Union

The administration of the Customs Union, including legal, administrative and institutional matters, shall be governed by the customs law of the Community.

ARTICLE 35

**Measures to Address Imbalances arising from
the Establishment of the Customs Union**

For purposes of this Protocol, the Council shall approve measures to address imbalances that may arise from the establishment of the Customs Union.

ARTICLE 36

Safeguard Clause

In the event of serious injury or threat of serious injury occurring to the economy of a Partner State following the application of the provisions of this Protocol, the Partner State concerned shall, after informing the Council through the Secretary General and the other Partner States, take necessary safeguard measures.

The Council shall examine the method and effect of the application of existing safeguard measures and take appropriate decisions.

ARTICLE 37

**Trade Arrangements with Countries and Organisations
Outside the Customs Union**

1. The Partner States shall honour their commitments in respect of other multilateral and international organisations to which they belong.
 2. The Community shall co-ordinate its trade relations with foreign countries so as to facilitate the implementation of a common policy in the field of external trade.
 3. (a) Upon the signing of this Protocol and before its coming into force, and taking into account, inter alia, the provisions of paragraphs 1 and 2 of this Article, the Partner States shall identify the issues arising out of their current relationships with other integration blocs and multilateral and international organisations of which they are members in order to establish convergence on those matters for the purposes of the Customs Union.
(b) For purposes of this paragraph, the Partner States shall, upon the signing of this Protocol formulate a mechanism to guide the relationships between the Customs Union and other integration blocs, multilateral and international organisations.
- 4
- (a) A Partner State may separately conclude or amend a trade agreement with a foreign country provided that the terms of such an agreement or amendments are not in conflict with the provisions of this Protocol.
 - (b.) Where a Partner State intends to conclude or amend an agreement, as specified in paragraph 4(a) of this Article, with a foreign country the Partner State shall send its proposed agreement or amendment by registered mail to the Secretary General, who shall communicate the proposed agreement by registered mail to the other Partner States within a period of thirty days, for their consideration.
 - (c.) Where a Partner State notifies the other Partner States of its intention under paragraph 4(b) of this Article, the other Partner States shall make comments and proposals as they may deem appropriate, within ninety days from the receipt of the Secretary General's notification, before the conclusion or amendment of the agreement.
 - (d.) Following the receipt of the comments and proposals as specified in paragraph 4(c) of this Article, the Secretary General shall convene a meeting of the Council within a period of sixty days to consider the comments and proposals.

- (e.) Where the Partner States do not submit comments and proposals within the period specified under paragraph 4(c) of this Article, the concerned Partner State may conclude or amend the said agreement.

ARTICLE 38

Inter-linkages with Other Areas of Co-operation

1. The application of this Protocol shall take cognisance of the provisions of the Treaty on other areas of co-operation including co-operation in:
 - (a) environment and natural resources management;
 - (b) standardisation, quality assurance, metrology and testing;
 - (c) sanitary and phyto-sanitary measures;
 - (d) intellectual property rights; and
 - (e) standards and technical regulations on trade.

The Partner States shall conclude protocols on the areas of co-operation specified in paragraph 1 of this Article, which shall spell out the objectives, scope of co-operation and institutional mechanisms for co-operation.

ARTICLE 39

Customs Law of the Community

1. The customs law of the Community shall consist of:
 - a) relevant provisions of the Treaty;
 - b) this Protocol and its annexes;
 - c) regulations and directives made by the Council;
 - d) applicable decisions made by the Court;
 - e) Acts of the Community enacted by the Legislative Assembly; and
 - f) relevant principles of international law.
2. The customs law of the Community shall apply uniformly in the Customs Union except as otherwise provided for in this Protocol.
3. The Partner States shall conclude such annexes to this Protocol as shall be deemed necessary.

ARTICLE 40

Annexes to the Protocol

Without prejudice to the provisions of Articles 39(3) and 43 of this Protocol, the Partner States agree to conclude, before the Protocol comes into force, the annexes specified in this Protocol and such annexes shall form an integral part of this Protocol.

ARTICLE 41

Dispute Settlement

1. Each Partner State affirms her adherence to the principles for the administration and management of disputes and shall in particular:
 - a) accord due consideration to the other Partner States' presentation or complaints;
 - b) accord adequate opportunity for consultation on representations made by other Partner States; and
 - c) implement in good faith any decisions made pursuant to the Community's dispute settlement mechanisms.
2. The implementation of this Article shall be in accordance with the East African Community Customs Union (Dispute Settlement Mechanism) Regulations specified in Annex IX to this Protocol.

ARTICLE 42

Amendment of the Protocol

1. This Protocol may be amended by the Partner States in accordance with the provisions of Article 150 of the Treaty.
2. Subject to the provisions of paragraph 1 of this Article, the Council may:
 - i. with the approval of the Summit, review the annexes to this Protocol and make such modifications as it deems necessary;

- ii. submit to the Partner States proposals for the amendment of the provisions of this Protocol.

ARTICLE 43

Entry into Force

This Protocol shall enter into force upon ratification and deposit of instruments of ratification with the Secretary General by all the Partner States.

ARTICLE 44

Depository and Registration

This Protocol and all instruments of ratification shall be deposited with the Secretary General who shall transmit certified true copies of the Protocol and instruments of ratification to all the Partner States.

The Secretary General shall register this Protocol with the African Union, the United Nations, the World Trade Organisation, the World Customs Organisation and such other organisations as the Council may determine.

DONE at Arusha, Tanzania, on the 2nd day of March in the year two thousand and four.

IN FAITH WHEREOF the undersigned have appended their signatures hereto:

For the republic of Uganda

for the republic of Kenya

for the united republic of Tanzania

.....

.....

.....

Yoweri Kaguta Museveni
PRESIDENT

Mwai Kibaki
PRESIDENT

Benjamin William Mkapa
PRESIDENT

APPENDIX 5: PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY COMMON MARKET

PURSUANT TO THE PROVISIONS OF ARTICLES 76 AND 104 OF THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY, THE PROVISIONS FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY COMMON MARKET ARE HEREBY SET FORTH:

PREAMBLE

WHEREAS The United Republic of Tanzania, the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda and the Republic of Uganda (hereinafter referred to as "the Partner States"), are Parties to the Treaty for the Establishment of the East African Community (hereinafter referred to as "the Treaty");

AND WHEREAS by the provisions of paragraph 1 of Article 151 of the Treaty, the Partner States undertook to conclude such Protocols as may be necessary in each area of co-operation, which shall spell out the objectives and scope of, and institutional mechanisms for co-operation and integration;

AND WHEREAS:

(a) under the provisions of paragraph 2 of Article 2 and paragraph 2 of Article 5 of the Treaty, the Partner States undertook to, inter alia, establish among themselves a Common Market, as a transitional stage to, and an integral part of the Community;

(b) under the provisions of paragraph 2 of Article 76 of the Treaty, the Partner States have determined that the establishment of a Common Market shall be progressive;

(c) under the provisions of paragraph 4 of Article 76 of the Treaty, the Partner States agreed to conclude the Protocol on the establishment of a Common Market;

RECALLING the decision of the 11th meeting of the Council to conclude one protocol covering the provisions of Articles 76 and 104 of the Treaty;

NOTING that the Partner States concluded the Protocol Establishing the East African Community Customs Union;

CONSIDERING that the objective of establishing a Common Market is the realisation of accelerated economic growth and development through the attainment of accelerated economic growth of goods, person, labour, the rights of establishment and residence, the free movement of services and capital;

NOTING the importance of the development of the social dimensions in the Community and the desire to ensure economic and social development in promoting employment and improving standards of living and working conditions within the Community;

CONSCIOUS of their individual obligations and commitments under the Treaty and under other regional and international agreements;

RECALLING the objectives of the Community to develop policies and programmes aimed at widening and deepening cooperation among the Partner States in the economic and social fields;

AGREE AS FOLLOWS:

PART A INTERPRETATION ARTICLE 1

Interpretation

In this protocol; except where the context otherwise requires:

child" means a son or daughter of a worker or self-employed person under the age of eighteen years, who is a citizen;

"citizen" means a national of a Partner State recognized under the laws governing citizenship in the Partner State;

"common market" means the common market as defined under Article 1 of the Treaty;

"common standard travel document" means a passport or any other valid travel document establishing the identity of the holder, issued by or on behalf of the Partner State of which he or she is a citizen and shall also include inter-state passes;

"Community" means the East African Community established by Article 2 of the Treaty;

"company" means a business entity incorporated as a company under the laws of a Partner State;

"co-operation" includes the undertaking by the Partner States in common, jointly or in concert, of activities undertaken in furtherance of the objectives of the Community, as provided for under the Treaty or under any contract or agreement made thereunder or in relation to the objectives of the Community;

"Council" means the Council of Ministers of the Community established by Article 9 of the Treaty;

"Customs Union" means the East African Community Customs Union established by Article 2 of the Protocol on the Establishment of the East African Community Customs Union;

"dependant" means a son or daughter of a worker or a self employed person who has attained the age of eighteen years, the mother, the father, a sister or a brother of a worker or a self employed person who is wholly dependent on the worker or self employed person, who is a citizen;

"economic activity" means any legitimate income generating activity;

"environment" means the natural resources of air, water, soil, fauna and flora, eco-systems, land, the man-made physical features, cultural heritage, the characteristic aspects of the landscape and the socioeconomic interaction between the said factors and any living and non-living organisms;

"firm" means a business entity other than a company, registered in accordance with the laws governing registration of such business entity in a Partner State;

"labour" includes a worker and a self employed person;

"national of a Partner State" means a natural or legal person who is a national in accordance with the laws of the Partner State;

"Partner States" means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, The United Republic of Tanzania, the Republic of Uganda, and any other country granted membership to the Community under Article 3 of the Treaty;

"piracy" means infringement of intellectual property rights;

"public security" means the function of governments which ensures the protection of citizens and other nationals, organizations and institutions against threats to their well-being and to the prosperity of their communities;

"public service" means government ministries, government departments and government agencies providing services to the public in a Partner State;

"self employed person" means a person engaged in an economic activity not under any contract of employment or supervision and who earns a living through this activity;

"spouse" means a husband or a wife of a worker or a self employed person, in a legally recognised marriage in

accordance with the national laws of a Partner State, who is a citizen;

"third parties" means foreign countries or persons;

"Treaty" means the Treaty for the Establishment of the East African Community and any annexes and protocols thereto;

"vulnerable group" includes groups of persons who are marginalised on grounds of stigmatised illness, gender, ethnicity, disability or age;

"worker" means a person who performs services for and under the direction of another person in return for remuneration.

PART B ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY COMMON MARKET

ARTICLE 2

Establishment of the East African Community Common Market

1. In order to promote the objectives of the Community provided for under Article 5 of the Treaty and in accordance with the provisions of this Protocol, the Partner States hereby establish a common market as an integral part of the Community.
2. The Common Market established under paragraph 1, shall be called the East African Community Common Market (hereinafter referred to as "the Common Market").
3. The Common Market shall be managed in accordance with the relevant laws of the Community.
4. In accordance with the provisions of Articles 76 and 104 of the Treaty, this Protocol provides for the following:
 - a. the free movement of goods;
 - b. the free movement of persons;
 - c. the free movement of labour;
 - d. the right of establishment;
 - e. the right of residence;
 - f. the free movement of services; and
 - g. the free movement of capital.
5. The establishment of the Common Market shall, notwithstanding paragraph 1, be progressive.

ARTICLE 3

Principles of the Common Market

1. The Common Market shall be guided by the fundamental and operational principles of the Community as enshrined in Articles 6 and 7 of the Treaty.
2. Without prejudice to paragraph 1, the Partner States undertake to:
 - (a) observe the principle of non-discrimination of nationals of other Partner States on grounds of nationality;
 - (b) accord treatment to nationals of other Partner States, not less favourable than the treatment accorded to third parties;
 - (c) ensure transparency in matters concerning the other Partner States; and
 - (d) share information for the implementation of this Protocol.

ARTICLE 4

Objectives of the Common Market

1. The overall objective of the Common Market is to widen and deepen cooperation among the Partner States in the economic and social fields for the benefit of the Partner States.
2. The specific objectives of the Common Market are to:

- (a) accelerate economic growth and development of the Partner States through the attainment of the free movement of goods, persons and labour, the rights of establishment and residence and the free movement of services and capital;
 - (b) strengthen, coordinate and regulate the economic and trade relations among the Partner States in order to promote accelerated, harmonious and balanced development within the Community;
 - (c) sustain the expansion and integration of economic activities, within the Community, the benefit of which shall be equitably distributed among the Partner States;
 - (d) promote common understanding and cooperation among the nationals of the Partner States for their economic and social development; and
 - (e) enhance research and technological advancement to accelerate economic and social development.
3. In order to realise and attain the objectives provided for in this Article, the Partner States shall co-operate in, integrate and harmonise their policies in areas provided for in this Protocol and in such other areas as the Council may determine in order to achieve the objectives of the Common Market.

ARTICLE 5

Scope of Co-operation in the Common Market

1. The provisions of this Protocol shall apply to any activity undertaken in cooperation by the Partner States to achieve the free movement of goods, persons, labour, services and capital and to ensure the enjoyment of the rights of establishment and residence of their nationals within the Community.
2. For the purposes of paragraph 1 and pursuant to paragraph 4 of Article 2 of this Protocol, the Partner States agree to:
 - (a) eliminate tariff, non-tariff and technical barriers to trade; harmonise and mutually recognize standards and implement a common trade policy for the Community;
 - (b) ease cross-border movement of persons and eventually adopt an integrated border management system;
 - (c) remove restrictions on movement of labour, harmonise labour policies, programs, legislation, social services, provide for social security benefits and establish common standards and measures for association of workers and employers, establish employment promotion centres and eventually adopt a common employment policy;
 - (d) remove restrictions on the right of establishment and residence of nationals of other Partner States in their territory in accordance with the provisions of this Protocol;
 - (e) remove measures that restrict movement of services and service suppliers, harmonise standards to ensure acceptability of services traded; and
 - (f) eliminate restrictions on free movement of capital; ensure convertibility of currencies; promote investments in capital markets (stock exchange) eventually leading to an integrated financial system.

For the purposes of facilitating the implementation of the Common Market, the Partner States further agree to:

- (a) co-operate to harmonise and to mutually recognise academic and professional qualifications;
- (b) co-operate to ensure protection of cross border investments;
- (c) co-ordinate and harmonise their economic, monetary and financial policies;
- (d) co-operate to ensure fair competition and promote consumer welfare
- (e) co-ordinate their trade relations to govern international trade and trade relations between the community and third parties
- (f) co-ordinate and harmonise their support policies and develop their transport infrastructure modes;
- (g) co-ordinate and harmonise their social policies;
- (h) integrate environmental and natural resources management principles in the activities relating to the common market;
- (i) ensure the availability of relevant, timely and reliable statistical data for purposes of the common market
- (j) promote research and technological development within the community

- (k) co-operate in the promotion and protection of intellectual property rights;
- (l) promote industrial development for the attainment of sustainable growth and development in the community; and
- (m) Sustainably develop and promote agriculture and ensure food security in the community.

**PART C
FREE MOVEMENT OF GOODS**

**ARTICLE 6
FREE MOVEMENT OF GOODS**

1. The free movement of goods between the Partner States shall be governed by the Customs Law of the Community as specified in Article 39 of the Protocol on the Establishment of the East African Community Customs Union.
2. In addition to the Customs Law of the Community, the free movement of goods shall be governed by:
 - (a) the East African Community Protocol on Standardisation, Quality Assurance, Metrology and Testing;
 - (b) the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006;
 - (c) the provisions of this Protocol;
 - (d) protocols that may be concluded in the areas of cooperation on sanitary and phyto-sanitary and technical barriers to trade; and
 - (e) any other instruments relevant to the free movement of goods.

**PART D
FREE MOVEMENT OF PERSONS AND LABOUR**

**ARTICLE 7
Free Movement of Persons**

1. The Partner States hereby guarantee the free movement of persons who are citizens of the other Partner States, within their territories.
2. In accordance with paragraph 1, each Partner State shall ensure non-discrimination of the citizens of the other Partner States based on their nationalities by ensuring:
 - (a) the entry of citizens of the other Partner States into the territory of the Partner State without a visa;
 - (b) free movement of persons who are citizens of the other Partner States within the territory of the Partner State;
 - (c) that the citizens of the other Partner States are allowed to stay in the territory of the Partner State; and
 - (d) that the citizens of the other Partner States are allowed to exit the territory of the Partner State without restrictions.
3. The Partner States shall, in accordance with their national laws, guarantee the protection of the citizens of the other Partner States while in their territories.
4. The free movement of persons shall not exempt from prosecution or extradition, a national of a Partner State who commits a crime in another Partner State.
5. The free movement of persons shall be subject to limitations imposed by the host Partner State on grounds of public policy, public security or public health.
6. A Partner State imposing a limitation under paragraph 5, shall notify the other Partner States accordingly.
7. The Partner States shall effect reciprocal opening of border posts and keep the posts opened and manned for twenty four hours.
8. The movement of refugees within the Community shall be governed by the relevant international conventions.
9. The implementation of this Article shall be in accordance with the East African Community Common Market (Free Movement of Persons) Regulations, specified in Annex I to this Protocol.

**ARTICLE 8
Standard Identification System**

The Partner States shall establish a common standard system of issuing national Identification documents to their nationals which shall be the basis for identifying the citizens of the Partner States within the Community.

ARTICLE 9

Travel Documents

1. A citizen of a Partner State who wishes to travel to another Partner State shall use a valid common standard travel document.
2. The Partner States which have agreed to use machine - readable and electronic national identity cards as travel documents may do so.
3. The Partner States which have agreed to use machine - readable and electronic national identity cards shall work out modalities for the implementation of paragraph 2.

ARTICLE 10

Free Movement of Workers

1. The Partner States hereby guarantee the free movement of workers, who are citizens of the other Partner States, within their territories.
2. For the purposes of paragraph 1, the Partner States shall ensure non-discrimination of the workers of the other Partner States, based on their nationalities, in relation to employment, remuneration and other conditions of work and employment.
3. For the purpose of this Article, the free movement of workers shall entitle a worker to:
 - (a) apply for employment and accept offers of employment actually made;
 - (b) move freely within the territories of the Partner States for the purpose of employment;
 - (c) conclude contracts and take up employment in accordance with the contracts, national laws and administrative actions, without any discrimination;
 - (d) stay in the territory of a Partner State for the purpose of employment in accordance with the national laws and administrative procedures governing the employment of workers of that Partner State;
 - (e) enjoy the freedom of association and collective bargaining for better working conditions in accordance with the national laws of the host Partner State; and
 - (f) enjoy the rights and benefits of social security as accorded to the workers of the host Partner State.
4. For the purposes of the implementation of subparagraph (f) of paragraph 3, the Council shall issue directives and make regulations on social security benefits.
5. A worker shall have the right to be accompanied by a spouse and a child, and:
 - (a) a spouse who accompanies the worker shall be entitled to be employed as a worker or to engage in any economic activity as a self employed person in the territory of that Partner State;
 - (b) a child who accompanies the worker shall be entitled to be employed as a worker or to engage in any economic activity as a self employed person in the territory of that Partner State subject to the age limits under the national laws of that Partner State.
6. The Partner States shall facilitate the admission of a dependant of a worker in accordance with the national laws of the Partner States.
7. The office responsible for employment in a Partner State shall facilitate a citizen of another Partner State who seeks employment in the territory of that Partner State to receive the same assistance as would be accorded to a citizen of that Partner State who seeks employment.
8. The Partner States shall, within the framework of a joint programme, encourage the exchange of young workers amongst the Partner States.
9. The national laws and administrative procedures of a Partner State shall not apply where the principal aim or effect is to deny citizens of other Partner States the employment that has been offered.
10. The provisions of this Article shall not apply to employment in the public service unless the national laws and regulations of a host Partner State so permit.
11. The free movement of workers shall be subject to limitations imposed by the host Partner State on grounds of public policy, public security or public health.
12. A Partner State imposing a limitation under paragraph 11, shall notify the other Partner States accordingly.
13. The implementation of this Article shall be in accordance with the East African Community Common Market (Free Movement of Workers) Regulations, specified in Annex II to this Protocol.

ARTICLE 11

Harmonisation and Mutual Recognition of Academic and Professional Qualifications

1. For the purpose of ensuring the free movement of labour, the Partner States undertake to:
 - (a) mutually recognise the academic and professional qualifications granted, experience obtained, requirements met, licences or certifications granted, in other Partner States; and
 - (b) harmonise their curricula, examinations, standards, certification and accreditation of educational and training institutions.
2. The implementation of this Article shall be in accordance with Annexes to be concluded by the Partner States.

ARTICLE 12

Harmonisation of Labour Policies, Laws and Programmes

1. The Partner States undertake to harmonise their labour policies, national laws and programmes to facilitate the free movement of labour within the Community.
2. The Partner States undertake to review and harmonise their national social security policies, laws and systems to provide for social security for self-employed persons who are citizens of other Partner States.
3. The implementation of this Article shall be in accordance with directives and regulations issued by the Council.

PART E

RIGHTS OF ESTABLISHMENT AND RESIDENCE

ARTICLE 13

Right of Establishment

1. The Partner States hereby guarantee the right of establishment of nationals of the other Partner States within their territories.
2. For the purposes of paragraph 1, the Partner States shall ensure non discrimination of the nationals of the other Partner States, based on their nationalities.
3. For the purposes of paragraph 1, the right of establishment shall entitle:
 - (a) a national of a Partner State to:
 - (a) take up and pursue economic activities as a self employed person; and
 - set up and manage economic undertakings, in the territory of another Partner State;
 - (b) a self-employed person who is in the territory of another Partner State to join a social security scheme of that Partner State in accordance with the national laws of that Partner State.
4. The rights applicable to a spouse, child and dependant of a worker under Article 10 of this Protocol shall apply to the spouse, child and dependant of a self employed person.
5. The Partner States shall ensure that all restrictions on the right of establishment based on the nationality of companies, firms and self employed persons of the Partner States are removed, and shall not introduce any new restrictions on the right of establishment in their territories, save as otherwise provided in this Protocol.
6. Companies and firms established in accordance with the national laws of a Partner State and having their registered office, central administration or principal place of business and which undertake substantial economic activities in the Partner State shall, for purposes of establishment, be accorded non discriminatory treatment in other Partner States.
7. For the purposes of undertaking any economic activity in accordance with the provisions of this Article, the Partner States shall mutually recognize the relevant experience obtained, requirements met, licenses and certificates granted to a company or firm in the other Partner States.
8. The right of establishment shall be subject to limitations imposed by the host Partner State on grounds of public policy, public security or public health.
9. A Partner State imposing a limitation under paragraph 8, shall notify the other Partner States accordingly.
10. The provisions of this Protocol shall not prejudice the application of national laws and administrative procedures and practices providing for special treatment for third parties accorded by individual Partner States on grounds of public policy, public security or public health.
11. For the purposes of this Article, the Partner States shall:
 - (a) remove the administrative procedures and practices, resulting from national laws or from agreements previously concluded between the Partner States, that form an obstacle to the right of establishment;
 - (b) progressively remove any administrative procedures and practices resulting from national laws that restrict

the right of establishment, in respect of the conditions for:

- (i) setting up agencies, branches or subsidiaries of companies or firms in their territories; and
 - (ii) the entry of personnel of the companies or firms registered in another Partner State into managerial or supervisory positions in agencies, branches or subsidiaries in that Partner State;
- (c) ensure that workers who are citizens of a Partner State employed in the territory of another Partner State are allowed to remain in that territory for the purpose of taking up economic activities as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that Partner State at the time when they intended to take up such economic activities;
- (d) coordinate safeguard measures, which in the interest of the Community, are required for the protection of the companies and firms to ensure that the safeguard measures are similar throughout the Community; and
- (e) satisfy themselves that the conditions of the right of establishment are not distorted by prohibited subsidies or aid granted by a Partner State to companies or firms owned by the nationals of the Partner State.

12. The implementation of this Article shall be in accordance with the East African Community Common Market (Right of Establishment) Regulations, specified in Annex III to this Protocol.

ARTICLE 14

Right of Residence

1. The Partner States hereby guarantee the right of residence to the citizens of the other Partner States who have been admitted in their territories in accordance with Articles 10 and 13 of this Protocol.
2. The right of residence guaranteed under paragraph 1, shall apply to the spouse, child and a dependant of a worker or self-employed person entitled to rights provided in Articles 10 and 13 of this Protocol.
3. The Partner States shall issue residence permits to citizens of other Partner States who qualify in accordance with the provisions of this Article.
4. The right of residence shall be subject to limitations imposed by the host Partner State on grounds of public policy, public security or public health.
5. A Partner State imposing a limitation under paragraph 4, shall notify the other Partner States accordingly.
6. The provisions of this Article shall not affect any provisions of national laws, administrative procedures and practices of a Partner State which would be more favourable to citizens of the other Partner States.
7. The Partner States hereby agree that matters relating to permanent residence shall be governed by the national policies and laws of the Partner States.
8. The implementation of this Article shall be in accordance with the East African Community Common Market (Right of Residence) Regulations, specified in Annex IV to this Protocol.

ARTICLE 15

Access to and Use of Land and Premises

1. The Partner States hereby agree that access to and use of land and premises shall be governed by the national policies and laws of the Partner States.
2. The rights provided under Articles 13 and 14 in as far as they relate to access to and use of land and premises shall be subject to this Article.

PART F

FREE MOVEMENT OF SERVICES

ARTICLE 16

Free Movement of Services

1. The Partner States hereby guarantee the free movement of services supplied by nationals of Partner States and the free movement of service suppliers who are nationals of the Partner States within the Community.
2. The free movement of services shall cover the supply of services:
 - (a) from the territory of a Partner State into the territory of another Partner State;
 - (b) in the territory of a Partner State to service consumers from another Partner State;
 - (c) by a service supplier of a Partner State, through commercial presence of the service supplier in the territory of another Partner State; and

- (d) by the presence of a service supplier, who is a citizen of a Partner State, in the territory of another Partner State.
3. In fulfilling their obligations and commitments under this Part, the Partner States shall take such measures to ensure the observance of the measures by local governments and local authorities and non-governmental bodies within the Partner States.
 4. The measures to be taken by the Partner States under paragraph 3 include any laws and administrative actions taken by:
 - (a) national governments, local governments or local authorities; and
 - (b) non-governmental bodies in the exercise of powers delegated by national governments, local governments or local authorities.
 5. For the purposes of paragraph 1, the Partner States shall progressively remove existing restrictions and shall not introduce any new restrictions on the provision of services in the Partner States, by nationals of other Partner States except as otherwise provided in this Protocol.
 6. Without prejudice to any other provisions of this Protocol, a person providing a service may, in order to provide the service, temporarily engage in activities related to the service in the Partner State, where the service is to be supplied, under the same conditions as are applicable to the nationals of the Partner State.
 7. For the purposes of this Part "services" includes:
 - (a) services in any sector except services supplied in the exercise of governmental authority which are not provided on a commercial basis or in competition with one or more service suppliers;
 - (b) services normally provided for remuneration, in so far as they are not governed by the provisions relating to free movement of goods, capital and persons.

ARTICLE 17
National Treatment

1. Each Partner State shall accord to services and service suppliers of other Partner States, treatment not less favourable than that accorded to similar services and service suppliers of the Partner State.
2. For the purposes of fulfilling the requirement of paragraph 1, each Partner State may accord to services and service suppliers of other Partner States, either formally identical treatment or formally different treatment to that it accords to like services and service suppliers of the Partner State.
3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Partner State compared to like services or service suppliers of the other Partner States.

ARTICLE 18
Most Favoured Nation Treatment

Each Partner State shall upon the coming into force of this Protocol, accord unconditionally, to services and service suppliers of the other Partner States, treatment no less favourable than that it accords to like services and service suppliers of other Partner States or any third party or a customs territory.

ARTICLE 19
Notification

1. Each Partner State shall promptly notify the Council of all measures of general application affecting the free movement of services at the entry into force of this Protocol.
2. The Partner States shall notify the Council of any international agreements pertaining to or affecting trade in services with third parties that they are signatory to, prior to and after the entry into force of this Protocol.
3. Where a Partner State submits a notification to the Council under paragraph 2, the Secretariat shall transmit a copy of that notification to the other Partner States.
4. Each Partner State shall, promptly and at least annually, inform the Council of the introduction of any new national laws or administrative guidelines, or any changes to existing laws or administrative guidelines which affect trade in services provided for in this Protocol.

5. Each Partner State shall respond promptly to any request by another Partner State for specific information on any of its measures of general application or international agreements.
6. The Council may make decisions on the measures or international agreements referred to in this Article.

ARTICLE 20
Domestic Regulation

1. The Partner States may regulate their services sectors in accordance with their national policy objectives provided that the measures are consistent with the provisions of this Protocol and do not constitute barriers to trade in services.
2. The Partner States shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

ARTICLE 21
General Exceptions to Trade in Services

1. Subject to the requirement that measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Partner States where like conditions prevail, or a disguised restriction on trade in services, nothing in this Part shall be construed to prevent the adoption or enforcement by any Partner State of measures:
 - (a) necessary to protect public morals or to maintain public order;
 - (b) necessary to protect human, animal or plant life or health;
 - (c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Part including those relating to:
 - (i) the prevention of deceptive and fraudulent practices or which deal with the effects of a default on services contracts;
 - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; and
 - (iii) safety;
 - (d) inconsistent with Article 17 of this Protocol, provided that the difference in treatment is aimed at ensuring the equitable or effective imposition or collection of direct taxes in respect of services or service suppliers of other Partner States; or
 - (e) inconsistent with Article 18 of this Protocol, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Partner State is bound.
2. Pursuant to subparagraph (d) of paragraph 1, measures that are aimed at ensuring the equitable or effective imposition or collection
4. Each Partner State shall, promptly and at least annually, inform the Council of the introduction of any new national laws or administrative guidelines, or any changes to existing laws or administrative guidelines which affect trade in services provided for in this Protocol.
5. Each Partner State shall respond promptly to any request by another Partner State for specific information on any of its measures of general application or international agreements.
6. The Council may make decisions on the measures or international agreements referred to in this Article.

ARTICLE 20
Domestic Regulation

1. The Partner States may regulate their services sectors in accordance with their national policy objectives provided that the measures are consistent with the provisions of this Protocol and do not constitute barriers to trade in services.
2. The Partner States shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.

ARTICLE 21
General Exceptions to Trade in Services

1. Subject to the requirement that measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Partner States where like conditions prevail, or a disguised restriction on trade in services, nothing in this Part shall be construed to prevent the adoption or enforcement by any Partner State of measures:
 - (a) necessary to protect public morals or to maintain public order;
 - (b) necessary to protect human, animal or plant life or health;
 - (c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Part including those relating to:
 - (i) the prevention of deceptive and fraudulent practices or which deal with the effects of a default on services contracts;
 - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; and
 - (iii) safety;
 - (d) inconsistent with Article 17 of this Protocol, provided that the difference in treatment is aimed at ensuring the equitable or effective imposition or collection of direct taxes in respect of services or service suppliers of other Partner States; or
 - (e) inconsistent with Article 18 of this Protocol, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Partner State is bound.
2. Pursuant to subparagraph (d) of paragraph 1, measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Partner State under its taxation system which:
 - (a) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the territory of the Partner States;
 - (b) apply to non-residents in order to ensure the imposition or collection of taxes in the territory of the Partner States;
 - (c) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures;
 - (d) apply to consumers of services supplied in or from the territory of another Partner State in order to ensure the imposition or collection of taxes on such consumers derived from sources in the territory of the Partner States;
 - (e) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or
 - (f) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident citizens, companies or firms or the branches of the companies or firms, or between related companies or firms or their branches, in order to safeguard the tax base of the Partner State.

ARTICLE 22
Security Exceptions on Trade in Services

1. Nothing in this Part shall be construed:
 - (a) to require any Partner State to furnish any information, the disclosure of which it considers contrary to its essential security interests;
 - (b) to prevent any Partner State from taking any action which it considers necessary for the protection of its essential security interests:
 - (i) relating to the supply of services carried out directly or indirectly for the purpose of provisioning a military establishment;
 - (ii) relating to fissionable and fusionable materials or the materials from which they are derived;

- (iii) taken in time of war or other emergency in international relations; or
 - (c) to prevent any Partner State from taking any action in pursuance of its obligations under the United Nations Charter for the Maintenance of International Peace and Security.
2. The Partner States shall, to the fullest extent possible, inform the Council of measures taken under subparagraphs (b) and (c) of paragraph 1 and of their termination.

ARTICLE 23

Implementation of the Free Movement of Services

1. The implementation of Article 16 of this Protocol shall be progressive and in accordance with the Schedule on the Progressive Liberalisation of Services, specified in Annex V to this Protocol.
2. The Partner States, undertake to make additional commitments on the elimination of restrictions on the service sectors and sub sectors that are not specified in Annex V of this Protocol, after entry into force of this Protocol.
3. The Council shall issue directives on the modalities for the implementation of paragraph 2.

PART G

FREE MOVEMENT OF CAPITAL

ARTICLE 24

Elimination of Restrictions on the Free Movement of Capital

1. Except as provided in this Part, the Partner States shall upon the coming into force of this Protocol:
 - (a) remove restrictions between the Partner States, on the movement of capital belonging to persons resident in the Community;
 - (b) remove any discrimination based on the nationality or on the place of residence of the persons or on the place where the capital is invested;
 - (c) remove any existing restrictions and shall not introduce any new restrictions on the movement of capital and payments connected with such movement and on current payments and transfers, or apply more restrictive regulations; and
 - (d) remove restrictions relating to current payments connected with the movement of goods, persons, services or capital between Partner States in accordance with the provisions of this Protocol.
2. The implementation of this Article shall be progressive and in accordance with the Schedule on the Removal of Restriction on the Free Movement of Capital, specified in Annex VI to this Protocol.

ARTICLE 25

General Exceptions

1. The free movement of capital may be restricted upon justified reasons related to:
 - a) prudential supervision;
 - b) public policy considerations;
 - c) money laundering; and
 - d) financial sanctions agreed to by the Partner States.
2. Where a Partner State adopts a restriction under paragraph 1, the Partner State shall inform the Secretariat and the other Partner States and furnish proof that the action taken was appropriate, reasonable and justified.

ARTICLE 26

Safeguard Measures

1. Where the movement of capital leads to disturbances in the functioning of the financial markets in a Partner State, the Partner State concerned may take safeguard measures subject to the conditions provided under Article 27 of this Protocol.
2. Where a competent authority of a Partner State makes an intervention in the foreign exchange market, which seriously distorts the conditions of competition, the other Partner States may take, for a strictly limited period, the necessary measures in order to counter the consequences of the intervention.
3. A Partner State may take safeguard measures, where the Partner State is in difficulties or is seriously threatened with difficulties, as regards its balance of payments.

ARTICLE 27

Conditions for Application of the Safeguard Measures

1. The safeguard measures which may be adopted or maintained pursuant to the provisions of Article 26 of this Protocol shall:
 - (a) subject to the provisions of this Protocol, not discriminate among Partner States in favour of third parties;
 - (b) at all times seek to minimize damage to the commercial, economic or financial interests of other Partner States;
 - (c) not exceed the safeguard measures necessary to deal with the circumstances described in Article 26; and
 - (d) be temporary and be phased out progressively as the situation described in Article 26 improves.
2. In determining the imposition of the safeguard measures provided for in Article 26 of this Protocol, the Partner State concerned may accord priority to activities which are essential to its economic stability.
3. Safeguard measures shall not be adopted or maintained for the purpose of protecting a particular sector in contravention of the provisions of this Protocol.
4. The safeguard measures adopted or maintained pursuant to Article 26 of this Protocol or any changes to the safeguard measures shall be notified to the Secretariat and to the other Partner States.
5. The Council shall establish procedures for periodic consultations including, where possible and desirable, prior consultations with the objective of making recommendations to the concerned Partner State for the removal of the safeguard measures.
6. The consultations under paragraph 5 shall address the compliance of any safeguard measures taken under paragraph 1 and, in particular, the progressive phase-out of the safeguard measures in accordance with paragraph 1(d).

ARTICLE 28

Capital and Related Payments and Transfers

For the purposes of this Protocol, capital and related payments and transfers include:

- (a) direct investment;
- (b) equity and portfolio investments;
- (c) bank and credit transactions;
- (d) payment of interest on loans and amortisation;
- (e) dividends and other income on investments;
- (f) repatriation of proceeds from the sale of assets; and
- (g) other transfers and payments relating to investment flows.

PART H

OTHER AREAS OF CO-OPERATION IN THE COMMON

MARKET

ARTICLE 29

Protection of Cross-Border Investments

1. The Partner States undertake to protect cross border investments and returns of investors of other Partner States within their territories.
2. For the purposes of paragraph 1, the Partner States shall ensure:
 - (a) protection and security of cross border investments of investors of other Partner States;
 - (b) non-discrimination of the investors of the other Partner States, by according, to these investors treatment no less favourable than that accorded in like circumstances to the nationals of that Partner State or to third parties;
 - (c) that in case of expropriation, any measures taken are for a public purpose, non-discriminatory, and in accordance with due process of law, accompanied by prompt payment of reasonable and effective compensation.

3. The Partner States shall within two years after coming into force of this Protocol take measures to secure the protection of cross border investments within the Community.

4. For the purpose of this Article:

"cross - border investment" means any investment by a national of a Partner State in the territory of another Partner State;

"investment" means any kind of asset owned or controlled by an investor of a Partner State in another Partner State in accordance with the national laws and investment policies of that Partner State and includes:(a) an enterprise;

(a) shares, stock, and other forms of equity participation in an enterprise;

(b) bonds, debentures, other debt instruments and loans;

(c) futures, options and other derivatives;

(d) turnkey, construction, management, production, concession, revenue-sharing and other similar contracts;

(e) intellectual property rights;

(f) licenses, authorizations, permits and similar rights conferred pursuant to

(g) applicable national laws; and

(h) other tangible or intangible, movable or immovable property, and related property rights such as leases, mortgages, liens and pledges;

"investor" means a national of a Partner State who has made an investment in the territory of another Partner State.

ARTICLE 30

Economic and Monetary Policy Co-ordination

1. For the proper functioning of the Common Market, the Partner States shall co-ordinate and harmonize their economic and monetary policies to ensure macroeconomic stability, sustainable economic growth and balanced development.
2. The Council shall monitor the implementation of the economic and monetary policies by the Partner States to ensure macro-economic stability and sustainable economic development.
3. The Partner States undertake to adhere to the macroeconomic convergence criteria as determined by the Council.
4. The Partner States shall submit to the Council periodic progress reports on the performance of their national economies to facilitate close co-ordination of economic policies and adherence to the macroeconomic convergence criteria.

ARTICLE 31

Financial Sector Policy Co-ordination

1. For the proper functioning of the Common Market the Partner States undertake to co-ordinate and harmonize their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems.
2. The Partner States shall ensure and maintain convertibility of their national currencies and promote the use of national currencies in the settlement of payments for all transactions within the Community.

ARTICLE 32

HARMONIZATION OF TAX POLICIES AND LAWS

The Partner States undertake to progressively harmonize their tax policies and laws to remove tax distortions in order to facilitate the free movement of goods, services and capital and to promote investment within the Community.

ARTICLE 33

Prohibited Business Practices

1. The Partner States shall prohibit any practices that adversely affect free trade.
2. The provisions of paragraph 1 shall apply in the case of :
 - (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Partner States and which have as their objective or effect the prevention, restriction or distortion of competition within the Community;

- (b) concentrations which create or strengthen a dominant position and as a result of which effective competition would be significantly impeded within the Community or in a substantial part of the Community; and
- (c) any abuse by one or more undertakings of a dominant position within the Community or in a substantial part of the Community.

3. The provisions of paragraph 1 shall not apply in the case of:

- (a) any agreement or category of agreements between undertakings;
- (b) any decision by associations of undertakings; or
- (c) any concerted practice or category of concerted practices, which improves production or distribution of goods, promotes technical or economic development or which has the effect of promoting consumer welfare and does not impose restrictions inconsistent with the attainment of the objectives of the Common Market or has the effect of eliminating competition in respect of a substantial part of a product.

ARTICLE 34

Prohibited Subsidies

1. The Partner States shall not grant any subsidy through resources in any form, which distorts or threatens to distort effective competition by favouring an undertaking, in so far as it affects trade between the Partner States.
2. Paragraph 1 shall not apply where a subsidy granted is authorised by the Treaty or by Acts or policies of the Community or decisions of the Council.

ARTICLE 35

Public Procurement

The Partner States shall not discriminate against suppliers, products or services originating from other Partner States, for purposes of achieving the benefits of free competition in the field of public procurement.

ARTICLE 36

Consumer Protection

1. The Partner States shall promote the interests of the consumers in the Community by appropriate measures that:
 - (a) ensure the protection of life, health and safety of consumers; and
 - (b) encourage fair and effective competition in order to provide consumers with greater choice among goods and services at the lowest cost.
2. The implementation of Articles 33 to 36 of this Protocol shall be in accordance with directives and regulations issued by the Council.

Article 37

Co-ordination of Trade Relations

1. The Partner States shall coordinate their trade relations to promote international trade and trade relations between the Community and third parties.
2. For the purposes of paragraph 1, the Partner States shall adopt common principles in particular in relation to:
 - (a) tariff rates;
 - (b) conclusion of tariff and trade agreements;
 - (c) the achievements of uniformity of measures of liberalisation;
 - (d) export promotion strategies ; and
 - (e) trade remedies.
3. The Council shall establish a mechanism for the co-ordination of trade relations with third parties and shall :
 - (a) adopt common negotiating positions in the development of mutually beneficial trade agreements with third parties; and
 - (b) promote participation and joint representation in international trade negotiations.
4. The Partner States shall provide information to the Council on trade relations with third parties, to facilitate the effective implementation of paragraph 3.
5. For purposes of trade arrangements between individual Partner States and third parties, the provisions of Article 37 of the Protocol on the Establishment of the East African Community Customs Union shall apply.

ARTICLE 38
CO-ORDINATION OF TRANSPORT POLICIES

1. The Partner States undertake to evolve coordinated and harmonized transport policies to provide for adequate, reliable, safe and internationally competitive transport infrastructure modes and services for the development and consolidation of the Common Market.
2. Paragraph 1 shall apply to logistics and transport by road, rail, inland waterways, maritime, pipeline and air and facilities such as ports, airports and inland dry ports.
3. For the purposes of implementing this Article, the Partner States:
 - a. Shall honour the existing ratified agreements entered between the Partner States;
 - b. may in future enter into other agreements;
 - c. shall honour their existing commitments and obligations emanating from international conventions and agreements; and
 - d. shall subject to the provisions of subparagraph (c) of this paragraph, align all other agreements on transport to the provisions of this Protocol.
4. The Council shall within three years upon entry into force of this Protocol, make regulations applicable to:
 - (a) railway transport;
 - (b) maritime transport and port operations;
 - (c) pipeline transport;
 - (d) air transport;
 - (e) non - motorized transport; and
 - (f) multimodal transport and logistics.

ARTICLE 39
HARMONIZATION OF SOCIAL POLICIES

1. The Partner States undertake to coordinate and harmonise their social policies to promote and protect decent work and improve the living conditions of the citizens of the Partner States for the development of the Common Market.
2. For the purposes of paragraph 1, the Partner States shall coordinate and harmonise their social policies relating to:
 - (a) good governance, the rule of law and social justice;
 - (b) promotion and protection of human and peoples' rights;
 - (c) promotion of equal opportunities and gender equality;
 - (d) promotion and protection of the rights of marginalized and vulnerable groups;
 - (e) promotion of African moral values, social values and ethics; and
 - (f) promotion of unity and cohesion among the people in the Community.
3. The Partner States undertake to implement programmes to:
 - (a.) promote employment creation;
 - (b.) strengthen labour laws and improve working conditions;
 - (c.) eliminate compulsory and forced labour;
 - (d.) promote occupational safety and health at the work places;
 - (e.) abolish child labour in particular the worst forms of child labour;
 - (f.) promote formal education to advance social development;
 - (g.) promote vocational and technical training;
 - (h.) expand and improve social protection;
 - (i.) promote social dialogue between the social partners and other stakeholders;
 - (j.) promote the right of persons with disabilities;
 - (k.) promote sports;
 - (l.) prevent and manage HIV and AIDS, malaria and tuberculosis;
 - (m.) prevent and manage the outbreak of epidemics and other diseases in order to improve the general hygiene and health of the people;

- (n.) prevent social vices such as alcoholism, drug abuse or substance abuse and perverse behavior
 - (o.) eliminate human smuggling and trafficking; and
 - (p.) eliminate ignorance, diseases and poverty
4. The Partner States shall, in implementing programmes under paragraph 3:
- (a) promote, preserve and mainstream cultural activities and heritage in development initiatives; and
 - (b) adopt measures and programmes aimed at promoting the welfare of the vulnerable groups.

ARTICLE 40

Environmental Management

1. The Partner States undertake to ensure sound environmental and natural resources management principles for the proper functioning of the Common Market, through prevention of activities that are detrimental to the environment.
2. For the purposes of paragraph 1, the Partner States shall manage the environment in accordance with:
 - (a) The East African Community Protocol on Environment and Natural Resources Management;
 - (b) the East African Community Protocol for Sustainable Development of Lake Victoria Basin;
 - (c) the Lake Victoria Transport Act, 2008;
 - (d) the Protocol on the Establishment of the East African Community Customs Union ;
 - (e) the East African Community Customs Management Act, 2004;
 - (f) the relevant provisions of this Protocol; and
 - (g) any other relevant laws of the Community.
3. The Partner States shall respect the principles of international environmental law and honour their commitments in respect of international agreements which relate to environmental management.
4. The Partner States shall develop common policies in responding to emerging issues on the environment.
5. The provisions of this Article shall not preclude the Partner States from maintaining or introducing more stringent protective measures regarding the environment, where the measures are compatible with this Protocol.

ARTICLE 41

Cooperation in Statistics

1. The Partner States shall cooperate to ensure the availability of relevant, timely and reliable statistical data for:
 - (a) describing, monitoring and evaluating all aspects of the Common Market; and
 - (b) sound decision making and effective service delivery in the Common Market.
 2. For the purposes of paragraph 1, the Partner States undertake to develop and adopt harmonised statistical methods, concepts, definitions and classifications for organizing statistical work while duly observing internationally accepted best practices.
 3. For the purposes of paragraph 1 the Partner States shall collect, compile, store and disseminate relevant, reliable, timely, consistent and comparable statistical information.
 4. The Council may issue directives on:
 - (a) statistics to be collected and compiled as well as the periodicity and format in which statistical data shall be submitted by the Partner States to the Secretariat;
2. The specific objectives of the Common Market are to:
- (a) accelerate economic growth and development of the Partner States through the attainment of the free movement of
 - (b) the key indicators for monitoring the implementation of the integration process of the Common Market and evaluating the impact of the integration process on the welfare of the people in the Community and the competitiveness of the Community;
 - (c) statistics to be aggregated and disseminated by the Community;
 - (d) the coordination of Community statistics programmes and the development and maintenance of an integrated Community statistical database; and
 - (e) the development of infrastructural and human resource capacities in the field of statistics in the Partner States.

ARTICLE 42

Research and Technological Development

1. The Partner States undertake to promote research and technological development through market-led research, technological development and the adaptation of technologies in the Community, to support the sustainable production of goods and services and enhance international competitiveness.
2. For the purposes of paragraph 1, the Partner States shall:
 - (a) disseminate the results of activities in research, technological development and demonstration programmes;
 - (b) facilitate access to their technological and research facilities by researchers and other experts;
 - (c) encourage private sector participation in activities relating to intra-regional research and transfer of technology;
 - (d) adopt measures to develop the human resource of the Community in research and development;
 - (e) establish and support research infrastructure, facilities and institutions;
 - (f) collaborate with the East African Science and Technology Commission and other institutions on research, science and technology; and
 - (g) establish a mechanism for the coordination of the activities specified in this paragraph.
3. Pursuant to the objectives set out in paragraph 1, the Council shall issue directives and make regulations to:
 - (a) promote co-operation in research, technological development and demonstration programmes within Partner States, and with regional institutions, foreign countries and international organizations;
 - (b) stimulate creativity and excellence in research through the funding of 'frontier research' carried out by individual teams competing at the Community level;
 - (c) implement research, technological development and demonstration programmes with and between undertakings, including small and medium-sized enterprises, research centres and universities and to assist the undertakings in their research and technological development activities;
 - (d) develop technological policies and strategies, having due regard to the importance of technology management and protection of intellectual property rights;
 - (e) provide measures for protecting, developing and commercializing indigenous knowledge;
 - (f) promote and ensure sustainability of an information and communications technology culture;
 - (g) promote and facilitate technology transfer, acquisition and dissemination in order to achieve increased production and productivity; and
 - (h) establish and develop a technology innovation system for the productive sector of the economy of the Community.
4. The Partner States undertake to establish a Research and Technological Development Fund for purposes of implementing this Article.
5. The Council shall issue directives and make regulations for the implementation of paragraph 4.

ARTICLE 43

Co-operation in Intellectual Property Rights

1. The Partner States undertake to co-operate in the field of intellectual property rights to:
 - (a) promote and protect creativity and innovation for economic, technological, social and cultural development in the Community; and
 - (b) Enhance the protection of intellectual property rights.
2. For the purposes of paragraph 1, the Partner States undertake to cooperate in the following areas:
 - (a) patents;
 - (b) designs of integrated circuits;
 - (c) industrial designs;
 - (d) plant varieties;

ical indications;

l service marks;

rets;

- (i) utility models;
- (j) traditional knowledge;
- (k) genetic resources;
- (l) traditional cultural expressions and folklore; and
- (m) any other areas that may be determined by the Partner States.

3. For the purposes of paragraph 1, Partner States shall:
 - (a) put in place measures to prevent infringement, misuse and abuse of intellectual property rights;
 - (b) cooperate in fighting piracy and counterfeit activities;
 - (c) exchange information on matters relating to intellectual property rights;
 - (d) promote public awareness on intellectual property rights issues;
 - (e) enhance capacity in intellectual property;
 - (f) increase dissemination and use of patent documentation as a source of technological information;
 - (g) adopt common positions in regional and international norm setting in the field of intellectual property; and
 - (h) put in place intellectual property policies that promote creativity, innovation and development of intellectual capital.
4. The Partner States shall establish mechanisms to ensure:
 - (a) the legal protection of the traditional cultural expressions, traditional knowledge, genetic resources and national heritage;
 - (b) the protection and promotion of cultural industries;
 - (c) the use of protected works for the benefits of the communities in the Partner States ; and
 - (d) the cooperation in public health, food security, research and technological development.
5. The Council shall issue directives for:
 - (a) co-operation in the administration, management and enforcement of intellectual property rights;
 - (b) the elimination of discriminatory practices in the administration of intellectual property rights amongst Partner States.
6. The Partner States shall honour their commitments in respect of international agreements which relate to intellectual property rights.

ARTICLE 44

Co-operation in Industrial Development

1. The Partner States undertake to cooperate in the area of industrial development in the activities related to the production of goods and services in the Common Market, for the attainment of sustainable growth and development in the Community.
2. For the purposes of paragraph 1, the Partner States shall adopt common principles to:
 - (a) promote linkages among industries and other economic sectors within the Community;
 - (b) promote value addition and product diversification to improve resource utilisation;
 - (c) promote industrial research and development, transfer, acquisitions, adaptation and development of modern technology;
 - (d) promote sustainable and balanced industrialisation in the Community to cater for the least industrialized Partner States;
 - (e) facilitate the development of micro, small and medium industries and promote indigenous entrepreneurs;
 - (f) promote investment and employment opportunities in the Community;

- (g) promote knowledge based industries;
 - (h) promote industrial productivity and competitiveness of industries at national, Community and international levels;
 - (i) promote sustainable industrial development that ensures environmental protection, management and efficient resource utilisation; and
 - (j) disseminate and exchange industrial and technological information.
3. The Council shall issue directives and make regulations on:
- (a) the implementation of the East African Industrial Development Strategy;
 - (b) the promotion of new technologies and the infrastructure necessary for industrial development;
 - (c) the improvement of quality and technical regulatory infrastructure to ensure compliance of industrial products to standards and technical regulations;
 - (d) the establishment of physical infrastructure for industrial development including industrial parks and special economic zones;
 - (e) the establishment of a regional mechanism for developing human capacity for industrial and technological advancement; support for regional fora for Public-Private Partnership and Civil Society
 - (f) dialogue;
 - (g) the development of a regional mechanism to provide sustainable and affordable industrial development finance;
 - (h) support for the development of a regional productive base for capital, intermediate goods, tools and implements; and
 - (i) Any other measures that may be necessary.

ARTICLE 45

Co-operation in Agriculture and Food Security

- 1) The Partner States undertake to:
 - (a) sustainably develop and promote agriculture with regard to crops, livestock, fish, forestry and their products; and
 - (b) ensure food security in the Community through access to quality and sufficient food.
- 2) The objectives of promoting agriculture and ensuring food security in the Common Market shall be to:
 - (a) increase agricultural production and productivity;
 - (b) achieve food and nutrition security;
 - (c) promote investments in agriculture and food security;
 - (d) develop effective agricultural markets and marketing systems in the Community; and
 - (e) promote agro processing and value addition to agricultural products.
- 3) For the purposes of this Article, Partner States shall:
 - (a) cooperate in agricultural research and development;
 - (b) cooperate in plant breeding;
 - (c) promote the production and distribution of quality seeds of crops, livestock, fish and forest trees;
 - (d) develop capacity in the agricultural sector;
 - (e) cooperate in breeding, multiplication, distribution and artificial insemination of livestock including domesticated animals;
 - (f) develop, promote, manage and conserve fisheries resources on a sustainable basis within the Community;
 - (g) cooperate in the control of plant and animal pests, vectors and diseases;
 - (h) establish early warning systems and manage food security;
 - (i) develop, promote and manage forests and forestry products;
 - (j) promote and support the development of sustainable water use and irrigation facilities;

- (k) stabilize markets and ensure the availability of supplies for both domestic consumption and exports;
 - (l) establish an effective regime of sanitary and phyto-sanitary measures, standards and technical regulations;
 - (m) establish and promote the production and availability of farm inputs and implements in sufficient quantities in the Partner States; and
 - (n) promote and encourage private sector participation in agricultural commercial activities and provision of support services.
- 4) The implementation of this Article shall be in accordance with the existing and any other relevant instruments that may be approved by the Council.
 - 5) The Partner States undertake to establish an Agricultural Development Fund.
 - 6) The purposes of the Agricultural Development Fund shall be to:
 - (a) promote sustainable and competitive agricultural production;
 - (b) finance agricultural capital investment and working capital;
 - (c) finance agricultural mechanization and inputs;
 - (d) facilitate access to credit by all categories of farmers and agricultural entrepreneurs especially small-scale farmers and agricultural entrepreneurs;
 - (e) facilitate financing for value addition and processing capacity; and
 - (f) cater for any other financing requirement in the agricultural sector.

PART I
GENERAL PROVISIONS
ARTICLE 46 Institutional Framework

In accordance with paragraph 3 of Article 76 of the Treaty, the Council may establish and confer powers and authority upon such institutions as it may deem necessary to administer the Common Market.

ARTICLE 47
Approximation and Harmonization of Policies, Laws and Systems

The Partner States undertake to approximate their national laws and to harmonise their policies and systems, for purposes of implementing this

1. Protocol.
2. The Council shall issue directives for purposes of implementing this Article.

ARTICLE 48
Safeguard Measures

1. The Partner States agree to apply safeguard measures in the event of serious injury or of a threat of serious injury occurring to the economy of a Partner State, following the application of the relevant provision of this Protocol.
2. In the event of serious injury, where prompt and immediate action is deemed necessary, the Partner State concerned shall take necessary safeguard measures after informing the Council and the other Partner States through the Secretary General.
3. In the case of threat of serious injury, the Partner State concerned shall consult the Council before taking necessary safeguard measures.
4. The Council shall examine the basis, consider the method and the effect of the application of the safeguard measures taken by the Partner State under paragraphs 2 and 3 and make an appropriate decision.

ARTICLE 49
Measures to Address Imbalances

The Council shall approve measures to address imbalances that may arise from the implementation of this Protocol.

ARTICLE 50

Monitoring and Evaluation of Implementation of the Common Market

1. The Council shall establish a framework for monitoring and evaluating the implementation of this Protocol.
2. For the purposes of this Article, the Council shall:
 - (a) ensure that the operations of the Common Market conform to the objectives of this Protocol;
 - (b) annually review the specific commitments and programmes in this Protocol and take the necessary measures to ensure that the Partner States adhere to their commitments and programmes within the agreed timeframe;
 - (c) evaluate the implementation of this Protocol; and
 - (d) assess any causes of delay in the implementation of this Protocol and take the appropriate measures to remedy the situation.
3. For the purposes of the implementation of paragraph 2, the Council shall take into account any changes occurring in the economic and social circumstances of the Partner States.
4. The annual review in subparagraph (b) of paragraph 2 shall:
 - (a) consist of an assessment of the implementation of the agreed commitments and programmes, taking into account the results of any relevant activities of the monitoring and evaluation exercise; and
 - (b) in particular, include an assessment of the results achieved in the realisation and enjoyment of the freedoms and rights of citizens guaranteed under this Protocol, measured against:
 - (i) the agreed commitments;
 - (ii) the effectiveness in the implementation of the agreed commitments; and
 - (iii) the extent to which the commitments agreed to in the implementation Schedules have been adhered to.
5. The evaluation of the implementation of the Common Market referred to in subparagraph (c) of paragraph 2 shall be carried out every three years.

ARTICLE 51

Regulations, Directives and Decisions

The Council shall from time to time make regulations, issue directives and make decisions as may be necessary for the effective implementation of the provisions of this Protocol.

ARTICLE 52

Annexes

The Partner States shall conclude such annexes to this Protocol as shall be deemed necessary and such annexes shall form an integral part of this Protocol.

ARTICLE 53

Amendment of the Protocol

1. This Protocol may be amended by Partner States in accordance with the provisions of Article 150 of the Treaty.
2. Subject to the provisions of paragraph 1, the Council may:
 - (a) with the approval of the Summit, review the annexes to this Protocol and make such modifications as it deems necessary;
 - (b) submit to the Partner States proposals for the amendment of the provisions of this Protocol.

ARTICLE 54

Settlement of Disputes

1. Any dispute between the Partner States arising from the interpretation or application of this Protocol shall be settled in accordance with the provisions of the Treaty.
2. In accordance with their Constitutions, national laws and administrative procedures and with the provisions of this Protocol, Partner States guarantee that:

(a) any person whose rights and liberties as recognised by this Protocol have been infringed upon, shall have the right to redress, even where this infringement has been committed by persons acting in their official capacities; and

(b) the competent judicial, administrative or legislative authority or any other competent authority, shall rule on the rights of the person who is seeking redress.

ARTICLE 55
Entry into Force

This Protocol shall enter into force upon ratification and deposit of instruments of ratification with the Secretary General by all the Partner States.

ARTICLE 56
Depository and Registration

1. This Protocol and all instruments of ratification shall be deposited with the Secretary General who shall transmit certified true copies of the Protocol and instruments of ratification to all the Partner States.
2. The Secretary General shall register this Protocol with the African Union, the United Nations, the World Trade Organisation and such other organisations as the Council may determine.

DONE at Arusha, Tanzania, on the 20 day of November in the year Two Thousand and Nine.

IN FAITH WHEREOF the undersigned have appended their signature hereto:

FOR THE UNITED REPUBLIC OF TANZANIA

JAKAYA MRISHO KIKWETE
PRESIDENT

FOR THE REPUBLIC BURUNDI

PIERRE NKURUNZIZA
PRESIDENT

FOR THE REPUBLIC OF KENYA

MWAI KIBAKI
PRESIDENT

FOR THE REPUBLIC OF RWANDA

PAUL KAGAME
PRESIDENT

FOR THE REPUBLIC OF UGANDA

YOWERI KAGUTA MUSEVENI
PRESIDENT

APPENDIX 6: PROTOCOL ON CO-OPERATION IN DEFENCE AFFAIRS

PREAMBLE

We, the Heads of State of the Partner States of the East African Community:

TAKING COGNIZANCE of the Treaty for the Establishment of the East African Community;

DESIRING to establish a framework for Co-operation in Defence in accordance with Article 125 of the Treaty;

COMMITTED to the establishment of a framework for close co-operation in defence affairs for the promotion of peace, security and stability within and goodneighborliness among the East African Community Partner States (hereinafter referred to as “the Partner States”) in accordance with the objectives of the Community;

RE-AFFIRMING our faith in the purposes and principles-of the Charter of the United Nations, the Constitutive Act of the African. Union and our desire to live in peace within peoples and governments;

RECOGNIZING the principles of strict respect of sovereignty, equality, territorial integrity, political independence, good neighborliness, interdependence nonaggression and non-interference in Partner State’s internal affairs;

CONVINCED that peace, security and strong political relations are critical factors in creating a conducive environment for regional co-operation and integration;'

CONSCIOUS of the fact that close co-operation, mutual understanding and collaboration in matters of defence will be to the mutual benefit of our countries;

DESIROUS of establishing and consolidating further ties of friendship and fraternity between our countries and our Armed Forces;

INSPIRED by the need to establish an effective mechanism of cooperation in defence affairs;

HEREBY AGREE AS FOLLOWS:

“Partner States” means the Republic of Burundi, the Republic of Kenya, the United Republic of Tanzania, the Republic of Rwanda, the Republic of Uganda, and any other country granted membership to the Community;

“Peace Support Operations” means Peace keeping and Peace enforcement operations;

“Protocol” means this Protocol on Co-operation in Defence Affairs and any Annexes hereto;

“Search and rescue” means any operation undertaken to search for and rescue personnel in distress on land or at sea;

“Secretary General” means the Secretary General of the Community provided for under Article 67 of the Treaty;

“Sectoral Committee” means Sectoral Committee on Cooperation in Defence Affairs established under Article 10 of the Protocol.

“Terrorism” means

(a) Any act which is a violation of the criminal laws of a Partner State and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any member of group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:

i) Intimidate, put in fear, force, coerce or induce any government, body, institution, the general

public or any segment of any of these, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or

ii) Disrupt any public service, the delivery of any essential service to the public or to create a public emergency or create general insurrection in a Partner State;

(b) Any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt threat, conspiracy, organising, or procurement of any person, with the intent to commit any act referred to in sub paragraphs (a), (i) and (ii);

“Treaty” means the Treaty for the Establishment of the East African Community.

ARTICLE 1 INTERPRETATION

In this Protocol, except where the context otherwise requires:

“Armed Forces” means all forces, which fall under the jurisdiction of the Defence Chiefs of the Partner States.

“Community” means the East African Community established under Article 2 of the Treaty.

“Council” means the Council of Ministers of the Community provided for under Article 9 of the Treaty.

“Consultative Committee” means Consultative Committee on Cooperation in Defence Affairs established under Article 10 of this Protocol.

“Defence' Experts Working Group” means Defence Experts Working Group established under Article 10 of this Protocol.

“Defence 'affairs” means all activities which may be performed pursuant to this Protocol.

“Disaster management’ means decisions and operational activities to.- prevents, minimize, mitigate or recover from the impact of natural or manmade hazards.

“Joint exercises” means exercises, activities and rehearsals, conducted jointly by the Armed Forces of the Partner States.

“Joint operations” means operations, involving the combination of any of the Armed Forces, of the Partner States.

“Military training” means any training involving the Armed Forces of the Partner States.

ARTICLE 2 SCOPE OF CO-OPERATION

1. The Partner States shall cooperate in all defence affairs and collaborate with international and regional organizations to promote peace, security and stability in the Community.
2. Without prejudice to the generality of this Article, the Partner States agree, to inter alia cooperate in the following areas:
 - a) Military training;
 - b) Joint Operations; ,
 - c) Technical Co-operation;
 - d) Visits and exchange of information,

ARTICLE 3 OBJECTIVES

The objectives of this .Protocol are to:

- (a) Develop, promote and pursue policies and programmes aimed at widening and deepening cooperation

among the Partner States in defence affairs for their mutual benefits.

- (b) Promote peace, security and stability within, and good neighbourliness among Partner States in order to guarantee the protection and preservation of life and property, the wellbeing of the people in the Community and their environment as well as the creation of conditions conducive to sustainable development.
- (c) Anticipate and prevent conflicts. In circumstances where conflicts have occurred to undertake Peace Support Operations and Peace Building functions for the resolution of such conflicts.
- (d) Promote and implement peace-building and post-conflict reconstruction activities to consolidate peace and prevent the resurgence of violence.
- (e) Coordinate and harmonize regional efforts in the prevention and combating of international terrorism in all its aspects.
- (f) Undertake such other activities ancillary to cooperation in defence affairs that are calculated to further the objectives of the Community, as the Partner States may from time to time determine.

ARTICLE 4 FUNDAMENTAL PRINCIPLES

The fundamental principles that shall govern the Partner States in the achievement of the objectives under this Protocol shall include:

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

ARTICLE 5 OPERATIONAL PRINCIPLES

1. The operational principles that shall govern the practical achievement of the objectives of this Protocol shall include:
 - (a) the provision by the Partner States of an adequate and appropriate enabling environment, such as conducive policies and basic infrastructure;
 - (b) principles of subsidiarity with emphasis on multilevel participation and the involvement of wide range of stakeholders in the process of integration;
 - (c) The principle of variable geometry which allows for the progression in cooperation among groups within the Community for wider integration schemes in various fields and at different speeds.
 - (d) the equitable distribution of benefits accruing or to be derived from the operations of the EAC and measures to address imbalances that may arise from such operations;

- (e) the principle of complementarity; and
 - (f) The principle of asymmetry.
2. The Partner States undertake to abide by the principles of good governance; including the adherence to the principles of democracy, the rule of law, social justice and the maintenance of universally accepted standards of human rights.

ARTICLE 6 MILITARY TRAINING

The Partner States agree to cooperate in military training. For this purpose, the Armed Forces of the Partner States shall:

- (a) offer vacancies at each other's military training institutions' and facilities for training of personnel and for any other military duties related to training as may be jointly decided upon;
- (b) Endeavour to have joint conferences and training seminars;
- (c) exchange students and directing staff at their training colleges;
- (d) undertake training in joint Peace Support Operations as may be jointly agreed and shall endeavour to harmonize their syllabi and guidelines in regard to peace support operations; and
- (e) As and when agreed, conduct joint training exercises in disaster management, anti or counter terrorism and search and rescue operations.

ARTICLE 7 JOINT OPERATIONS

The Partner States agree to undertake joint operations. For this purpose, the Armed Forces of the Partner States shall cooperate in:

- (a) Handling disasters as well as search and rescue operations develop and implement necessary mechanisms in support of civil authorities and such other related matters as may be mutually agreed.
- (b) Joint formulation of mechanisms for the operationalization of Peace Support Operations within the contexts of the United Nations Charter and the Constitutive Act of the African Union.
- (c) Aid to civil authority in disarmament, maritime patrol and surveillance establishing an early warning mechanism and in combating terrorism and cattle rustling.

ARTICLE 8 TECHNICAL CO-OPERATION

The Partner States agree to undertake joint technical cooperation. For this purpose, the Armed Forces of the Partner States shall cooperate in:

- (a) the supply and acquisition of spares, use, repair and maintenance of military equipment;
- (b) military research and development and to this extent offer each other research facilities;
- (c) establishing and maintaining reliable and secure communication facilities between the Chiefs of Defence of their Armed Forces and shall encourage general communication at different levels in order to foster co-operation in defence;
- (d) Support of the joint- utilization of each other's defence industries and facilities.

ARTICLE 9

VISITS AND EXCHANGE OF INFORMATION

1. The Partner States agree to cooperate in visits and exchange of information.
2. For the purpose of paragraph 1, the Armed Forces of the Partner States shall cooperate in visits, information and cultural exchanges, rifle ranges and sports competitions in order to enhance, co-operation and spirit of comradeship amongst the Armed Forces of the Partner States.

ARTICLE 10 INSTITUTIONAL COORDINATION MECHANISMS

The institutional coordination organs of the EAC Partner States' Armed Forces are hereby established as follows:

1. The Sectoral Council on Cooperation in Defence Affairs;
2. The Consultative Committee on Cooperation in Defence Affairs;
3. The Sectoral Committee on Cooperation in Defence Affairs';
4. Defence Experts Working Groups.

ARTICLE 11 COMPOSITION AND FUNCTIONS OF THE SECTORAL COUNCIL

1. The Sectoral Council shall consist of the Ministers of the Partner States responsible for defence affairs.
2. The functions of the Sectoral Council shall be to:
 - (a) make -decisions and develop policies as directed by Summit of the Heads of State; and
 - (b) Implement decisions of the Summit of Heads of State.
 - (c) Review and consider reports from the Consultative Committee and coordinate their activities.

ARTICLE 12 COMPOSITION AND FUNCTIONS OF THE CONSULTATIVE COMMITTEE

1. The Consultative Committee shall be composed of the Permanent Secretaries of the Partner States responsible for defence affairs and Chiefs of Defence Forces.
2. The functions of the Consultative Committee shall be to:
 - (a) monitor and constantly review the implementation of the decisions of the Sectoral Council; and
 - (b) Review and consider reports from the Sectoral Committee and coordinate their activities.

ARTICLE 13 COMPOSITION AND FUNCTIONS OF THE SECTORAL COMMITTEE

1. The Sectoral Committee shall be composed of senior officers of the Armed Forces and such other officers as each Partner State may determine.
2. The functions of the Sectoral Committee shall be to:
 - (a) Prepare comprehensive implementation programme and set out priorities with respect to cooperation in defence affairs.
 - (b) Submit from time to time reports and recommendations to the Consultative Committee on the implementation of the Protocol.

ARTICLE 14 DEFENCE EXPERTS WORKING GROUPS

The Defence Experts Working Groups may from time to time be formed by the Sectoral Council on Cooperation in

defence affairs to discharge such responsibilities as may be deemed necessary by the Sectoral Council.

The Defence Experts Working Groups in discharge of their duties shall determine their own procedures.

ARTICLE 15 COORDINATION OFFICES

1. The coordination offices are hereby established as follows:
 - (a) the Defence Liaison Office;
 - (b) East African Community Desk in each Armed Forces Headquarters;
 - (c) Any other office as may be established by the Sectoral Council.
2. The Defence Liaison office at the Secretariat of the East African Community shall be:
 - (a) manned by senior officers not below the rank of Colonel seconded from the Armed Forces for a renewable term of three years who will be classified as professional officers of the Community;
 - (b) Responsible in the Sectoral Committee on cooperation in Defence Affairs matters of the Community except in respect to defence matters of an operational nature.
3. The functions of the Defence Liaison Office shall be to:
 - (a) provide the coordination link between the Armed Forces of the Partner States and the Secretariat;
 - (b) undertake, research work on all agreed military issues; and
 - (c) Perform such other duties as may be assigned by the Secretary General of the Community.
4. Each Defence Liaison Officer shall:
 - (a) be answerable to the Secretary General of the Community on administration matters and to the Armed Forces headquarters of their respective Partner States on all defence matters;
 - (b) be bound by Staff Rules and Regulations of the Secretariat in addition to being subject to the military law of their respective countries;
 - (c) ensure that classified documents in his or her custody are not handled by unauthorized staff
5. On the event of misconduct by a Defence Liaison Officer, the Secretary General will report to the Armed Forces Headquarters of the Partner State concerned and make appropriate recommendations, including the withdrawal of the Officer.
6. There shall be a Chair of the Defence Liaison Officers who shall be appointed in accordance with the practice of the Community.
7. The Chair shall be responsible for:
 - (a) Coordination-between the Defence Liaison Officers and the Secretary General.
 - (b) coordination and implementation of the Defence sector programmes and decisions within the Community Secretariat
 - (c) Performance of any other duties as may be assigned by the Secretary General.
8. There shall be a Desk at the Armed Forces Headquarters of each Partner State to be called the East African

Community Desk.

9. The East African Community Desk shall provide liaison between the Armed Forces Headquarters and the Secretariat.

ARTICLE 16
ACCESS AND MOVEMENT OF THE ARMED FORCES

1. The Partner States shall cooperate in the areas of Access and Movement of their Armed Forces
2. For purposes of paragraph 1, the Armed Forces of the Partner States shall as mutually agreed from time to time :
 - (a) use each other's military airfield, seaports and land-based facilities for visits, training, exercises, refuelling, navigation' and for other acceptable military purposes;
 - (b) access each other's military facilities in accordance with such procedure as shall be agreed;
3. The Partner. States shall- exempt from compulsory insurance, registration licensing, testing or payment of levies, fees, charges and tolls to visiting vessels, vehicles and aircraft which belong to the Armed Forces of any of the Partner States; .
4. The Partner States shall grant entry to members of the Armed Forces of one Partner State into .the territory of another Partner States on production of valid travel documents and. shall be subject to such statutory provisions on tax as apply to members of the Armed Forces of the host .Partner State.
5. The Partner State's shall regulate the status of their Armed Forces during visits in each other's territory in accordance with the Status of Forces Agreement hereto attached as Annex "A"

ARTICLE 17
MUTUAL DEFENCE PACT

The Partner States undertake to negotiate and conclude a Mutual Defence Pact within one year upon entry into force of this Protocol.

ARTICLE 18
IMPLEMENTATION

1. The Partner States undertake to ensure that necessary domestic regulatory or administrative measures are initiated in their respective territories to facilitate the implementation of the provisions of this Protocol.
2. The Partner States shall establish, maintain and review the strategy and plan of action for the implementation of the Protocol.

ARTICLE 19
FINANCIAL ARRANGEMENTS

1. The Partner States agree to share expenses arising from all joint training, operational and technical co-operation as shall be mutually agreed.
2. The costs of training of personnel at each of the Partner States training institutions shall be agreed upon separately and paid for accordingly.

ARTICLE 20
CONFIDENTIALITY OF INFORMATION

1. The Partner States agree not to disclose any classified information obtained under the operation of this Protocol other than to members of their own staff to whom such disclosure is essential for purposes of

giving effect to this Protocol.

2. The Partner States shall ensure that such staff shall at all times maintain strict secrecy.
3. The Partner States shall not use any classified information obtained during any multilateral co-operation among them to the detriment of any of them.

ARTICLE 21 DISPUTE SETTLEMENT

1. In the event of a dispute between two or more Partner States concerning the interpretation or application of this Protocol, the Partner States concerned shall seek the settlement of the dispute through negotiations and other alternate dispute resolution mechanisms.
2. If the Partner States concerned do not reach agreement as provided for in paragraph 1, the Partner States or the Secretary General may refer such dispute to the East African Court of Justice in accordance with Articles 28 and 29 of the Treaty.
3. The decision of the East African Court of Justice on any dispute referred to it shall be final.

ARTICLE 22 AMENDMENT

This Protocol may be amended by the Partner States in accordance with the provisions of Article 150 of the Treaty.

ARTICLE 23 ANNEXES

1. Annexes to this Protocol shall form an integral part of it.
2. The Partner States agree to conclude such other annexes on other areas of cooperation in defence affairs covered under this Protocol as they may deem fit and necessary.

ARTICLE 24 RELATIONSHIP BETWEEN THIS PROTOCOL AND OTHER PROTOCOLS UNDER THE TREATY

1. This Protocol takes cognizance of the existence of other Protocols on other areas of co-operation that affect co-operation in defence affairs within the Community.
2. The Partner States shall consult and co-operate on other Protocols with a view to ensuring the achievement of the objectives of this Protocol and avoiding any interference with the achievement of the objectives and principles of those instruments or any inconsistency between the implementation of those instruments and this Protocol.

ARTICLE 25 RELATIONSHIP BETWEEN THIS PROTOCOL AND OTHER REGIONAL AND INTERNATIONAL ARRANGEMENTS

The provisions of this Protocol shall not affect the rights and obligations of any Partner State deriving from any existing regional and international arrangements except where the exercise of those rights and obligations would be detrimental to the realization of the objectives of this Protocol.

ARTICLE 26 ENTRY INTO FORCE

1. This Protocol shall enter into force upon ratification and deposit of instruments of ratification with the Secretary General by all Partner States.
2. Upon entry into force, this Protocol shall supersede the Memorandum of Understanding on Co-operation in Defence signed by the Partner States on 30 November 2001.

ARTICLE 27
DEPOSITORY AND REGISTRATION

1. This Protocol and all instruments of ratification shall be deposited with the Secretary General who shall transmit certified true copies of the Protocol to all Partner States.
2. The Secretary General shall register this Protocol with the Secretariat of the African Union, United Nations and such other organizations as the Council may determine.

ARTICLE 28
SAVING PROVISION

Institutions and programmes of cooperation in defence affairs existing prior to this Protocol shall be accommodated under the institutional framework of this Protocol.

Annex "A"

STATUS OF FORCES AGREEMENT BETWEEN
THE PARTNER STATES OF EAST AFRICAN COMMUNITY

The Partner States have reached the following understanding relating to the status of the armed forces during the operation in military training visits and other related matters authorized by the protocol.

Areas of co-operation

1. The Partner State agree to inter alia cooperate in the following areas;
 - (a) military training
 - (b) joint operations
 - (c) technical co-operation
 - (d) visits and exchange of information

Access and movement

2. (a) Members of visiting armed forces on official visit shall be granted freedom of entry into and exit from the territory of the host Partner State upon production of an official service identification card and valid travel document.
 - (b) Competent authorities of the armed force will ensure that particulars of personnel and equipment entering or existing are provided in advance to appropriate host Partner State authorities for ease of administrative clearance.
 - (c) Members of visiting armed forces may use each other's military airfield, seaport and land-base facilities for visits, training, exercise, refueling navigation and for other acceptable military purpose,
 - (d) Members of the visiting forces of the armed forces of Partner State will access each other's military facilities in accordance with such procedure as will be agreed;
 - (e) The Partner States shall exempt from compulsory insurance, registration licensing, testing or payment of levies, fees, charges and tolls to visiting vessels, vehicles and aircraft which belong to the armed forces of any of the Partner States.

(d) The host Partner State shall ensure physical security of the- members of the visiting Armed forces and their equipment.

Uniforms and Arms

3. Members of the armed forces on official visits or training assignments may wear their respective service uniforms and insignia.. They may possess and carry-: arms when authorized to do so by their competent authorities after consultation with and subject to any restriction arid direction on - security' and such related matters imposed by the host Partner State acting through its competent authorities.

Costs

4. The costs of visits for purpose of this Agreement will be borne by the sending' States or as may be otherwise agreed by the Partner States.

Protection of the Laws

5. While on training, visits or other recognized military duties in the host Partner States, Armed Forces personnel will be in entitled to the protection of the law of that state.

Jurisdiction and enforcement of the law

6. In addition to the provisions on general protection of the law stipulated in the foregoing clause the following provisions will apply
 - (a) Armed Forces in charge of visiting member of a force may exercise in the host-Partner State disciplinary¹ jurisdiction conferred on them by the law of the sending Partner States of a member of its force.
 - (b) The courts of law of the host Partner State may exercise jurisdiction over members of visiting Armed Forces with respect to offences committed in its territory and punishable under its law.
7. In cases where the right to exercise jurisdiction is concurrent, the visiting Armed Forces will have the primary right to exercise jurisdiction if:
 - (a) The offence is against the property or security of the visiting Forces State or against the property or person of another member of that forces; or
 - (b) The offence arises out of an act or omission in the course of official duty and the host Partner State confirms that there is no overriding public interest in the trial of the offence by its courts.
8. In any other case the courts of the host Partner State will have primary right to exercise jurisdiction with respect to offences committed in that state and punishable under its law. Where a trial in respect of such offence takes place the accused will be entitled to all basic right of a fair and speedy due process of the law.
9. The host Partner State and the visiting Armed Forces will assist each other in the arrest of offenders for the purpose of handing them over under the provisions of clause 6 of this Agreement. They will in addition assist each other in the investigation and obtaining of evidence in relation to offences committed by members of a visiting force in the host Partner State.

Claims ad liabilities

10. Each Partner State undertakes to waive any claim it may have against the other Partner State, or any officer, serviceman, servicewoman, servant or agent of the other Partner State for injury (including injury resulting in death) suffered by its service personnel, servants and gents or for damage to or loss of property owned by the Partner State if such injury, death, damage or losses is caused by the acts or omissions of the other Partner State

or any officer, serviceman, servicewoman, servant or agent of that Partner State whilst in the performance of official duties in connection with the Protocol.

11. (a) The Host Partner State will deal with and settle in accordance with its law, all third party claims arising out of activities involving members of Visiting Armed Forces except those of a contractual nature.

(b) Where any such claim arises due to an act or omission of the Visiting Armed Forces or any of its personnel which results in injury, death, loss or damage done in performance of official duties related to this Agreement, the Host Partner State will subsequently charge 50% of the cost of the settlement to the Visiting Armed Forces. For the purposes of this clause "cost shall include all sums of money incurred by the Host State in settling the claim.

12. With regard to claims arising out of tortuous acts or omissions occasioned outside the course of official duties in connection with this Agreement, the host Partner State will consider the claim in a fair and just manner taking into account all the circumstances of the case the laws and practice prevailing in its territory and will submit a report to the Visiting Armed Forces Partner States for consideration and payment of compensation. If the offer of such compensation in full satisfaction of the claim is made and accepted, the Partner State of the visiting Armed Forces will, through the host Partner' State, make the payment.

Nothing in this clause will affect the jurisdiction of the courts of any of the Partner States to entertain claims against Governments, their service personnel, servants or agents for both contractual and tortuous claims, unless there has been payment in full satisfaction of the claim.

Taxation

13. Members of the visiting Armed Forces will be exempted from income tax and any other form of direction levied under the laws of the host Partner State on their- pay, allowances and other emoluments and benefits paid to them as such members. Remittances of such official and personal funds between a host and any Visiting Armed Forces of a Partner State will. Be freely permitted.

Imports and Export

14. Each Partner-State will allow Armed Forces personnel on visits exceeding three months to import into the- host Partner States free of duty their personal equipment and material as well as household effects and any furniture and one private motor vehicle for their personal use. Such goods imported free of duty may be re-exported freely and without payment of duty. Any disposal of these goods in the host Partner State by sale or otherwise will be subjected to the payment of duty in accordance with the law applicable.

Driving Licenses

15. The Partner State will accept as valid current driving license international driving license or service driving permits issued by each respective Partner State to members of its Armed Forces.

Health Facilities

16. The visiting armed forces' Partner State will be responsible for the cost of medical, optical, dental and hospital treatment for members of its Visiting Armed Forces and for arranging evacuation in the event that suitable medical treatment is not available. The host Partner State will, however, provide treatment for minor complaints at military medical reception centers free of charge.

Dispute settlement

17. (a) Any dispute regarding the interpretation or/application of this Agreement will be resolved through consultation among the Partner States.

(b) If the Partner States concerned do not reach agreement 'as provided for in paragraph I, either Partner State or the Secretary General may refer such dispute to the East African Court of Justice in accordance with articles 28

and 29 of the Treaty.

(c) The decision of East African Court of Justice or any dispute referred to it shall be final.

Amendment

18. The Partner States may at any time review and amend any of the provision of this Agreement upon the request of any of them.
19. Any amendment of this agreement under the provisions of the preceding sub- paragraph will take effect upon the signature of an addendum to this Agreement incorporating such amendment.