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INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**REGIONAL INTEGRATION AND ECONOMIC RIVALRY WITHIN THE EAC BLOC:
THE CASE OF KENYA-TANZANIA**

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DECLARATION

This research project is my original work and to the best of my knowledge has not been submitted to any other examination body for the award of any academic certification.



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



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Date

DEDICATION

Dedicated to my family members and friends

ACKNOWLEDGEMENT

I thank all those who supported me in one way or another as I undertook this research. First and foremost, I acknowledge the support of my supervisor, Dr. Martin Ouma for continuously guiding me. I thank all the lecturers who equipped me with the requisite knowledge to undertake this research. I also thank my family members for encouraging me in this academic journey. I am most grateful to my course mates who offered me relentless support. Last, but not the least, I thank my colleagues at work for giving me the support I needed to carry out this research.

ABSTRACT

Regional integration is a multifaceted process which involves collaboration, coordination, connectedness as well as and deep integration and not only involve economic and trade relations but also include political, social and environmental concerns as well. This study aim at examining the link between regional integration and economic rivalry within the EAC bloc using Kenya-Tanzania as a case study. It was guided by three objectives which include; examining the efficacy of the EAC Institutional Framework in enhancing the regional cooperation, investigating the factors leading to the economic rivalry between the two countries within the EAC economic bloc and investigating the strategies that has been applied in addressing the Kenya-Tanzania rivalry with in the EAC economic bloc. The study utilized Jakob Viner's Static analysis theory of trade integration to examine the link between regional integration and economic rivalry within the EAC bloc using Kenya-Tanzania as a case study. Further, the study utilized a pragmatic design that combines explorative and descriptive research designs to analyze the subject area. All the individuals targeted by the study were sampled using purposive and total population sampling techniques. Data was gathered from diplomats, EAC officials, immigration officials, academics and Civil Society Organizations as well as Business Persons who are engaged and well versed with issues of regional integration and economic rivalry between Kenya and Tanzania. The primary data was collected using interview guides that contained open-ended questions based on the study variables. The interviews were conducted through internet calls using Zoom and WhatsApp. This is because personal contact was greatly affected by the COVID-19 pandemic. Qualitative data was sourced from journals, printed materials and online sources. Data from interviews were analyzed using content analysis based on key themes. Findings were quantified and presented descriptively based on the relative importance of the key themes. The other findings were subjected to content analysis and presented in prose. Document analysis was used to analyze secondary data from journals and other sources. The findings show that, Article 9 of the Treaty provides the legal basis for establishment of the institutional framework and it guides the pursuit of EAC organizations' objectives. It is upon such institutional framework where the institutions and organs of the community are established. The efficacy of the institutional framework varies from one institution to the other. Additionally, there are several factors which are responsible for the economic rivalry that ensued between Tanzania and Kenya from 2019-2020. For instance, differences in political and economic ideologies are the main factors contributing to such acrimony and diplomatic row. There are several strategies which have been adopted to resolve the economic rivalry between these Kenya and Tanzania although their effectiveness differs from one to the next. This research study offers some policy and academic recommendations which can improve the rivalry between Kenya and Tanzania as well as restore cordial economic inter-state relations. For instance, there is need to ensure strict adherence to the stipulations of the common market protocols and those of the Treaty which led to formation of the EAC. Also follow and adhere to all binding decisions stemming from the joint cooperation commission (JCC) on matters pertaining the two states. i.e Kenya and Tanzania. Further, there is need for harmonization of immigration and travel documents among partner states so as to reduce trade and immigration bottlenecks, emanating from differences in national policies. There is also need for equitable sharing of transboundary resources among the two states to avert such rivalry in future.

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ACRONYMS

CAEA- Court of Appeal for East Africa;

CAS- Civil Aviation Safety

CMP-Common Market Protocol

CoM- Council of ministers,

COMESA-Common Market for Eastern and Southern Africa

DSB-Dispute Settlement Body

EAAC- East African Airways Corporation

EAC- East Africa Community

EACAS-East African Civil Aviation Safety

EACCM-East Africa Community Common Market

EACCM- East African Community Common Market Protocol

EACJ- East African Court of Justice

EADB- East African Development Bank

EAHC- East African Harbors Corporation

EAHRC-East African Health Research Commission

EAI-East African Integration

EAKC- East African Kiswahili Commission

EALA-East Africa Legislative Assembly

EAMRC-East African Medical Research Council

EAMU- East African Monetary Union

EAP's- East African Posts

EARC- East African Railways Corporation

EASTC- East African Science and Technology Commission

EATI-East African Trypanosomiasis Institute

EC- Emergency Committee

EC-European Commission

EC-European Council

ECJ-European Court of Justice

ECSC- European Coal and Steel Community

EPA-Economic Partnership Agreement

EP-European Parliament

EU- European Union

FDI-Foreign Direct Investment

FTA's- Free Trade Agreements

GATT's- General Agreement on Tariffs and Trade

ICDs-Inland Container Depots

IUCEA- Inter-University Council for East Africa

JBC-Joint Business Council

JCC- Joint Cooperation Commission

KEPHIS-Kenya Plant Health Inspectorate

KEPSA-Kenya Private Sector Alliance

KIAC-Kigali International Arbitration Centre

KNA-Kenya's National Assembly

KRA-Kenya Revenue Authority

LVBC-Lake Victoria Basin Commission

MoU-Memorandum of Understanding

NACOSTI- National Commission for Science, Technology and Innovation

NTB's-Non-Tariff Barriers

PSCU-Presidential Strategic Communication Unit

REI-regional economic integration

RIAs- Regional Integration Arrangement

SADC-Southern Africa Development Community

SCT- Single Customs Territory

SGR -Standard Gauge Railway

SG-Secretary General

SOA- Security Oversight Agency

SPSS- Statistical package for social sciences

TC-Telecommunications Corporation

TIC- Tanzania Investment Centre

TL- Telecommunications Corporation

TPSF-Tanzania Private sector foundation

TRA-Tanzania Revenue Authority

UK- United Kingdom

WTO- World Trade Organization

CHAPTER ONE: INTRODUCTION AND BACKGROUND

1.1 Introduction

The study seeks to examine regional integration and economic rivalry using the Kenya-Tanzania case. Using the outcome of this study, stakeholders might design more effective trade policies meant to minimize economic rivalry in the EAC as well as enhancing integration. The component of this chapter includes “a background to the study, statement of the problem, research objectives, and justification of the study, research questions, research methodology, and literature review”.

1.2 Background to the Study

1.2.1 Regional economic

Globally, regional integration intensified after the end of Cold of Cold War. Several countries started to liberalize their domestic markets and as well as forge intra-regional ties with other states sharing geographical proximity.¹Regional integration is a multifaceted process which involves collaboration, coordination, connectedness as well as and deep integration and not only involve economic and trade relations but also include political, social and environmental concerns as well.² Regional integration goes further than just international cooperation to include also cultural cooperation. The pioneer RIAs was established in Europe in 1950s when six European countries-“Belgium, France, Germany, Italy, Netherlands and Luxembourg”

¹Barcena, A., Prado, A., & Perez, R. (2014). *Regional Integration: towards an Inclusive value chain*. Santiago: ECLAC

²McInyre, M. (2005). *Trade Integration in East African Community: An Assessment*. Washington, D.C:International Monetary Fund

established the ECSC.³ The regional cooperation intensified and attracted several other countries while also incorporating other fields of cooperation such as Atomic energy and space cooperation. This initial integration set the foundation for the establishment of the current EU with 26 member states.

The motivation for regional, continental and global cooperation stems from the realization that no country is truly self-sufficient and at one point a particular country will need to sell or buy from another. Regional, Continental, and global cooperation arrangements help allow countries to sell or buy to specific markets with relative ease and potentially good transaction terms.⁴ In some instances, a mature economic integration eventually assumes additional roles of political nature allowing members to attain additional stability and strategic interests. However, trade disputes in any economic integration are bound to arise but what matters most is how quickly a dispute is detected, resolved, and its recurrence minimized.

Economic integration occurs over time before it can mature and acquire stability and utility. Correspondingly, trade disputes abound mainly driven by hegemony and no regional economic integration is foolproof to these disputes. What distinguishes one economic integration bloc from another about trade disputes is the speed of detection, resolution, and frequency of recurrence. The EAC faces several challenges, some of which include; trade disputes, boundary disputes and health-related disputes particularly the response to the ongoing Covid-19 pandemics. In particular, Kenya and Tanzania with and without an active East African economic integration have had several trade disputes that are now emblematic of the difficult relationship between

³ Hoffmann, S. (1964). The European Process at Atlantic Cross purpose. *Journal of Common Market Studies*, 3 (2), 85-110

⁴Shaev, B. (2018). Liberalizing Regional Trade: Socialists and European Economic Integration." *Contemporary European History*, 27(2), 258-279

Kenya and Tanzania.⁵ It is also thought the emerging Tanzania political and economic dominance might be making Kenya uneasy exacerbating the risk of trade disputes.

Economic integration can be categorized into five additive levels that include; free trade as the first level. Free trade promotes a significant reduction of tariffs between member states and in some cases complete abolishment of the tariffs. However, each member state maintains its tariffs regarding countries outside the free trade arrangement. The objective of FTA's is to establish strong economies that will enhance economic efficiency. The customs union is the second level of REI mandated with setting common external tariffs among member states. For emphasis, the same tariffs are applied to countries outside the customs union which implies that a shared trade regime has been attained. Custom unions play an important role in equalizing the competitive playing field as well as addressing the problem of re-exports.

Additionally, the third level of regional economic integration is the creation of the common market that defines how services and capital will freely move within member states, increasing the scale of economies, and achieving absolute advantages. Each national market will have its regulation on quality of products despite the existence of a common market. The fourth level of REI is the creation of an economic union also known as a single market.⁶ The economic union requires all tariffs are purged for trade between member states leading to the formation of a single market. This stage involves free flow of labour which provides an opportunity for workers to work in members states.

⁵Tuluy, H. (2016). Regional economic integration in Africa. *Global Journal of Emerging Market Economies*, 8(3), 334-354

⁶Tumwebaze, H., Karamuriro, K., & Alex, I. (2015). Regional economic integration and economic growth in the COMESA region, 1980–2010. *African Development Review*, 27 (2), 67-77

Additionally, fiscal and monetary policies between member states are harmonized paving way for the fifth level of economic integration identified as political integration. The last stage of economic integration is a political union that implies that there is a modern form of integration where member states lose their individual sovereignty and form a common government. Equally important, to note is that enhancement in economic integration also led to increase in complexity of regulations. There are costs which are associated with the complexity which negatively impacts on the levels of competitiveness in economic integration and restricts the flexibility of individual national policies. If not managed well, political integration often leads to calls for the disintegration of the regional economic integration or exit of some key members of the regional economic integration.

1.2.2 East African Community, trade cooperation, and rivalry

Founded in 1967, the EAC eventually dissolved in 1977 but later it was revived through a Treaty which led to formation of the EAC enacted by “Uganda, Kenya, and Tanzania, with Rwanda, and Burundi” joining later in 2007.⁷ South Sudan gained accession to EAC in 2016. “Kenya, Uganda, and the Tanzania” created a strong economic cooperation which set up a good platform for boosting economic, political, and social integration of the countries which constitute the EAC underpinned by their strong historical links. The main agenda of the EAC is to form a robust “Customs Union, a Monetary Union, a Common Market, and Political Federation” among the member states. The Treaty that led to formation of the EAC provides important principles that will help in boosting harmonious policy and integration among the member states.

⁷Geda, A., &Edris, S. (2015). The potential for internal trade and regional integration in Africa. *Journal of African Trade*, 2 (1), 19-50.

The principles of EAC promote the achievement of long term growth and development of the member states of EAC by promoting more harmonious and balanced development among the member states. The other tenet involves the consolidation and strengthening of collaboration and coordination in areas that will led to equitable economic development among the partner states and eventually improve the ways of life of the population in the region. Another principle of EAC requires the promotion of sustainable utilization of the natural resources and pursuing strategies that will successfully safeguard the natural environment of the members who constitute the EAC.⁸ The other important principle of EAC is that it calls for the promotion and reinforcement of all other spheres and interactions between the member states people. Among the other principles of the EAC, the principle requiring the promotion of security, peace, and stability within and enhancing good neighborliness among member states will be of critical concern in this discussion.

The current EAC consists of several organs making it a highly structured organization. These organs of EAC include; “the Summit, the sectoral committees, the council of ministers, the coordinating committee, the secretariat, the East African Court of Justice, and East African Legislative Assembly”. There is also EADB, EASTC, CASSOA, EAKC, EAHRC, LVBC, IUCEA, and LVFO. The EAC has set a premise for attaining full integration by having bodies that cover all possible dimensions that affect regional economic integration.

In brief, the Kenyan-Tanzania trade disputes embody historical engagement. Tanzania was late to join the EAI project which began after WWI when Britain took over the control of Tanzania after the defeat of Germany. Tensions surfaced linked to Kenya’s dominance soon after Tanzania

⁸ Cooksey, B. (2016). *Tanzania and the East African Community: A comparative political economy*. European Centre for Development Policy Management, Discussion Paper 186. Maastricht: ECDPM.

joined Customs Unions consisting of Kenya and Uganda in 1922. The trade imbalances issues between the then Tanganyika and Kenya were first raised as an issue in 1932.⁹ Kenya at the time was accused of adopting protective tendencies against imports from Tanganyika. Tanzania resorted to levying duty on imports from her neighbors at the same rate as imports from third countries. Despite the early interventions, the issue persisted. A 1961 report examining the fiscal and economic commission found that Kenya had traded fairly and did not employ predatory factors to dominate Tanzania and Uganda.

Following the independence of Kenya, Uganda, and Tanzania, an EC was created with the main aim of solving the trade imbalance between them. Consequently, the Kampala Agreement of 1964 was reached. Kenya failed to ratify the agreement citing it as detrimental to its interests which killed its implementation. As such, Tanzania and Uganda perceived Kenya as not willing to accept to change its dominant industrial status. Later on, the three countries overlooked the challenges identified in the Kampala Agreement of 1964 and established the first EAC. Measures were taken to assist in responding to the imbalances that created the hostility between the two countries. This led to formation of the EADB which was mandated with a responsibility of formulating strategies that help to justify industrial distribution among Kenya, Uganda, and Tanzania.

However, no significant achievement was realized and with the invitation of other factors the continued cooperation of Uganda, Kenya, and Tanzania became unsustainable. Tanzania closed her border with Kenya in 1977 which ultimately collapsed the first EAC.¹⁰ It can be argued that the Kenya-Tanzania schism led to the collapse of the EAC. Nevertheless, bilateral trade between

⁹OxfordAnalytica. (2017). *Kenya-Tanzania tensions will simmer*. Egmore, India: Emerald Publishing

¹⁰Siziba, C. (2016). *Trade Dispute Settlement in the Tripartite Free Trade Area. SECO/WTI Academic Cooperation Project Working Paper Series 2*. Bern: University of Bern

the two countries continued. Kenya and Tanzania acknowledged the need to revive cooperation and in 1988 the two countries signed the Kenya-Tanzania JCC. JCC sought to restore and improve social, political, and economic relations between Kenya and Tanzania. The JCC has remained the most critical guiding framework for the bilateral relationship between Kenya and Tanzania.

An illustration of the sporadic and frequent tensions between Kenya and Tanzania include the ban on liquefied petroleum gas exports where Kenya banned liquefied petroleum gas from Tanzania citing safety issues. Tanzania retaliated by blocking Kenyan dairy products as well as cigarettes. At one point Tanzania seized 1, 300 heads of cattle and auctioned the entire seized heads of cattle that had crossed over in 2017 in Tanzania before burning alive an estimated 6,500 day-old chicks a month later.¹¹ Nairobi protested this move. Again in recent years, Tanzania blocked the duty-free entry of Kenyan ice cream, sugar confectionery, chewing gum, and juice over suspicion of use of zero-rated industrial sugar that shifted the competition in favor of Kenyan companies. Further restrictions were slapped on textiles manufactured by firms in the Export Promotion Zones that enjoy tax incentives. From the Kenyan perspective, Kenyan manufacturers have leveled the accusation against Tanzania Food and Drugs Authority as well as Tanzania Revenue Authority of erecting unnecessary trade barriers such as requiring re-testing of goods before entry.

For emphasis, trade disputes in EAC integration will have an adverse impact on the economic integration bloc attaining full integration including currency integration. Trade disputes between Kenya and Tanzania include both tariff and non-tariff barriers. Despite both Tanzania and Kenya

¹¹ Oxford Analytica. (2017). *Economic goals will deepen Kenyan-Tanzanian divide*. Egmore, India: Emerald Publishing

being signatories to the EACCOMP the two neighbors continue to squabble have failed to sustain the free mobility of all goods and services within the partner states. The magnitude of these trade disputes has reached levels where each of the presidents has had to directly intervene to restore trade activities across the borders. The relatively high frequency of trade disputes between Tanzania and Kenya indicate that there are structural weaknesses in the EAC dispute resolution mechanism and the commitment of Kenya and Tanzania to fully operationalizing the EAC integration.

1.3 Statement of the Problem

The current frameworks are not generating the intended outcome. As a researcher, there is a need to investigate the frameworks in place that are not delivering the intended outcome. Trade integration frameworks deployed in various regional economic integrations have weaknesses and this increases the risk of occurrence of trade disputes as well as prolonged disputes. For the case of EAC and in particular Kenya-Tanzania disputes, there is no robust conflict resolution framework regarding trade that takes into account historical perspectives of the affected members. There is a need to use Kenyan-Tanzania trade disputes to examine the current frameworks.

Secondly, the current EAC trade framework failed to address the historical dimensions between Kenya and Tanzania that led to the disintegration of the first EAC. The current framework does not adequately address how trade disputes with historical connotations can be addressed. The inadequacy of the trade dispute framework in EAC is partly to blame for the frequency and length of trade disputes between the two countries. A study that traces the genesis of the Kenya-

Tanzania trade disputes to the colonial era will help provide more workable measures in resolving such conflicts and help achieve proactive trade dispute resolution.

Thirdly, there are no studies that focus on the Kenya-Tanzania trade disputes and the potential of these disputes to disintegrate the EAC. The first EAC was slowed down and eventually disintegrated largely due to the Kenya-Tanzania schism. As indicated the trade conflicts between Kenya-Tanzania goes back to the colonial era and this suggested deep-seated rivalries and fear of the unknown between these two neighbors. There is also the fear by Kenya that Tanzania is positioning itself to dominate the economy of the EAC member states as well as leverage on this position to exert more influence in other spheres of the EAC economy. A case in point concerns the standard gauge railway construction in the region and the construction of the oil pipeline that Tanzania might have won the confidence and interests of Uganda at the expense of Kenya.

1.4 Research Questions

- i. What is the efficacy of the EAC Institutional Framework in enhancing the regional cooperation?
- ii. What are the factors leading to the economic rivalry between Kenya and Tanzania within the EAC economic bloc?
- iii. What are the strategies that have been applied in addressing the Kenya-Tanzania rivalry with in the EAC economic bloc?

1.5 Research Objectives

1.5.1 General Objective

To examine the link between regional integration and economic rivalry within the EAC bloc using Kenya-Tanzania as a case study.

1.5.2 Specific Objectives

- i. To examine the efficacy of the EAC Institutional Framework in enhancing the regional cooperation.
- ii. To investigate the factors leading to the economic rivalry between Kenya and Tanzania within the EAC economic bloc.
- iii. To investigate the strategies that has been applied in addressing the Kenya-Tanzania rivalry with in the EAC economic bloc

1.6 Literature review

This study makes a literature review drawn from previous studies done on the subject of regional integration and on economic rivalry between Kenya and Tanzania. The literature is drawn from published studies, research journals, thesis, online sites, Policy pronouncements, newspapers and institutional reports. Literature review enables the researcher to establish knowledge gaps which need further probing and examination.

1.7 Theoretical literature review

The study employed two theories to address economic integration which include; Andrew Moravcsik's liberal intergovernmentalism theory and Ernst Haas structural functionalist theory.

1.7.1 The Liberal Intergovernmentalism Theory

The liberal intergovernmentalism theory was advanced by Andrew Moravcsik as a grand theory of explaining regional integration in Europe. This theory includes the liberal and realist perspectives of explaining international relations in which states are regarded as the primary actors in the conduct of international politics.¹² The liberal intergovernmentalism theory was adopted by Andrew Moravcsik to explain the European Union as “a unitary institution composed of states with interests and as the main actors in a situation of anarchy, where each and every state achieves their goals and aspirations through negotiations and bargaining”. This theory assesses the process of negotiations and transactions among the governments of respective states with membership to an integrated regional bloc.

Liberal intergovernmentalism theory has proved its usefulness in explaining regionalism particularly the grand decision-making processes such as treaty making among sovereign states. While liberal intergovernmentalism theory is applicable in explaining the grand decision making processes of regional integration, it is heavily criticized for over-emphasizing on grand-decision making while overlooking on the everyday processes of regionalism in which states interact.¹³ Whereas, states engage on a continuous basis on matters regarding policy and setting new economic agendas which reflect their national-interests, their interaction is characterized by rivalries, competition and sabotage. In this case the liberal intergovernmentalism theory is applicable in explaining regional integration in East African Community and the overriding states’ interest which often collide creating an inter-state rivalry.

The liberal intergovernmentalism theory, is applicable to this study in explaining both Kenya and Tanzania’s economic negotiations and bargaining point of view and the grand decision making

¹²Cini, M., &Perez, N. (2015). *European Union Politics*. London: Oxford University Press

¹³ Ibid, P. 18

processes, cognizant of the differences in economic motivations. It appears that both countries – Tanzania and Kenya, adopts the liberal intergovernmentalism theory in advancing respective states’ interest and bargaining as well as negotiating for suitable economic policies which serve respective governments’ interest in the region. Liberal intergovernmentalism theory is a series of rational choices made by governments which respond to respective state interest. Through economic integration both states have embraced free trade based on liberalized markets that allow for consumption and production efficiency as well as market access to each other. Through rationality, Tanzania takes a measured approach to complete liberalization of its markets to outside players that seem to have an advantage over, while Kenya favors of a complete integration with free mobility of goods and services as well as freedom of residence and establishment.

1.7.2 Structural Functionalist Theory

Structural functionalist theory was advanced by Ernst Haas in 1975 to describe the value and significance of regional integration in Europe. Structural functionalism proposes for a supranational entity in which states are regarded as the primary actors of international relations which cannot function in isolation but rather have to partner with other states to achieve their specific interest.¹⁴ Basically, this theory incorporates the federalist ambitions of supranationalism which are based on functionalist base where states function as a unitary units governed by a supranational entity.¹⁵ The originality of this theory is based on incorporating functionalist logic with that of neo-classical rational actor paradigm as well as the economic theory, where the

¹⁴ Jarvis, D.S. (1994). *Integration Theory Revisited: Haas, Neo-Functionalism and the problematic of European Integration. Policy, organization and Society*. Philadelphia: Taylor and Francis Group, LLC

¹⁵ Schiff, M., & Alan, W. (2003). *Regional Integration and Development*. Washington: World Bank Publication.

beneficial elements of customs union and monetary union spill-over into political sphere creating a supranational political community.

The structural functionalist theory is applicable to this study as it explains the ceding of national sovereignty of a particular state and creating a supra-national entity-EAC. The EAC can be regarded as a supra-national entity comprising of six sovereign states which have ceded state sovereignty to a larger authority for economic, political, socio-cultural and environmental considerations. The EACJ is the supra-national entity mandated with the dispute resolution among the partner states.¹⁶ According to Saende, there is a need to enhance the jurisdiction of the EACJ and to overhaul its structure to attain the effectiveness required to promote the economic integration and development of the EAC.¹⁷ Structural functionalist theory identifies the supra-national jurisdiction of the Court and the binding nature of the resolutions which can emanate from the member states. Whereas, there has been an economic rivalry between Tanzania and Kenya, the EACJ has not been invoked to settle the dispute leaving the matter for the political actors in both countries to solve.

1.8 Empirical Literature review

1.8.1 The efficacy of the EAC Institutional Framework in enhancing the regional cooperation

The global trade is conducted under an elaborate The WTO is the global supra-national entity mandated with the dispute resolution related to trade among sovereign states. Whereas, the main aim of the WTO is to guarantee free flow of trade, the international body is mandated with

¹⁶Saende, G.P. (2012). *Dispute resolution within East Africa Community: The East African Court of Justice and its jurisdiction*. Nairobi: University of Nairobi

¹⁷ Ibid

dispute resolution through systems outlined under Article 4 of the DSU.¹⁸ Disputes related to trade among member states of WTO are done through use of peaceful methods of dispute resolution which are provided for in “Article 5 of the DSU”.¹⁹ The DSU provides solutions to the disputing parties which are unanimously accepted by both conflicting parties.

Among the notable shortcoming of the WTO dispute resolution is the numerous dispute settlement cases which have featured prominently unlike in the GATT era.²⁰ According to Jean-Baptiste, the WTO is handling an average of 25 cases per year through the WTO DSB which is huge increase compared to the cases handled by the GATT. GATT has handled over 101 dispute settlement cases during its half century existence. However, there has been an increase in complainants in the last 25 years party attributed to the enhanced scope which WTO agreements cover.²¹ The increase in the number of cases referred to the WTO DSB indicates a deviation from the previous GATT had favored defendants, and most likely deterred the and probably inhibited prospective complainants from tabling their cases. It functions on basis of consensus, therefore providing all the parties with a room to obstruct any action at almost any stage. However, on the other hand the WTO does not offer such opportunities.²²

The differences in legal systems present a procedural shortcoming of the dispute resolution mechanism among member states forming the WTO. Some countries have the common law legal tradition “principally composed of former colonies of Great Britain” while others have pluralist systems of law which makes it challenging refer to each other’s cases in case of litigation. Those that have a code law tradition “principally descended from Roman, Spanish or French legal

¹⁸ UNCTAD. (2003). *Dispute settlement*. New York/Geneva: WTO Publication, P. 48

¹⁹ Ibid, p.48

²⁰ Jean-Baptiste, S. (2005). *Dispute Resolution; A treatise on Political Economy (1803)*. WTO: Geneva

²¹ Ibid

²² Ibid

systems” and those that are pluralist “a mixture of traditions” cannot refer to each other and this presents a litigation shortcoming to dispute resolution in regional blocs.

In the EAC regional integration, the presence of various legal systems presents a daunting challenge and a shortcoming of the dispute resolution system. According to Muigua Kariuki, the EAC partner states have differing legal systems which challenge the process of harmonizing them.²³ This also challenges the functions of the court in handling transnational commercial disputes largely due to difference in application of procedures and laws. For instance, Tanzania’s rules on arbitration have received critic because they are archaic and requires immediate reforms.²⁴It is noteworthy that, until the establishment of the KIAC in Rwanda, there lacked formal apparatus for solving disputes for instance the international commercial arbitration thereby hindering foreign direct investment particularly from regional countries. Notably, “the Burundian Code” lacks framework for integrating it with the regional initiatives.²⁵

1.8.2 The Factors leading to the economic rivalry between Kenya and Tanzania within the EAC economic block

Rivalry within trade blocs can impact the global supply chain and trigger tariff wars. In recent years, the United States and China have been locked in bitter trade disputes where each of these big economies imposed tariffs and retaliatory tariffs on a lot of billions of dollars’ worth of each other’s goods. The US has implicated China of biased trade dealings and unfairly theft. China on its hand sees the actions of the United States of America as an effort to prevent increased global economic power. Even though negotiations are ongoing, a long-lasting solution appears difficult.

²³Muigua, K. (2015). *Building Legal Bridges: Fostering Eastern Africa Integration through Commercial Arbitration*. Nairobi: University of Nairobi

²⁴Bitekeye, A. (2013). *Tanzania’s arbitration laws outdated, new statutes a must*. Dar es Salaam: The Citizen Publication

²⁵ Op cit, Muigua, P.63

The unpredictability surrounding the trade war has damaged other businesses within China and the United States as well as outside the two feuding economies.

In Africa, economic rivalry is ripe, with various economic and political ramifications. The COMESA constitutes one of the vibrant regional economic communities with a large geographical scope. COMESA has reported several rivalries that slow down trade, disrupt the supply chain, and threaten to slow down the continued cooperation in the economic integration community.²⁶ A case in point was the trade dispute between Zambia and Kenya. Zambia requested the Secretariat of COMESA to intervene and resolve longstanding disputes with Kenya over exports of cooking oils in the country. The trade disputes between Kenya and Zambia are several and at some point, Zambia banned Kenyan milk exports citing safety concerns. Sudan, Malawi, Mauritius, Zambia, Egypt, and Zambia have had trade disputes with Kenya. One of the major impacts of rivalry in COMESA is that it has triggered protectionist tendencies as members mistrust the honesty claimed by each other.

Within the EAC several trade disputes breed mistrust and slow down progress towards attaining full regional economic integration. For instance, Uganda and Rwanda have feuded over the introduction of an export permit system by Rwanda for those that intend to export goods to Uganda and to which there has been no successful applicant. Uganda accused Rwanda of introducing a trade embargo by blocking goods and Rwanda-registered trucks from crossing into Uganda. Rwanda denied the claims by Uganda.²⁷ At one point Rwanda closed the Gatuna border post disrupting the flow of trade and movement of people. Kenya on the other hand has had trade

²⁶Gathii, T. (2018). *The COMESA Court of Justice*. Cambridge: Cambridge University Press

²⁷Otieno-Odek, J.(2017). *Judicial Enforcement and Implementation of EAC Law*. Leiden: Brill Nijhoff

disputes with both Tanzania and Uganda where Kenyan traders called for scrapping punitive taxes that make Kenyan products uncompetitive in Uganda and Tanzania.

Various factors are responsible for the economic and political rivalry between Kenya and Tanzania. According to Cooksey, Kenya is the fourth largest source of FDI in Tanzania accounting for approximately 430 Kenyan investments in Tanzania.²⁸ Further, Cooksey posits that; there has been a decline in the Kenyan exports to Tanzania, for instance from 2008 to 2014, Kenyan manufactured exports to Tanzania reduced by 36 per cent.²⁹ The disputes between Kenya and Tanzania stem from their common border shared among the communities from both sides practicing agriculture and cattle grazing. In 2020, Tanzanian authorities auctioned off cattle of Kenyan Maasai Pastoralist and burnt alive chicks from Kenya Traders at Namanga boarder.³⁰

The Maasai community along the shared border have experienced harassment from the two country's authorities, (particularly Tanzanian Authorities have confiscated Kenyan cattle). The border dispute between Tanzania and Kenya originates from the Anglo-Germany Agreement which divided the Maasai along the two countries. According to Sayagie, tensions have increased among the two states largely attributed to confiscation and auction of 1,125 cows of Kenyan Maasai herders by Tanzanian government who as well sold another 2,400 cows after they crossed into Mt Kilimanjaro National Park in search of pasture.³¹ One of the negative impact of the Anglo-Germany Agreement was the interference and interruption of family and cultural ties of the Maasai who occupy Kajiado and Longido plains. According to Temba, trade rivalry between Kenya and Tanzania erupted in 2016 when Tanzania declined to be involved in

²⁸Cooksey, B. (2016). *Tanzania and the East African Community: A comparative political economy* (No. 186, p. 76). *Discussion paper*. Maastricht: ECDPM

²⁹Ibid

³⁰Standard. (2020). Increased EAC Border Dispute Threaten Kenya's Export Market. *The Standard Group*

³¹Sayagie, G. (2018). *Kenya marks Kenya-Tanzania border afresh amid persistent Row*. Nairobi: Business Daily.

the EPA with the European Union, abandoning Kenya and Rwanda to commit with the European Union independently rather than as a fortified trading bloc.³² Another trade dispute between the two countries relates to the increased inspection fee for all trucks from Tanzania to Kenya. The KEPHIS increased its inspection fee for all trucks from Tanzania from Ksh. 1600 to Ksh. 8100 per truck.³³ Tanzania argued that Kenya needs to revise the fee down from Ksh. 8100 to Ksh. 1600 given that the decision was only distorting trade among the partner states in EAC and not promoting it. KEPHIS is still charging KSH. 8100.³⁴

1.8.3 The strategies applied in addressing the Kenya-Tanzania rivalry in the EAC

Inter-state economic rivalry has been a global phenomenon for decades involving partner states as well as non-partner states on matters related to trade agreements and protocols. For a variety of both political and economic reasons, member states in RIAs have found themselves entangled in both economic and political rivalries which often times have threatened to tear their integration apart. The exit of UK from the European Union (EU) popularly known as Brexit is a case in reference to both political and economic consideration which has threatened the progress of regionalism in Europe. Consequently, various strategies have been adopted to solve the rivalries emanating from those political and economic disputes.

On the global scene, the Appellate Body of WTO is the primary organ responsible for solving economic rivalries emanating from RIAs. It consists of two members that lead the appeals board of the WTO. In 2019 one of the two members of the Appellate Body retired and with the appointment of more members being blocked by the United States, the dispute settlement

³² Temba, K. (2019). *Relations between Kenya and Tanzania are ripe for strengthening*. Nairobi: Standard media Group.

³³ Seno, J. (2019). *Integration, Cross Border Trade and Dispute Settlement between Kenya and Tanzania*. Nairobi: USIU-AFRICA

³⁴ Ibid, pp. 45-58

mechanism of WTO remained suspended and trade wars including the current United States-China may become frequent and sustained.³⁵ Initially, the Appellate Body consists of seven members but it was reduced to three members which is the minimum number of members needed for its functioning.

Another major challenge with the WTO dispute resolution mechanism is that the process is comprehensive and involving which can increase the cost of a trade dispute. The other challenge with trade rivalry is when member states over-enforce agreements by exploiting opportunities in the agreements such as national security concerns to impose unilateral tariffs. The danger of this tactic is that it motivates the affected country to retaliate using the same premise. Despite these challenges, the dispute settlement system of WTO remains highly efficient compared to any other economic integration arrangement globally.

In the African context, the major challenge faced in addressing economic rivalry is the multiple memberships to several regional economic communities as well as global economic integrations creating a conflict of interest and divided interest. For instance, Tanzania divides its commitment to SADC, the EAC, and the COMESA as well as the WTO. The myriad of memberships in several economic integration blocs makes some countries less committed to operationalizing and resolving issues with a particular member country in a regional economic community that might not generate the highest gain for the country. In other terms, most African countries might not feel compelled to solve a trade conflict with member states as they have several options with other regional economic forums with equal or better economic gains. Finally, most of the

³⁵Swanson, A. (2018, June). US and China Expand Trade War as Beijing Matches Trump's Tariffs. *The New York Times*

regional economic communities lack robust structural dispute detection and resolution mechanism that is sensitive to the specific needs of the regional economic community.

Like other REC's in Africa, the EAC dispute resolution framework is still young and lacks the robust structural mechanism to detect and resolve economic rivalry among member states. Some of the economic rivalry among certain member states is long-standing and dates back to the colonial era and is also informed by ideological differences regarding regional economic integration such as the Kenya-Tanzania economic hegemony. The economic rivalry between Kenya and Tanzania also concerns strategic interests in the Eastern Africa region such as increasing a share of transit goods through their coastal ports, and the oil pipeline revenue interests.³⁶ Unlike WTO, trade disputes resolution in EAC is not comprehensive and this leaves room for future conflicts due to the incomplete analysis of the problem.

Various strategies have been adopted to solve the inter-state rivalry between Kenya and Tanzania. The Kampala Agreement is one of the approaches that aimed at solving the trade wars and revamp investment in order to enhance industrialization prospects for Tanzania and Uganda. Adhering to the rules of origin has been adopted as one of the strategies for minimizing trade wars between Kenya and Tanzania which have destabilized cement production and export between the two countries. Adherence to the rules of origin procedures is a procedural solution that has enabled manufacturers and exporters access preferential treatment in their counterparts markets. Trade facilitation mechanism has been adopted as a strategy of minimizing the time taken to clear goods at the point of entry and exit in both countries (OSBP).

³⁶Kassee, D. (2014). "The WTO agreement on trade facilitation: status of play in Southern African customs." *World Customs Journal*, 8 (1), 101-112.

1.8.4 Literature Gaps

The literature review has established a number of gaps which need further examination and provision of empirical evidence to address. First, the differences in legal systems among the countries are a factor of legal, economic and political consideration. Variation in legal systems stems from the historical context within which each respective state making the regional bloc is premised. Whereas, some of the countries are using the British common law due to their colonial orientation to British colonial system others are aligned to the pluralist tradition which is a mixture of legal traditions (Burundi is case of reference).

The literature review has established that; “the Burundian legal Code” lack proper framework for integrating it with regional initiatives, which is important in reflecting Burundi’s entry into the EAC, as it provides an opportunity for FDI. Therefore, the legal frameworks need to be harmonized and advanced so that it can reflect the EAC goals. Notably, “Kenya, Uganda and Tanzania” have common legal system “Common Law”, while Rwanda and Burundi have “civil law system” which hampers legal process in the EAC. The differences in legal systems is a gap in knowledge which needs further probing.

There lacks adequate research addressing the use economic barriers to trade such as sanctions. Cross-border commercial transactions have triggered an economic rivalry among the member countries. The differences in economic development presents a fair share of challenges in regards to dispute resolution. Differences in level of economic growth and development among the member states making the EAC constitutes a major hindrance to amicable dispute resolution among the member countries. These economic differences present myriad of challenges especially to the developing countries and it’s important for these countries to establish modern

and elaborated regulatory and judicial mechanisms that will enable them to trade with other developed countries.

Further, the literature has established there is a thin line between legal institutions and public institutions which blurs position of law and politics, hence, encourages the entry of political elites in commercial cases requiring legal arbitration. The current literature did not adequately examine these type of challenges. Further, the reviewed studies on EAC have largely reported the frequency and type of trade disputes between the two countries but did not examine the challenges faced in attempting to address them.

1.9 Theoretical framework

This study shall utilize Jakob Viner's Static analysis theory of trade integration.³⁷The study by Viner attempts to explain the advantages and disadvantages of economic integration. This theory provides the differences between the impacts of trade creation and trade diversion. For instance, trade creation occurs when ratifying a treaty between two parties or states where the trade deal changes from “a higher-cost producer” to “a least-cost producer” among the partner states. However, trade diversion occurs when imports change from “a lower price producer” in a developing country that is not consolidated into a treaty to “a higher price producer” from a partner state. All these developments arise when a common customs tariff is adopted if the treaty protects “the higher cost supplier” from a partner state. As such, Viner argues that trade creation increases the well-being of a country but on the other hand, trade diversion reduces it. In summary, Viner argues that countries tend to be motivated to engage in the integration process

³⁷Marinov, E. (2014). Economic integration theories and the developing countries. *The Journal of Political Economy*, 73 (5), 164-177

especially when its making profits and using lower costs or when the process results to increased trade creation than trade diversion.

Using the static analysis theory, the study will argue that Kenya and Tanzania in the Kenya-Tanzania economic rivalry in the EAC bloc are motivated by the need of each of these countries to achieve the highest trade creation at the expense of the other. On the other hand, each of these countries seeks to lower trade diversion and none of these countries wants to feel taken advantage of. Kenya and Tanzania often employ temporary trade barriers that might not be procedural to protect their interests especially by seeking to control trade creation and trade diversion in the context of EAC trade.

1.10 Justification of the study

1.10.1 Policy justification

The proposed study will inform current Trade and Commercial arbitration as well as informing policy on dispute resolution within the EAC region. The research shall also assist policymakers in addressing issues linked to economic rivalry in the EAC and in particular between Kenya and Tanzania cognizant of the historical significance of the genesis and impact of their inter-state rivalry.

1.10.2 Academic justification

As suggested, the proposed study will help fill the gaps in the literature regarding the regional integration and economic rivalry within the EAC bloc using the case of Kenya-Tanzania. The proposed study will examine the gaps with the current trade frameworks and how it precipitates trade conflicts in EAC. The same study will also examine how economic rivalry affects regional

economic integration in EAC. The knowledge generated shall inform future academic discourse and equip international studies scholars with empirical evidence suitable for their research.

1.10.3 To the General Public

The general public can infer to this research to obtain in-depth knowledge on the dispute between Kenya and Tanzania and the economic rivalry which emerged soon after the outbreak of the global pandemic-Covid-19. Majority of the population in the two countries shall benefit with this research, as they shall establish the actual fall-out between the two countries and the cost thereof, which shall inform their decision-making processes in regard to intra-regional immigration, trade and residence. The findings of this research shall inform the general public on the channels of dispute resolution in the event of facing commercial disputes.

1.11 Study Hypotheses

H₁: Trade framework within the EAC is influencing the integration process within the EAC

H₀: Trade economic rivalry between the members of the EAC is not influencing the integration process within the EAC.

1.12 Research Methodology

This chapter discusses the “research design, study area, target population, sampling design and sample size, data collection procedures, validity and reliability of research instruments, data analysis and presentation techniques including ethical considerations”.

1.12.1 Research Design

This study utilizes a pragmatic design that combine explorative and descriptive research designs as well as a case study to examine the link between regional integration and economic rivalry

within the EAC bloc using Kenya-Tanzania. These designs describes and interprets the existing phenomena and later provides information with an aim of assessing the environment of the underlying circumstances, establishing the norms against which underlying circumstances can be compared in the population in terms of attitudes, opinions, values, needs and traits.³⁸

1.12.2 Study Site

Study site refers to the location the research will be conducted.³⁹The study was conducted in Kenya and Tanzania which for a long time have been engaged in an economic rivalry worsened recently by emergence of Covid-19 pandemic.

1.12.3 Target Population

Target population is a set of individual who have specific interests and knowledge on the subject matter.⁴⁰This study targeted diplomats, EAC officials, immigration officials, academics and CSO as well as Business Persons who are engaged and well versed with issues of regional integration and economic rivalry between Kenya and Tanzania.

1.12.4 Sampling Procedure and Sample Size

A sample is “a small part of large population, which is thought to be representative of the larger population while sampling is the process”.⁴¹ The researcher utilized simple random and purposive sampling procedures in selecting the sample size of the study. The study focused on populations of interest for this study who are selected from stakeholders involved in issues of regional integration. These techniques allowed representation of all units and relevant

³⁸ Kothari, C. (2004). *Research Methodology: Methods and techniques*. New Delhi: new Age international Publishers

³⁹Creswell, W. (2003). *Research Design: Qualitative, quantitative, and mixed methods approaches*. Thousand Oaks, CA: Sage Publications

⁴⁰ Paul, L. 2008). *Target Population*. Thousand Oaks: Sage Publications

⁴¹ Kothari, C. (2004). *Research Methodology: Methods and techniques*. New Delhi: new Age international Publishers

respondents to participate in the study. The sample size for this study was 133 respondents as shown in the table below.

Table 1.1 Target Population, Sample Size and Sampling procedure

Target Group	Target Population (N)	Sample size (n)	Sampling procedure
Diplomats	20	21	Purposive
EAC officials	30	22	Purposive
Immigration Officials	30	22	Simple random and Purposive
Civil Society Organizations	20	22	Purposive
Academicians	50	23	Purposive
Business Persons	50	23	Simple Random and Purposive
Total	200	133	

Source; Researcher, 2021

The selection of sample was based on the formula, $n = \frac{N}{1 + \frac{N(e)^2}{L}}$ proposed by Yamane (1967).

The sample size is therefore derived as follows:

n= Sample size required

Where: N = Total study population

e = The level of precision

n= 131

N=200

$1+200(0.05)^2$

$1+200(0.0025)$

n=200/1.5

n=131 Respondents

1.12.5 Data Collection Tools

The researcher adopted a questionnaire which captures both qualitative and quantitative data. This method prevents issues of duplication. The questionnaire aims at yielding maximum information and data. The questionnaire included both “open-ended and closed-ended questions” which helped in collecting sufficient data. The questions are designed in a manner that is flexible in questioning and have subsequent follow up questions that offer the participants an avenue to air their views more on the questions.

1.12.6 Data Analysis

Qualitative data analysis involves assessing the qualitative data with an aim of assisting the researcher explain a phenomenon. The study utilized content analysis to analyze both qualitative and quantitative data.⁴² In addition, SPSS version 22 was used to analyze quantitative data.

⁴²Kawulich,B. (2004). *Qualitative Data Analysis Techniques*. Carrollton: University of West Georgia

Herein, the findings obtained were described in prose with the emergent meanings being highlighted.

1.12.7 Scope and Limitations of the Research

Limited time and working within strict timelines were the limiting factors in this study. Movements to collect some relevant data were constrained due to time, financial restrictions and the prevailing situations of the COVID -19.

1.12.8 Legal and Ethical Considerations

The study made an effort to maintain ethical standards. This began with voluntary participation obtained through informed consent. To this end, the targeted research participants were briefed before participation and guaranteed of their anonymity, to encourage them to be more willing to engaged in the study. To this end, the participants were assured that no identifying information will be used to link them with the data provided. The researcher also sought all the necessary documents from relevant authorities including a permit from NACOSTI to enable her to conduct the research.

1.13 Chapter Outline

Chapter one covers “introduction and background of the study, statement of the problem, objectives and research questions, theoretical framework and justification of the study, literature review, research hypotheses as well the methodology”.

Chapter two examines the efficacy of the EAC Institutional Framework in enhancing the regional cooperation.

Chapter three investigates the factors leading to the economic rivalry between Kenya and Tanzania within the EAC economic bloc.

Chapter four investigates the strategies that has been applied in addressing the Kenya-Tanzania rivalry with in the EAC economic bloc

Chapter five presents summary, conclusion and recommendations.

CHAPTER TWO

THE EFFICACY OF THE EAC INSTITUTIONAL FRAMEWORK IN ENHANCING REGIONAL COOPERATION

2.1 Introduction

This chapter examines the institutional framework informing the regional integration in the East African region. Specifically, the chapter presents analytical overview of the institutional framework governing the EAC organs and protocols facilitating the intergovernmentalism liberalization of intra-regional markets. The analytical overview facilitates the determination of efficacy of the institutional frameworks, confirmed utilizing both primary data supplemented by secondary data. First, the chapter presents the statistical analyses of the response rate and demographic information of respondents.

Table 2.1 Response Rate

Questionnaires Issued	Questionnaires returned	Response Rate
133	100	75.1%

Source; Researcher, 2021

The sample of the study was 131 which included diplomats, EAC officials, immigration officials, academics and CSO as well as Business Persons who are engaged and well versed with issues of regional integration and economic rivalry between Kenya and Tanzania. The researcher issued 133 questionnaires but only 100 questionnaires were returned which led to response rate of 75.1% which was considered sufficient enough for analysis as shown in table 2.1 above.

2.2 Demographic Information

Among the respondents who participated in this research, 60 per cent were male while 40 per cent were female. From the figure below, male participants were higher than the female ones especially in engagement of national and political issues. Therefore, male participants had knowledge on boundary disputes and solutions compared to the females.

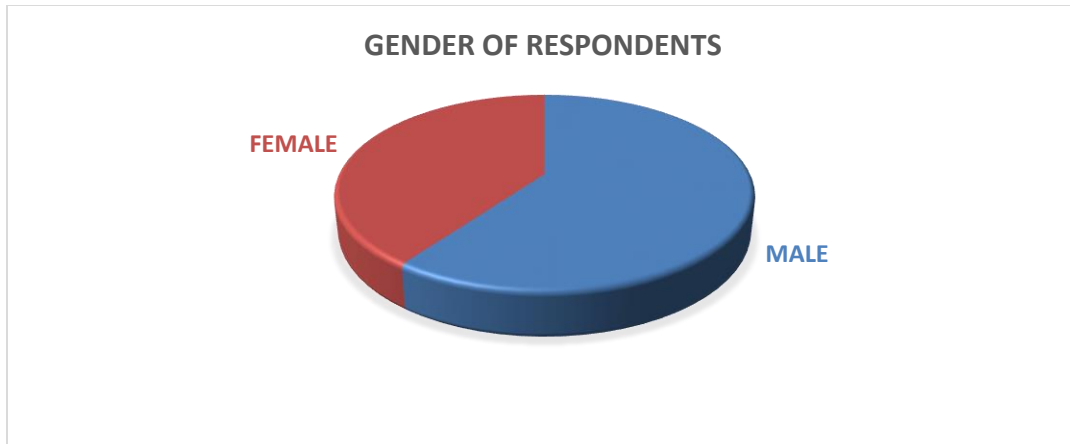


Figure 2.1; Gender of the respondents

Source: Field Data, 2021

2.2.1 Age Distribution

The age distribution is an important aspect of this research. According to Figure 2.2, most of the participants were aged between 36-50 years while the rest were aged 65 years and above. This is demonstrated by the table below.

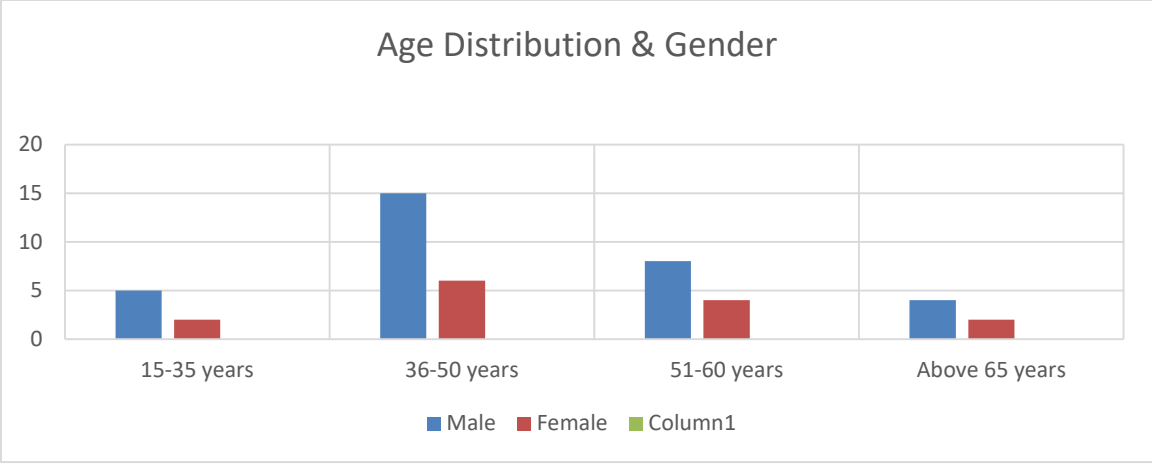


Figure 2.2; Age of the Respondents

Source: Field Data, 2021

2.2.2 Occupation and/or Organization

The research found out that, the occupation of the respondents ranged from businessmen, diplomats, EAC officials, Immigration Officials, CSO and Academics. The occupation of the respondents who participated in this research reflected the nature of concern such occupations influence the integration process. There is a close inter-relationship between the occupations of the participants and the process of regional integration. The figure below shows the distribution of respondent’s occupations as indicated in the questionnaire utilized in during data collection process.

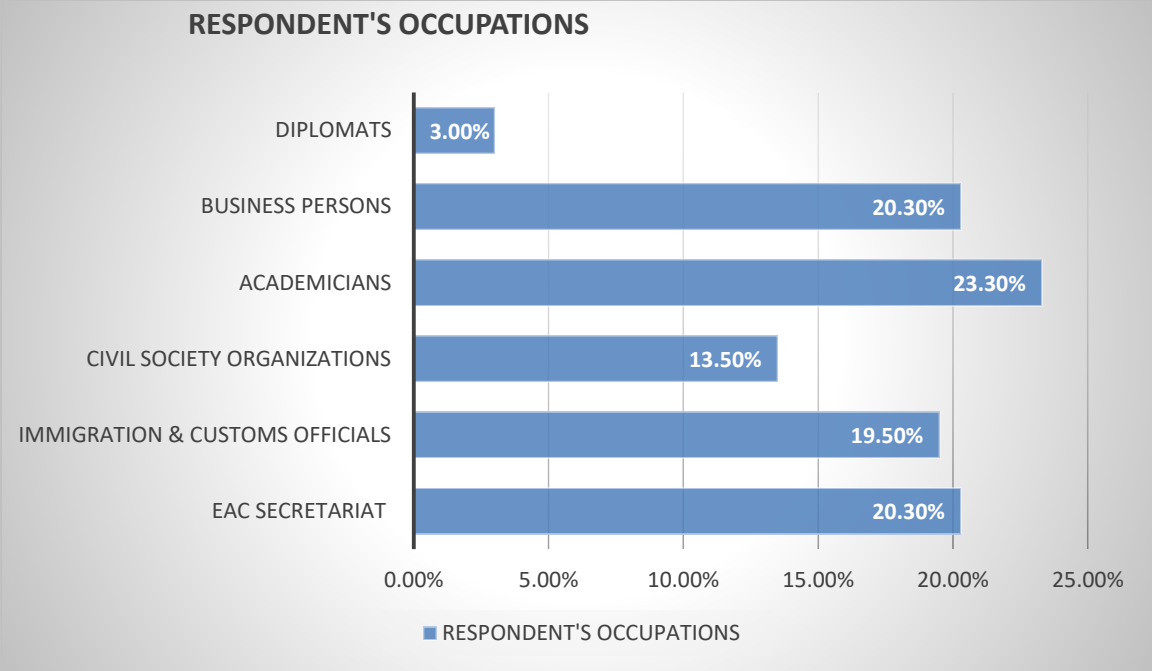


Figure 2.3; Respondents Occupation

Source: Field Data, 2021

From the figure above, majority of the respondents were Academics who worked for academic institutions majority being lecturers at Kenyan Universities and colleges. Such respondents were deemed appropriate for the subject under study as they understood the process of regional integration in detail than the rest of the respondents. They constituted 23.3 per cent of all total (133) respondents. Diplomats were the least of the respondents, representing 3.0 per cent of all respondents. The Diplomats had extensive knowledge of the institutional framework governing the integration process in EA. The specific respondents interviewed were the “Deputy Director- Economic Affairs, Secretary, Regional Integration and the Principal Counsel in the Ministry of Tourism and East Africa Community. In addition, the researcher interviewed Senior Liaison Officer- International Trade Affairs and the Assistant Director- International Trade and Regional

Cooperation in the Ministry of Foreign Affairs and International Trade”. From them, researcher sought to investigate the efficacy of the institutional framework as currently constituted.

2.3 The EAC Institutional framework

The institutional framework refers to “the systems of formal laws, regulations, and procedures, and informal conventions, customs, and norms that shape socioeconomic activity and behavior”.⁴³The institutional framework in this case therefore refers to “the legal framework” that directs the attainment of the organizational objectives of the EAC. This entails the formal organizational system established and enshrined by the Treaty that led to formation of the EAC. The institutional framework in the EAC can be traced to the inter-governmental system of cooperation which established distinct organs and institutions formed during the first integration which lasted from 1967-1977.

Among the notable institutions formed during the initial period included; “the EALA, the common market council, the communications council, the economic and planning council, the finance council and the EAAC, and the EAHC, EARC, EAP and TL”. Institutional framework during 1967-1977 further established judicial bodies such as the CAEA, the EAIC; specialized bodies such as the EADB, the EACSC and the EATB.⁴⁴ Specialized departments, and services including the EAMRC and the EATI.⁴⁵

While describing the European Union, John McCormick, argues that regional integration for that case is driven by institutionalized structures in which the EU developed and is guided by holistic

⁴³Kaahwa, W. (2017). *The Institutional Framework of the EAC*. In Ugirashibuja E., Ruhangisa J., Ottervanger T., & Cuyvers A. (Eds.), *East African Community Law: Institutional, Substantive and Comparative EU Aspects*. Leiden; Boston. Retrieved July 19, 2021, from <http://www.jstor.org/>

⁴⁴ Article 46-48

⁴⁵

structures composed of the EC, the CoM, the EP , ECJ, EC and the specialized agencies.⁴⁶ These organs are based on an institutionalized framework and forms the basis for institutionalized legal entities of inter-governmental, supra-national and operational community of states.

The researcher aimed at assessing the efficacy of EAC institutional framework by asking the respondents to describe the effectiveness of the policy and institutional framework in accelerating regional integration in the EAC. The responses obtained varied across the strata. The distribution of the responses is provided in the figure 2.4 below.

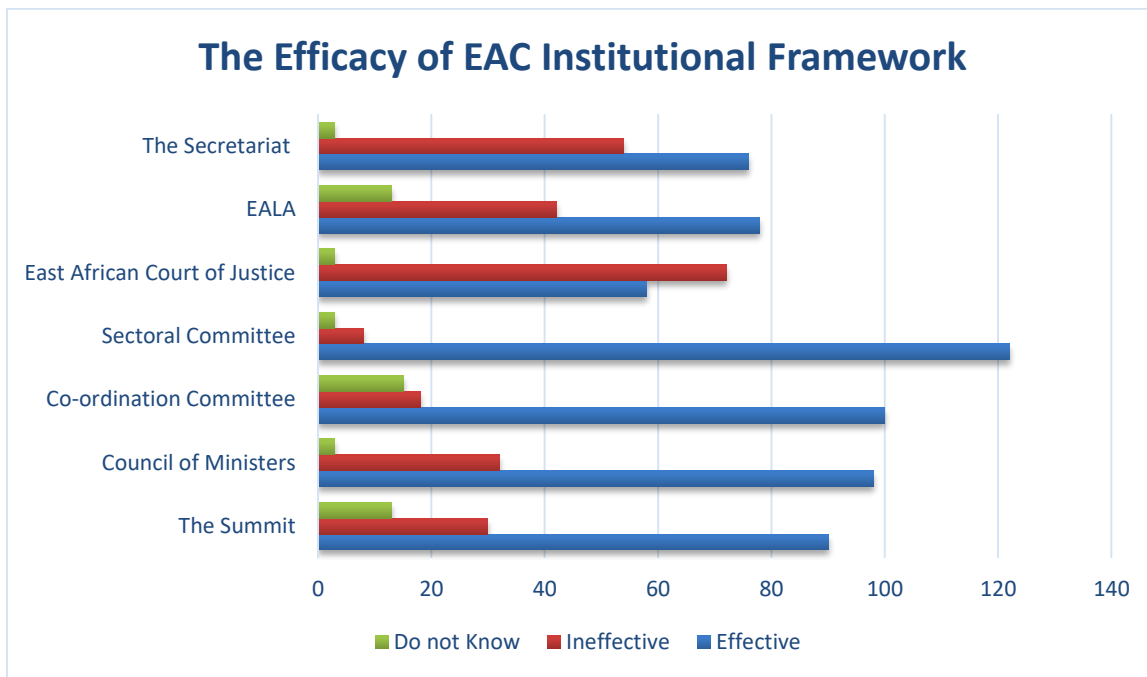


Figure 2.4; The efficacy of EAC Institutional Framework

Source: Field Data, Researcher 2021

The figure above presents the distribution of efficacy of the institutionalized organs of the EAC as perceived by the respondents who participated in this research. According to the findings

⁴⁶ McCormick, J. (2008). *The European Union, Politics and Policies 4THEdn.* Philadelphia: Westview Press

established above, the sectoral committee was the most effective institutional framework as indicated by 122 respondents who affirmed of the effectiveness of the institution. The EALA was perceived as the most ineffective institution of the integration bloc as affirmed by 72 respondents of the total 133. The co-ordination committee was the second effective institution of the EAC was the co-ordination committee as opined by 100 respondents. On average, 8 respondents did not have knowledge on the efficacy of the institutional framework governing the EAC regional bloc.

Article 9 which led to formation of the EAC, provides the legal basis for the formation of the institutional framework making the Treaty an international law with legal mandate to establish institutional framework for the establishment of the organs of the community which summarily include; “the Summit (composed of heads of states), the council (composed of ministers), the co-ordination committee, the sectoral committee, the EACJ, the EALA and the Secretariat”.⁴⁷ This framework provides the foundation for formation of other institutions such as the summit and this justifies its existence.

2.4 Analytical Overview of the EAC Institutional Framework

Article 5 (2) of the Treaty which led to formation of the EAC outlines the gradual metamorphosis of states from mutual cooperation through integration achieved through stages until eventual attainment of a political federation with a single government.⁴⁸ To achieve the same, the regional integration articulated for a policy organ spearheaded by the council of

⁴⁷Muhinda, J.M., & Bizoza, A.R. (2013). *Policies, Institutional Framework and International Development Interventions in Eastern African Community*. Kampala: Paper presented for the Symposium on Agricultural Development in the East African Community (EAC)

⁴⁸ Article 5 (2)

ministers while the EALA is the legislative organ of the community. Similarly, the EACJ is the judicial organ of the community founded on the principle of separation of powers.

2.5 The East African Legislative Assembly (EALA)

Popularly known as the “Assembly it is the legislative organ of the community” which is mandated with collaborating with the national assembly of the member states on issues pertaining how the community functions. The assembly is the people’s representative in the community composed of elected members who are elected by the national Assemblies of their partner states. It has a total of 52 members, where 9 are elected from the member states and 7 ex-officio members.⁴⁹ The Assembly takes into account the views and debates expressed in the national assemblies of partner states in order to assume people-centered approach of the community. This study sought to establish whether the Assembly has taken into consideration the mantra of *one people one destiny* philosophy in the involvement of citizens from the respective states in realization of the integration agenda. Hence, the researcher asked the respondents to either Agree or Disagree with the philosophy and realization of *one nation, one people and one destiny* mantra propagated by the EAC regional integration. The findings established are presented below.

⁴⁹Op Cit. Kaahwa.p. 50

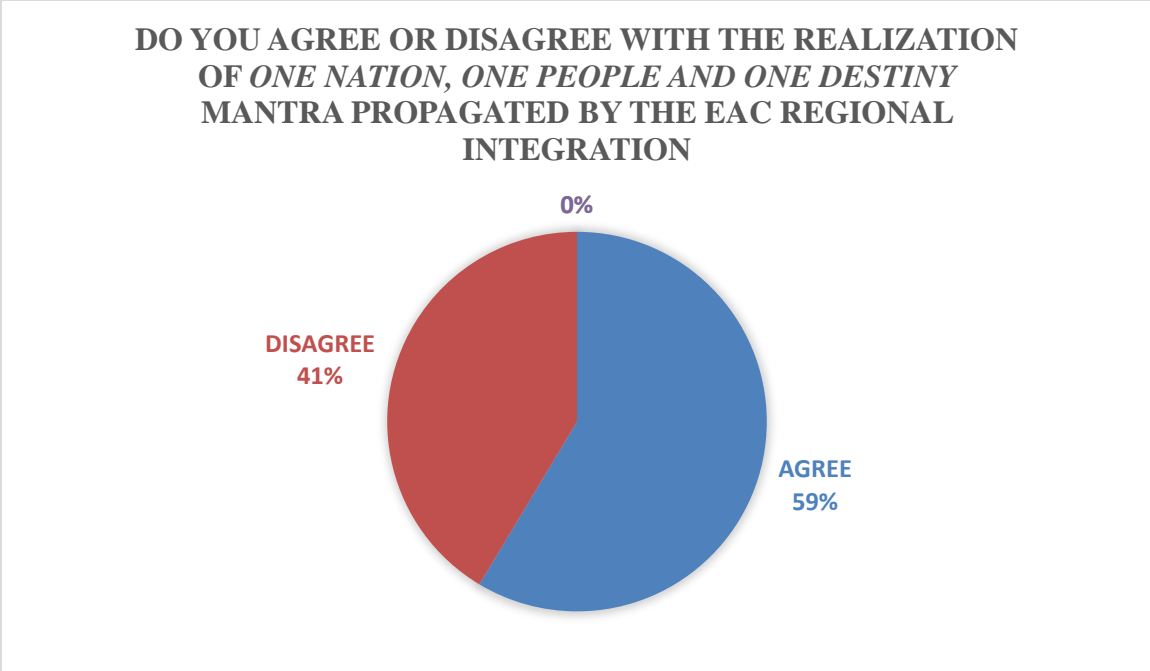


Figure 2.5; Citizen Participation on regional integration

Source: Field Data, 2021

Majority of the respondents (58.6 per cent) opined that the EALA (Assembly) is representative and pursuing a people centered approach towards the integration process by Agreeing to the one people one destiny mantra propagated by the integration agenda. Contrastingly, 41.4 per cent of the respondents Disagreed that regional; integration—is people centered as the legislative assembly is not representative enough to reflect the people’s choice in the Assembly. The Assembly has faced critics due to discharging community exclusiveness within the population of EA. According to Mukandala, he argues that the Assembly is does not represent all the members since they not directed by the EA electorate, but by the National Assembly of each Partner State.⁵⁰“*Although those elected are supposed to represent the various political parties and shades of opinion, they still will not be direct representatives of the people. As a result they will*

⁵⁰Mukandala, R. (2000). *Political Co-operation’ in EAC: Perspectives on Regional Integration and Co-operation in East Africa*. Arusha: EAC Secretariat, Arusha/German Agency for Technical Co-operation (GTZ)

*not have a constituency in the wider population to whom they will feel obliged to report back.”*⁵¹

Such views are affirmed the fact that, the electoral process at the Assembly often presents national parliamentary challenge and litigation as presented by case filed by “*prof. Anyang Nyogov.s the Attorney General of Kenya*”.⁵²In support of their claim, they claim that only names tabled by two political parties were certified by the KNA.

However, the court defended itself against this claims by stating that it was following the provisions of Article 50 which gives the KNA the mandate to certify members, however, it was evident that, the Assembly did not conduct any election within the framework of the Article 50 of the Treaty.⁵³ Such decision to elect a member of EALA without a competitive election contrasts the principle of people centeredness. Further, another case was filed between “*the Democratic Party and Mukasa Mbiddevs Secretary General of the EAC & Attorney General of Uganda*” where there were complains that the Ugandan government and its parliament did not modify the rules of procedure to be followed in during the election of Uganda’s representative to the EALA Assembly. According to Constitutional Court petition N0.28 of 2006, “*the Applicant’s sought orders to have the Government of the Republic of Uganda and its Parliament conform to the provisions of Article 50 of the Treaty*”. The Court asserted that the 2006 Rules failed to follow the Treaty’s provisions and deterred the Parliament of the Republic of Uganda from conducting the elections until it modified the rules to be in line with Article 50 of the Treaty.⁵⁴

⁵¹ Ibid

⁵² EACJ Ref. No. 1 of 2006

⁵³ Ibid

⁵⁴ Uganda Constitutional Court Petition No. 28 of 2006: *Jacob Oulanyah v Attorney General of the Republic of Uganda*.

In both cases, the Courts emphasized on participation of all actors in the electoral process as opposed to a “selection”. The institutional framework could perform better if it was adhering to the Treaty or, if the Assembly was formed using a “universal adult suffrage”.

2.6 The Summit of the Heads of State

The institutional framework in the EAC combines the summit “composed of heads of state or head of government” with the council of ministers to establish the executive arm of the EAC. As stipulated under Article 10, the head of state is “any person designated as such by a partner state’s constitution while the head of government translates to any person designated as such by the partner states constitution”.⁵⁵Based on the above definitions, such descriptions refer to the President, Prime Minister or Vice President. Among others, the summit is charged with fast-tracking the achievement of political federation and the status of security in the region. The summit is also charged with handling and admitting foreign countries into the community in addition to expelling errant partners from the community.⁵⁶

The institutional framework limits the summit to overall policy direction which are operationalized and implemented by organs subordinate to the summit. The role of the Summit to appoint the Judges of the EACJ has been subjected to judicial scrutiny after the summit created new grounds upon which to expel a judge from the court which was contested through a legal case “*The East Africa Law Society & 5 Others v the Attorney General of the Republic of Kenya & 4 Others*” which challenged the legality of the amendment.⁵⁷Among other conditionalities, the summit decided to expel a judge on grounds of “misconduct or due to inability to perform the functions of the office for any reason; where the Judge resigns from that

⁵⁵Article 10, EAC Treaty

⁵⁶ Article 24(1), 24(4), 24(5)

⁵⁷ EACJ Ref No. 3 of 2007.

office following allegation of misconduct or of inability to perform the functions of the office for any reason; or where 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”. These modifications provided the Summit with powers to expel a judge from performing his or her duties on the following grounds.

These emerging grounds were in violation of the provisions of the Treaty in regards to amendments, which failed to adhere to the rules and procedures guiding the amendments specifically on the part of consultations. A central argument among the scholars is whether such amendments by the Summit were an infringement to the stipulations of the Treaty? According to Kassaija, a Makerere University academic, the amendment by the Summit was a tenet of good governance.⁵⁸ Contrastingly, Kaahwa argues that; such an amendment was a punishment to the judges for their ruling on the case filed by “*Prof. Peter Anyang’ Nyong’o & 10 Others v The Attorney General of Kenya & 5 Others*” which is argued it embarrassed a particular partner state.⁵⁹ Generally, this study finds the Summit in violation of the stipulations of the Treaty which clearly articulate the responsibility of appointing judges and dismissing them without making amendments to the provisions of the Treaty as enshrined under Articles 11(5), 11(6), 11(7).

2.7 The Secretariat

The SG is the administrative head of the EAC secretariat based in EAC headquarters, Arusha Tanzania. Among others, the secretariat is mandated with co-ordination and harmonization of the policies and measures geared towards enhancing growth and development of the Community, as stipulated under Article 90(1). The secretariat are administratively responsible for the institutional

⁵⁸Kassaija, P.A. (2007). *The State of Constitutionalism in East Africa: The Role of the East African Community (EAC)-In Constitutionalism in East Africa* Eds by WanzaKioko, Kampala: KampalaFoundation Publishers.

⁵⁹ Op cit, Kaahwa. P.56-57

framework of the community. The secretariat conducts the day to day activities of the community and can be compared to a Captain of a ship. This study sought to establish whether on the prevailing economic disparities among EAC member states, the realization of Monetary Union Stage of regional Integration is achievable as captained by the Secretariat?

Quoting one of the responses obtained indicated that;

*“The EAC Secretariat was facing considerable obstacles in the harmonization of partner states’ fiscal and monetary policies in the realization of a monetary Union in EAC.”*⁶⁰ Another respondent asserts that; *“the EAC secretariat is facing financial and resource constraint to effectively police the implementation of the EAC decisions and directives.”*⁶¹

According to Juma Mwapachu, a former SG of the EAC, the EAC Secretariat lacks executive authority among many other challenges due to conflicting sovereign interest of partner states, which makes the movement towards the realization of robust EAC slowly tracked.⁶² The institutional framework of the EAC is rendered ineffective by such lack of mechanism and administrative authority to enforce the implementation of the directives of the community. Lack of administrative authority by the Secretariat makes it *“a toothless barking dog”* incapable of enforcing the resolutions of the council of ministers, a factor which has seen differences in the response to Covid-19 by partner states. If the secretariat could have been authoritative, it could have ensured compliance with the Covid-19 response plan by all member states issued by ministers of Health to combat coronavirus pandemic in 2020.

⁶⁰ Respondent, D.08, 2021 Ministry of Foreign Affairs and International Cooperation, Nairobi

⁶¹ Respondent Ac. 02. 2021. University of Nairobi, IDIS Department, Nairobi

⁶² Mwapachu, J. V. (2012). *Challenging the Frontiers of African Integration: The Dynamics of Policies, Politics and Transformation in the East African Community*. Dares Salaam: E & D Vision Publishing Limited

2.8 The EAC Court of Justice (EACJ) and Trade Protocols

By definition it is the judicial organ of the community which ensures that member states conform to the law and the provisions of the Treaty. It is comprised of 15 judges who are elected by the Summit after they have been recommended by member states. However, in 2015, the Court's jurisdiction was expanded to handle trade wars and other disputes emanating from execution of the Protocol which led to formulation of the EAMU. The EACJ relates mutually with national jurisdiction in accordance to their municipal laws and their application to regional laws (international law).

The court has jurisprudence to manage other issues pertaining *inter alia* to different rules with strict adherence to Article 54(2) of the Protocol for the Establishment of the EACCM “which empowers competent judicial, administrative or legislative authority or any other competent authority” to any issues emanating from execution of the Protocol. The EAC common market protocol is established by Article 37(1) and constitutes an integral institutional framework which governs common market. The Common Market dictates that EAC members to continue allowing free mobility within the region as well as maintaining right of residence and right of establishment.⁶³The researcher sought to establish whether the common market protocol is distributing trade dividends or benefits equitably among the EAC partner states? According to the findings established by this study majority of respondents (71.4 per cent) agreed that CMP was distributing trade benefits equitably among EAC partner states as shown in the figure below.

⁶³UNCTAD. (2018). *East Africa Community Regional Integration: Trade and Gender Implications*. UNCTAD/DIT/2017/2. P.4

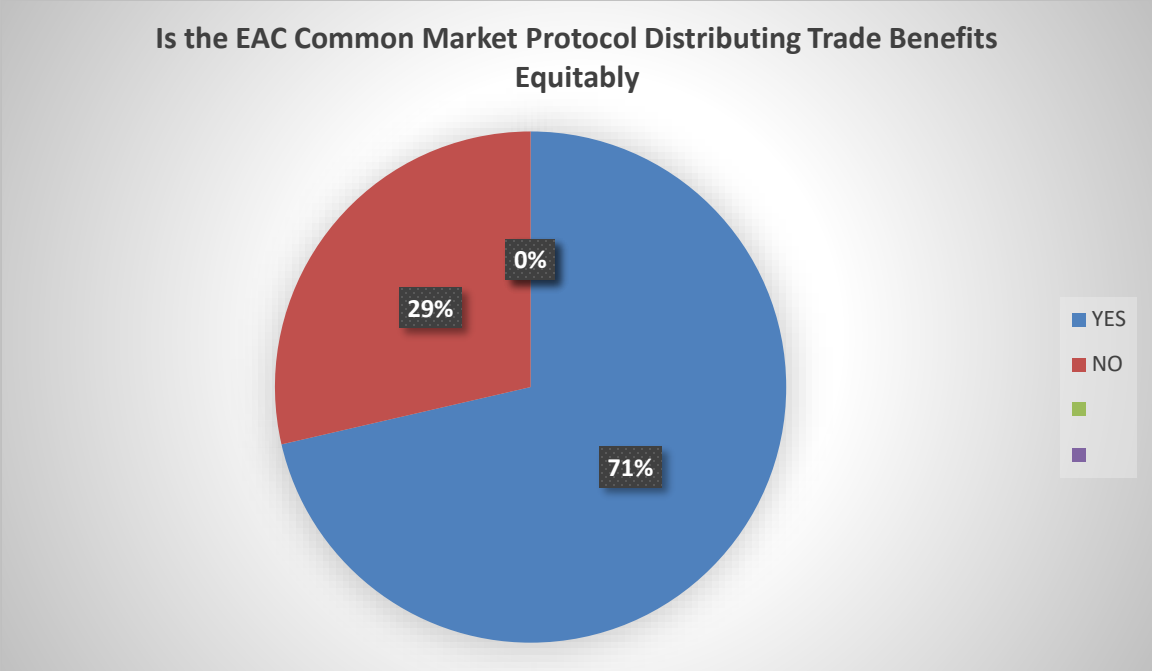


Figure 2.6; Sharing of Trade Benefits among partner states equitably

Source; Field Data, 2021

2.9 Other Institutions and Organs of the EAC

The institutional framework of the EAC establishes other functional institutions such as the coordinating committee responsible for coordinating Sectoral Committees tasks and as such they report to it. The sectoral committees are formed by council on the opinion and directive of the co-ordination committee. The sectoral committee is mandated with observing and constantly amending the implementation of the Community’s sectoral programmes as provided by Article 21 of the Treaty. The EAC institutional framework establishes other institutions such as the EACAS and SOA, EAHRC, the EAKC (to develop Kiswahili as the *Lingua Franca of the region*), the EASTC, the IUCEA and the LVBC.⁶⁴ Whereas these institutions function

⁶⁴Turyamuhika, S. (2014). In *The Drive towards Political Integration in East Africa*. Kigali: Westview Press

independently, their decisions require consensus from the partner states in implementing resolutions, directives and plans of the community. The community's institutional framework is faced by myriad of challenges such as lack of enough resources, poor infrastructure, delay in execution of decisions among others which hampers its operations.⁶⁵

2.10 Summary of the Chapter Findings

The EAC institutional framework forms the legal framework through which the EAC goals are achieved. The IL guides the establishment of the EAC which is an international organization formed through signing of a treaty by partner states. It is upon such institutional framework where the institutions and organs of the community are established. The efficacy of the institutional framework varies from one institution to the other. According to the findings of this study, the sectoral committee was the most effective institutional framework as indicated by 122 respondents who affirmed of the effectiveness of the institution. The EACJ was perceived as the most ineffective institution according to the responses obtained by the researcher a fact affirmed by the political meddling. The achievement of monetary union and political federation can only be achieved through an elaborate and functionally-purposed institutional framework.

⁶⁵Nahamya, S.G. (2018). *Regional Economic Disintegration: Tensions, Conflicts and Causes; the Case of the East African Community*. Fort Collins: Colorado State University

CHAPTER THREE

FACTORS LEADING TO ECONOMIC RIVALRY BETWEEN KENYA AND TANZANIA WITHIN THE EAC ECONOMIC BLOC

3.1 Introduction

This chapter discusses the factors which are contributing to economic rivalry between Kenya and Tanzania taking into consideration of the recent 2021 diplomatic spat which ensued between the two countries, as the recent indicator of the simmering relations. The Chapter examines the economic factors which could have potentially caused the rift. To achieve that, the chapter shall utilize both primary and secondary data.

3.2 The Differences in Ideological perspective

This study observed that, there exist notable economic and political ideological differences between Kenya and Tanzania. The political nationalism as well as economic nationalism practiced by the two countries differs significantly. While Kenya has maintained an aggressive capitalist political and economic ideology, Tanzania has maintained a liberalized capitalist economic ideology rooted in socialist political economy.⁶⁶ Before the adoption of the liberalized capitalist ideology, Tanzania practiced state sanctioned socialism in which run from 1980 to 1985 reforms Tanzania under President Julius Nyerere. The country obstructed the structural reforms including fiscal which included symbolic devaluation of the overvalued Tanzania's currency.

⁶⁶Cooksey, B. (2016). *Tanzania and the East African Community: a comparative political economy*. Maastricht: ECDPM Publication.

Emerging from the same British rule in 1960's the two countries adopted different ideological persuasions. Immediately after independence, the two countries lost economic, political and social convergence a situation which has persistent up to date. According to the Wachira, Kenya adopted a free market economic model, while Tanzania adopted a socialist economic model which Kenya perceived as limiting to the participation in Tanzania's economy.⁶⁷In Tanzania Mwalimu Julius Nyerere adopted the principles of human equality, freedom and equality of opportunity as the country's political and economic ideologies to create unity, to create a classless society, mobilize Tanzanians to work hard, and how it hoped to modernize the forces of production in Tanzania.⁶⁸ The Ujamaa political and economic ideology adopted in Tanzania aimed at concealing class domination and creating a classless society while at the nationalization of major means of production while at the same time creating Ujamaa villages.⁶⁹Contrastingly, Kenya adopted a free market based economic model upon gaining independence where the government of Kenya under President Mzee Jomo Kenyatta adopted "the sessional paper No. 10 on African Socialism" and its application to planning in Kenya which advocated for a democratic African socialism.⁷⁰The Kenya's model of political and economic philosophy created a free market capitalist economy model which propelled Kenya's economy to greater heights in the East African regional bloc.

The ideological difference between the two countries have developed over the years to the current economic rivalry which has played out in the public gallery (burning of Kenyan 64,000

⁶⁷Wachira, G. (2020). *Look into Genesis of Kenya, Tanzania uneasy trade ties*. Dar es Salaam: Citizen Publication

⁶⁸Cornelli, E.M. (2012). *A Critical Analysis of Nyerere's Ujamaa: An Investigation of Its Foundations And Values*. Birmingham: The University of Birmingham.

⁶⁹Ibid

⁷⁰Republic of Kenya. (1965). *African Socialism and its Application to Planning in Kenya*. Nairobi: Government Printer

one day Chicks by Tanzanian Authorities)⁷¹ to the detriment of the regional integration. The lack of political and economic ideological convergence has brewed mistrust and an attitude of suspicion among the Tanzanians. Tanzanians have presumed Kenyans as having the first hand in controlling the economic sphere. This partly explains the reasons why Tanzania has leaned towards the SADC regional bloc. Additionally, Tanzania unlike Kenya has enjoyed a relatively peaceful political transition which has seen foreign direct investments to increase substantially reaching at US\$D 1.1 billion in 2019.⁷² Comparatively, Kenya remained with the largest stock of FDI reaching US\$ 1,332,436.90 billion in 2019.⁷³ According to the 2020 WIR, Kenya's FDI flows decreased by 18% in 2019 compared to similar decline of USD 1.6 billion in 2018.⁷⁴ The contrast between the two countries FDI inflows can partly be attributed to the relative state stability and political cohesion experienced responsible for the increased investor confidence in the country. Although the increased FDI in Tanzania is economically driven, the Ujamaa philosophy created a peaceful and cohesive society which forged a united and harmonious society capable of attracting FDI.

The ideological difference has led to geopolitical supremacy in East Africa which has seen competing infrastructural development take supremacy battle to new economic considerations. Both Kenya and Tanzania are constructing SGR connecting their lines to their coastal ports destined to hinterland landlocked countries in East Africa.⁷⁵ The ideological difference has seen

⁷¹ The East African. (2017). *Tanzania Police burn 6400 chicks to death*. Available online at: <https://www.theeastafrican.co.ke/tea/science-health/tanzania-police-burn-6-400-chicks-to-death-1376696> Accessed on 5/8/2021

⁷² United Nations Cooperation on Trade and Development-UNCTAD- (2020). *World Investment Report 2020; International Production Beyond Pandemic*. Available online at; https://unctad.org/system/files/official-document/wir2020_en.pdf Accessed on 5/8/2021

⁷³ Ibid.

⁷⁴ Ibid. UNCTAD. *World Investment Report 2020; International Production Beyond Pandemic*. Geneva. UN Publication

⁷⁵ Lodompui, J. L. (2010). *Tanzania's National Interest and the Collapse of East Africa Community*. Nairobi: University of Nairobi

Kenya construct “*Northern Corridor*” which runs from Lamu connecting Kampala and Kigali as well Addis Ababa and Juba. On the other hand, Tanzania has planned a “*Southern Corridor*” planned to run from Dar es Salaam to Bujumbura.⁷⁶ The ideological differences have spilled to economic considerations which have attracted other partner states to their respective alignment. Particularly, the construction of Uganda pipeline has created economic tension between the two countries (Kenya and Tanzania) after Uganda resolved to construct the pipeline via the Tanzanian side.⁷⁷

The researcher sought to establish whether ideological orientation between the two countries had any significant effect on the inter-state relations between the two countries and therefore asked the respondents to explain the factor(s) is/are responsible for the economic acrimony between Kenya and Tanzania. The study findings established that, 49.61 per cent of the respondents identified differences in political and economic persuasion (ideology) as the factor responsible for economic and political differences experienced among the two countries. The researcher found out that 19.08 per cent identified fear and suspicion as the factors responsible for the economic difference between the two states. Further 7.63 per cent of the respondents opined that competition and supremacy as factors responsible for the economic rivalry. 11.45 per cent of the respondents opined that issues of nationalism and sovereignty were responsible for the sour relations. As the figure below demonstrates 6.10 per cent of the respondents could not explain the factor responsible for the economic rivalry while another 6.13 per cent of the respondents opined that economic geopolitics were responsible for economic rivalry between Kenya and Tanzania as shown below.

⁷⁶Ruvaga, L. (2016). *Kenya, Tanzania Aim to reset Economic Partnerships*. Available online at; <https://www.voanews.com/africa/kenya-tanzania-aim-reset-economic-partnership> Accessed on 5/8/2021

⁷⁷ The Citizen-Daily Monitor. (2021). *Construction of Uganda-Tanzania Crude Oil Pipeline to start in March*. Available online at; <https://www.monitor.co.ug/uganda/news/world/construction-of-uganda-tanzania-crude-oil-pipeline-to-start-in-march-3306450> Accessed on 5/8/2021

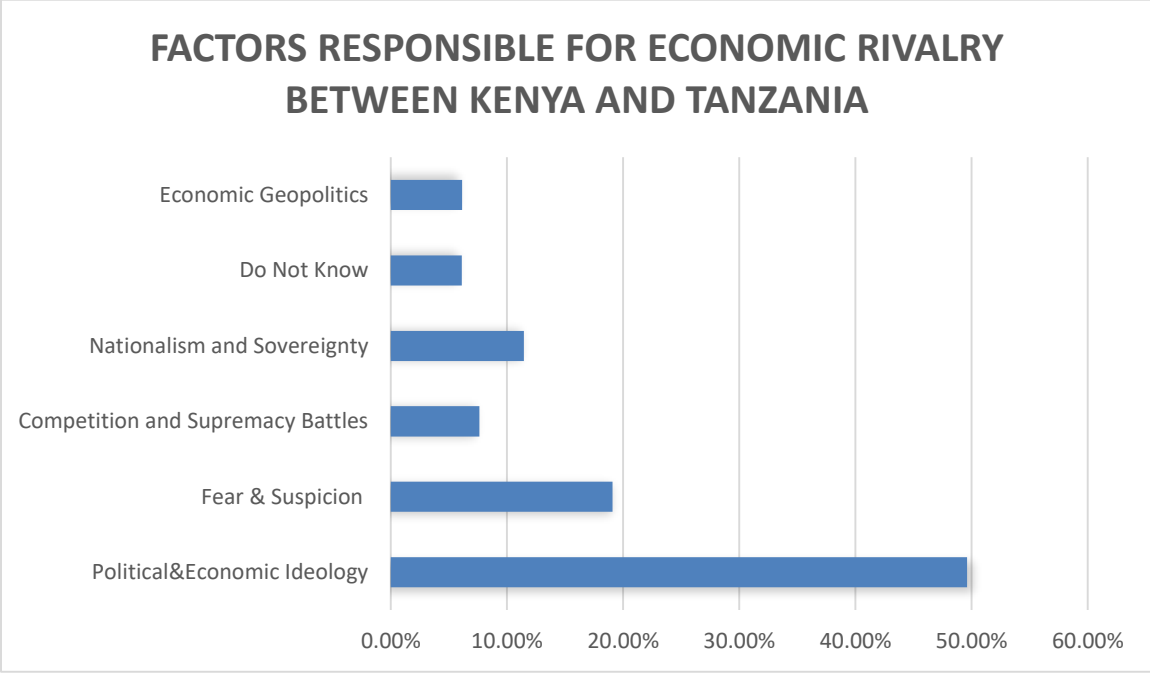


Figure 3.1 Factors contributing to the rivalry between Kenya and Tanzania

Source; Field Data, Researcher 2021

3.3 Differences in policies and social institutions

The researcher sought to establish whether differences in national policies and social institutions presented a possible fragmentation of regional integration in EA as exemplified by the 2019-2020 inter-state economic rivalry. Consequently, the researcher asked respondents to indicate directly whether the experience presented a possible fragmentation of the regional bloc. Majority of the respondents (80.15 per cent) affirmed (Answered Yes) that the 2019-2020 diplomatic row presented a formidable factor which can trigger regional economic fragmentation in East Africa. 10.69 per cent of the respondents opposed the economic fragmentation of EAC resulting

from the 2019-2020 diplomatic row, while 9.16 per cent of the respondents did not respond to the question. The Table below demonstrates the distribution of the responses obtained.

Table 3.1 Responses on the effects of the Economic and Diplomatic State Rivalry between Kenya and Tanzania

<i>Does The 2019-2020 Economic and Diplomatic State Rivalry Between Kenya and Tanzania Present a Possible Fragmentation of Economic Integration in East Africa</i>	
Remark	% (Per Cent)
YES	80.15
NO	10.69
No Response	9.16
Total	100.00

Source: Field Data, Researcher 2021

The above findings indicate a strong sense of opinion on the possibility of an economic rivalry resulting from the economic acrimony experienced in 2019-2020. This is partly explained by factors inherent the differences in national policies and social institutions. These factors are responsible for the proactive responses towards economic challenges experienced in 2019-2020. There exists disparities among national policies pursued by the two states entrenched in civil culture and societal norms. An overview presented by the OECD indicates that majority of economic reforms have led to trade liberalization, improved education system, increased the role played by the private sector and resulted to development of the TIC responsible for

generating a steady GDP growth indicating a shift in ideology and national economic policies.⁷⁸To enhance national cohesion the Tanzania's education policy among others aims at promoting developing the capacity in linguistic ability as well as efficacy in use of communication skills in Kiswahili (*Lingua Franca*) and in at least one foreign language.⁷⁹ This factor alone improves nationalism and identity dividends which have enabled Tanzania civil service to adopt a nationalistic approach while executing state authority.

On the other hand Kenya's education policy contrast that of Tanzania, for it among other objectives encourages respect and development of Kenyan diverse cultures.⁸⁰The promotion of varied cultures encourages ethnic identity rather than national identity, a factor responsible for the outbreak of the 2007/08 Post-election violence directly linked ethnic identity politically manipulated resulting to cause the post-election violence which has shaped the country's national psyche, cohesion and identity.

The contrast in the education policy has far reaching implication on the identity, civil obedience, governance and national cohesion. While Tanzania's Kiswahili language is a unifying factor entrenched in national education policy, it is associated with enhanced nationalism and patriotism, while in Kenya, the emphasis on the improvement of varied cultural orientations presents a surmountable challenge on the time taken to achieve such improvement and the negative national ethnic-based cultural balkanization is detrimental to nation-state building. The

⁷⁸OECD. (2013). *Overview of progress and policy challenges in Tanzania*, in *OECD Investment Policy Reviews: Tanzania 2013*. Available at <http://dx.doi.org/10.1787/9789264204348-6-en> Accessed on 5/8/2021

⁷⁹Linde, A. (2014). *Public Policies in Tanzania. Evaluative study of Tanzania's public policies Special focus on Education, Health and the Environment*. Sweden : Linnaeus University.

⁸⁰Republic of Kenya. MOE. (2019). *Ministry of Education Sessional Paper No.1 of 2019 on a Policy Framework for Reforming Education and Training for Sustainable Development in Kenya; Towards Realizing Quality, Relevant and Inclusive Education and Training for Sustainable Development Towards Realizing Quality, Relevant and Inclusive Education and Training for Sustainable Development*. Nairobi: Government Printer

difference in national education policy presents a defining contrast between the two countries which could feed to the fragmentation of the integration ideals of “*one people one destiny*”.

The sessional paper No. 1 of 2019 on reforming education policy in Kenya recommend for a new education structure that conforms to the spirit of the 2010 Constitution of Kenya which advocates for an education system and training among others aimed at the achieving proficiency and morals.⁸¹ However, modifying curriculum involves stressing on national values particularly those which encourage nationalism and not ethnic identity. Generally, this research establishes that differences in national policies and social institutions such as the education sector has a significant possible implication on the civil culture, national identity and integration objectives as presented by the education policies in both countries

3.4 Disparities in the Socio- Economic Levels of development

This study established that among the EAC partner states, Kenya is the largest economy compared to the other four partner states. According to Kenya’s macroeconomic performance report issued in 2020 by KIPPRA, the country has a GDP of approximately Ksh 9,740,360.00 million.⁸² Comparatively, “Kenya has GDP per capita of US\$ 1455 while that of the TZ is US\$ 879, Rwanda US\$ 703, Uganda US\$ 615, and Burundi US\$ 286”.⁸³ Kenya has been the dominant economy in the EAC region with a large manufacturing base compared to Rwanda and Burundi’s economies which have less manufacturing capacity but also engage in agricultural activities. The disparities in economies have challenged the harmonization of fiscal policies to achieve a common tax regime and standardize fees and charges among the member states.

⁸¹ Ibid. p.19

⁸²KIPPRA. (2020). *Kenya Economic Performance Report 2020. Creating an enabling Environment for Inclusive Growth in Kenya*. Nairobi: KIPPRA

⁸³EAC (2019). *EAC Statistics of 2019*. Available at <https://www.eac.int/overview-of-eac> Accessed on 4/8/2020

The problem of economic asymmetry in levels of GDP creates fears among partner states which historically caused the collapse of the first integration agenda in 1977. The Kenya's economic dominance is closely associated with fear and skepticism from the Tanzania's political and economic elites. Kipkoech asserts, "the old EAC collapsed partly due to Kenya's economic dominance to such an extent that Tanzania and Uganda become her economic captives".⁸⁴ The same fear projects Kenya in an awkward situation which creates fear and skepticism on the Tanzania's side. This finding is affirmed by 19.08 per cent of the respondents who indicated that fear and suspicion were factors responsible for the economic acrimony which ensued between Kenya and Tanzania in 2019-2020. The fear and suspicion is primarily driven by disparities in the levels of economic development. This factor is well articulated in the heightened competition for mega infrastructural projects initiated in both countries as they position themselves as the regional points of entry and transport hubs. While Kenya prides itself with a modern 580 Kilometer SGR from Mombasa to Naivasha, Tanzania has commenced a similar project to construct a 202 Kilometer SGR Line to improve her geo-strategic importance in East Africa.⁸⁵ This constitutes an economic competition which is partly responsible for the aggressive proactive economic responses which characterized the 2019-2020 economic row.

3.5 Fear of competition

This study observed that, the problem of asymmetry in levels of development created fears among partner states which historically caused the collapse of the first integration agenda in 1977. The Kenya's economic dominance is closely associated with the historical collapse. As

⁸⁴Kipruto, K.J. (2010). *Challenges and Prospects of East African Community Regional Integration Process (2001-2009)*. Nairobi: University of Nairobi

⁸⁵Nkengasong, J.N., Dempah, L., & Norwood, E. (2021). *Tanzania: Why the Tanzania-Kenya Economic Rivalry Misses the Point*. AllAfrica Global Media

Kipkoech asserts, “the old EAC collapsed partly due to Kenya’s economic dominance to such an extent that Tanzania and Uganda become her economic captives”.⁸⁶ The same fear projects Kenya as a dominating regional superpower focused on out-competing her regional partners owing to her well established manufacturing industrial capacity coupled with a highly skilled and educated labor force compared to her neighbors. Kenya has been the dominant economy in the EAC region with a large manufacturing base compared to Rwanda and Burundi’s economies which have less manufacturing capacity but also practice agricultural. The disparities in economies have challenged the integration of fiscal policies to attain a common tax regime and a standardized fees and charges regime among the partner states. According to Nkengasong et al. Tanzania and Kenya have engaged in traditional zero-sum paradigms which have created economic rivalry and they need to let go of these, just like the Singapore doesn't need to stagnate for Malaysia to grow, Nairobi does not need to stagnate for Dar es Salaam to grow. Generally, the researcher has established that fear of competition is a factor responsible for the economic rivalry between Kenya and Tanzania as indicated by the 19.08 per cent of the respondents who participated in this research.

3.6 Summary of the chapter key findings

The chapter has established that several factors are responsible for the economic rivalry which ensued between Tanzania and Kenya from 2019-2020. Notably, the chapter finds differences in political and economic ideologies as the main factor contributing to such acrimony and diplomatic row. While Ujamaa ideology has for a long time characterized Tanzania’s economic policy orientation until the recent reforms, free market based economic ideology pursued by Kenya have come into sharp contrast to the Tanzania’s political and economic ideology

⁸⁶ Ibid, Kipruto. p. 108-109

potentially causing the rivalry. Most of the participants agreed to this assertion. Other factors identified by the chapter include fear and suspicion among the two states rooted in economic competition. Differences in national policies and social institutions have created a contrasting national identity and differing sense of patriotism which has shaped both economic and political realities. Disparities in GDP growth and development has been a factor attributed to domination and supremacy battles fought by the two states as they try to increase their geo-political and geo-economic strategic importance.

CHAPTER FOUR

TO INVESTIGATE THE STRATEGIES THAT HAS BEEN APPLIED IN ADDRESSING THE KENYA-TANZANIARIVALRY WITH IN THE EAC ECONOMIC BLOC

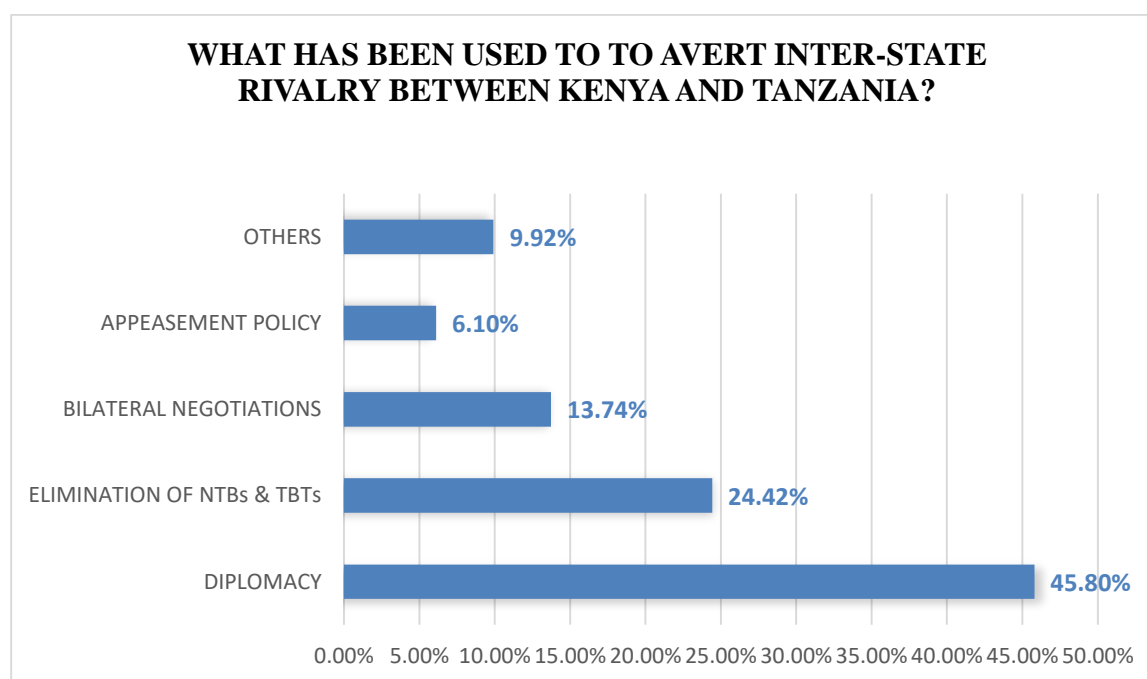
4.1 Introduction

This Chapter investigates the strategies which have been applied to solve the inter-state rivalry between Kenya and Tanzania within the EAC economic bloc. The strategies can be described as both political and economic. While the strategies are aimed at addressing both political and economic concerns of both countries, social concerns have emerged to strain the already frosty relations between the two EAC member states, particularly stemming from the outbreak of the novel Covid-19 pandemic. The strategies discussed in this chapter incorporate dispute resolution strategies and diplomatic practices aimed at restoring cordial economic inter-state relations. The chapter utilizes both primary and secondary data.

4.2 The most utilized Strategy in solving Inter-State Rivalry in East Africa

The researcher sought to establish the most utilized strategy in solving economic and political disputes among the East African countries. Consequently, the research asked the respondents to indicate the mostly utilized strategy of conflict resolution. The researcher established that majority of the respondents (45.80 per cent) opined that; diplomacy constituted the most utilized strategy by the EAC partner states to resolve their disputes. Elimination NTBs is the secondly quoted strategy for eliminating inter-state rivalry as opined by 24.42 per cent of the respondents. Bilateral negotiations is a strategy for solving inter-state rivalry which was indicated by 13.74 per cent of all respondents as the most utilized strategy, for solving inter-state rivalry.6.10 per

cent of total respondents indicated that appeasement policy exemplified by the “*peacock diplomacy*”. Other strategies (including military intervention, confiscation of goods and destruction etc.) were indicated by 9.92 per cent of the respondents as shown in the diagram below.



4.1; Strategies utilized in solving Inter-State Rivalry in East Africa

Source: Field Data, 2021 Researcher

4.3 Diplomacy

Diplomacy is the art of negotiations between sovereign states to advance their specific interests as well as promote peaceful relations. Diplomacy can also refer to “a set of practices, institutions, and discourses which is crucial for the basic understanding of the historical evolution of the

international system and its evolving functional and normative needs”.⁸⁷ Diplomacy understands the short-term political and diplomatic collaboration when involving third parties, and avoid application of force. Diplomacy was the most quoted strategy utilized in EAC partner states to solve inter-state rivalry between/among states. Majority of the respondents representing 45.80% indicated that was the most preferred strategy with significant effectiveness. This opinion corroborates a diplomatic-expert commentary interview done by Dr. Maluki of IDIS in 2019.⁸⁸

Diplomacy has been utilized to solve the long-standing dispute between Kenya and Tanzania which has slowed down the trade activities. The diplomatic practice has been initiated at the highest level of leadership between the two countries, this was witnessed when–Tanzania’s President Samia Suluhu Hassan made a state visit to Kenya in May 2021. The Tanzania’s new President Suluhu Hassan visited Kenya on the invitation of Kenya’s President-Uhuru Kenyatta, top of the agenda being the restoration of bilateral ties between the two countries which had suffered severely during the tenure of the late Tanzania’s president-John PombeMagufuli. According to *Business Daily*, the State visit was a charm offensive which signaled a departure from the hardline stance of her predecessor aimed at rebuilding of trust and deepening of economic integration between Kenya and Tanzania.⁸⁹ The State visit by Tanzania’s President to Kenya signaled high profile diplomatic practice which has been lauded as an effective strategy for restoring bilateral ties between the two countries. While speaking during the State visit, President Uhuru Kenyatta of Kenya urged Tanzania’s investors to do business in Kenya. Quoting the President,

⁸⁷ **Cornago, N.** (2008). *Diplomacy*. Oxford: Elsevie

⁸⁸ Available online at: <https://www.youtube.com/watch?v=KW42vNHb2Nc> Accessed on 8/9/2021

⁸⁹ *Business Daily*. (2021). *Use Suluhu to rebuild Kenya, Tanzania Relations*. Available online at: <https://www.businessdailyafrica.com/bd/opinion-analysis/editorials/use-suluhu-rebuild-kenya-tanzania-relations-3387196> Accessed on 7/9/2021

“We would like to see many investors from Tanzania coming to do business in Kenya. And I want to say this, Tanzanian investors are free to come and do business in Kenya without being required to have business visas or work permits”.⁹⁰

Diplomacy as a dispute resolution strategy has been hailed as effective with the trade and economic ties improving drastically since the State visit. This is evidenced by the lifting of ban on Kenyan owned-*Safarilink* Chartered planes which had been barred from accessing Tanzania’s air space due to the economic row between the two countries.⁹¹ The Kenya’s national carrier-Kenya Airways which also had faced a ban in Tanzania was given authorization to fly Tanzania’s airspace after the State visit by Tanzania’s President.

The same diplomatic strategy was applied in 2017 during a trade war between the two countries which had cost cross-border traders billions of shillings. According to the Kenya Association of Manufacturers, Tanzania maintained many restrictions that had existed before the signing of the truce making it difficult for Kenyan goods to enter the Tanzanian market. Kenya’s goods such as cement, edible oils and textile products were restricted from accessing Tanzania’s market after Tanzania requested to be issued with verification documents adhering to the rules origin. The trade dispute was solved diplomatically when both Kenyan and Tanzanian permanent secretaries for trade and industrialization namely Dr. Chris Kiptoo and Prof. Elisante Ole Gabriel respectively met together with the private sector and deliberated on ways to end the dispute on a diplomatic engagement. Consequently, the *EastAfrica newspaper* of June 08, 2019 noted that Kenya and Tanzania had agreed to end the dispute and that the states were free to trade with each

⁹⁰Reuters. (2021). *Kenya and Tanzania Ease Cross-Border Business Rules as relations thawrt*. Available online at: <https://www.reuters.com/world/africa/kenya-tanzania-ease-cross-border-business-rules-relations-thaw-2021-05-05/> Accessed on 7/9/2021

⁹¹ Ibid

other again.⁹² The diplomatic strategy pursued by Suluhu Hassan has managed to diffuse the trade rivalry between the two countries particularly the tourism related trade shared between the two countries-specifically Maasai Mara and Seregeti national parks from which the spectacular Wildebeest migration takes place annually.

4.4 Bilateral Negotiations

Bilateral negotiations are “negotiations which involve only two parties and they are frequently utilized in trade agreements between two countries”.⁹³ It’s easy to complete bilateral negotiations because they involve few parties. Bilateral negotiations between Kenya and Tanzania have facilitated dispute resolution between the two EAC member states. Following the recurrence of trade disputes, particularly NTBs affecting trade between the two countries, trade officials held four bilateral meetings since 2017 in Arusha and Mombasa to address the trade dispute. According to Kirui, “trade officials from the two countries held bilateral meetings in Arusha, in April, 2017 to try and resolve the many contentious trade issues, including rules of origin for some products and persistent suspicion over the quality of products traded across the borders”.⁹⁴ After the bilateral negotiations the two countries have been able to settle nineteen (19) out of thirty seven (37) NTBs.⁹⁵The researcher sought to establish the effectiveness of current bilateral negotiations between Kenya and Tanzania under the JCC. The researcher established that; majority of the respondents representing 62.59 per cent of the total opined the

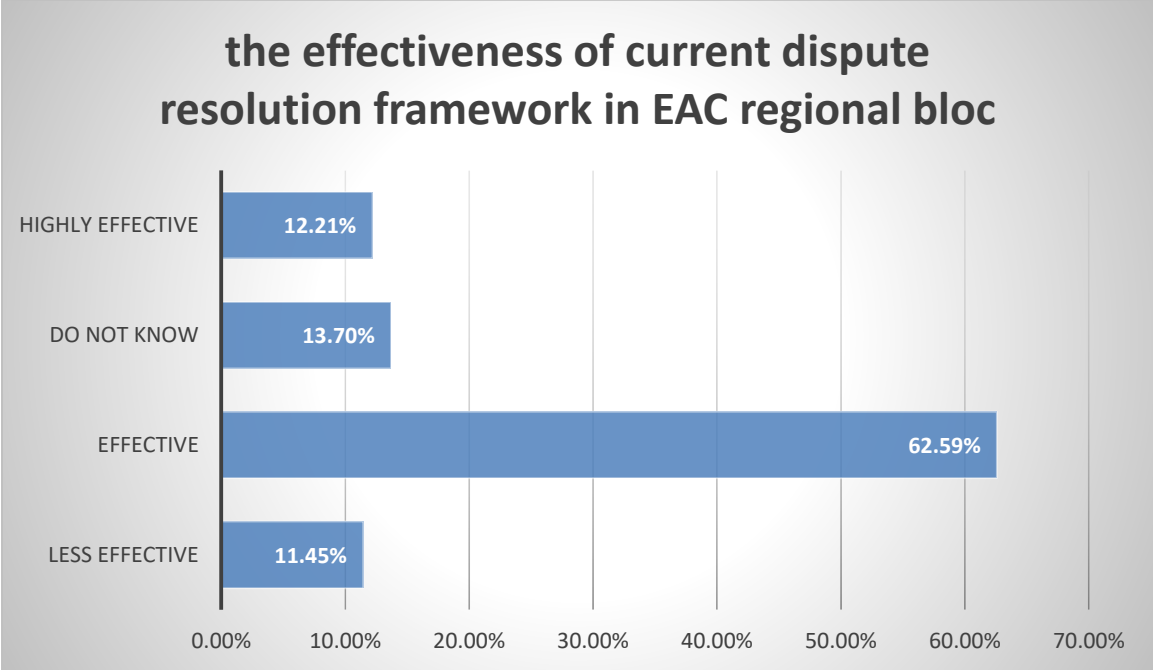
⁹²The EastAfrican. (2019). *Tanzania and Kenya Work to Resolve Trade Disputes*. Available online at: <https://www.theeastafrican.co.ke/tea/business/tanzania-and-kenya-work-to-resolve-trade-disputes-1419768> Accessed on 7/9/2021

⁹³ Takatoshi, I., & Anne, O. (1997). *Regionalism versus Multilateral Trade Arrangements*. Chicago: University of Chicago Press

⁹⁴Kirui, P. (2020). *Why the Kenya-Tanzania Border Row Undermines Prospective African Free Trade*. Available online at: <https://africanarguments.org/2020/07/why-the-kenya-tanzania-border-row-undermines-prospective-african-free-trade> Accessed on 7/9/2021

⁹⁵ Ibid, TheEastAfrican.

bilateral negotiations were effective as a strategy for solving inter-state rivalry. While 13.70 per cent of the respondents had no idea of the effectiveness of the bilateral negotiations, 12.21 per cent indicated they were highly effective with 11.45 per cent indicating the strategy was less effective as shown in the diagram below.



4.2; The effectiveness of current bilateral negotiations between Kenya and Tanzania

Source: Field Data, Researcher 2021

Bilateral negotiations were similarly employed to solve the inter-state dispute which occurred after the demise of the first integration arrangement of the EAC in 1977. The dispute arose after Kenya utilized the equipment from the defunct EAC to establish her own national carrier-Kenya Airways, a move which angered Tanzania and raised mistrust concerns between the two countries. Tanzania responded by closing borders with Kenya in which both countries suffered economically, demanding bilateral negotiations. Negotiations were initiated which culminated

into Kampala Agreement which sought to resolve the dispute, however, the negotiations failed. After long years of stalemate, the two countries reached an agreement after the demise of key political individuals in government as pointed out by Seno.⁹⁶The bilateral negotiations between Kenya and Tanzania were facilitated by the UN Economic Commission for Africa which enabled the two countries to stabilize their relations and trade again.⁹⁷

Bilateral negotiations between Kenya and Tanzania finalized the dispute concerning SCT System on products originating from each respective country. As Seno asserts, Kenya was partially implementing the SCT for products whose destination was Tanzania and not for goods from Tanzania to Kenya.⁹⁸This made it harder for the Tanzania's businesspersons to enjoy the benefits associated with SCT system arousing a trade protest from the Tanzania's authorities which prompted bilateral negotiations between the two states. Consequently, a bilateral meeting was held in Arusha between TRA and KRA officials which resolved to upload Tanzania's products into the SCT system by July 2018.⁹⁹Bilateral negotiations have therefore offered the two states opportunity to settle their economic disputes without recourse to more severe and conflict escalating measures. Bilateral negotiations produce bilateral agreements which are consensual and promote long term cooperation due to the binding nature and mutually acceptable terms. It can be generalized in this study that bilateral negotiations between Kenya and Tanzania have facilitated economic dispute resolution and can be recommended for future inter-state engagement.

⁹⁶ Seno, J. (2019). *Integration, Cross Border Trade and Dispute Settlement between Kenya and Tanzania*. Nairobi: USIA-Africa

⁹⁷ Op. Cit

⁹⁸ Ibid. p. 50

⁹⁹World Bank. (2018). *Supporting Africa's Transformation: Regional Integration and Cooperation Assistance Strategy (Report No. 121912)*. Washington D.C:World Bank Publication

4.5 Appeasement Policy (The Peacocks diplomatic policy)

Appeasement policy is an informal practice employed by parties in a conflict to end the stalemate. Appeasement was a word used by many to describe the British policy through the 1930's but its definition was not fully defined. The term was used to generally mean and describe the reduction of international tension by the methodological removal of legitimate grievances of the First World War. The policy was adopted in order to resolve the conflict between Italy and Nazi Germany as well as restore peace and stability in the two.¹⁰⁰The appeasement policy was employed by “British Prime Minister Neville Chamberlain” in the hope of avoiding war by permitting Adolf Hitler to expand his Germany territory unchecked. Generally, appeasement policy is a foreign policy which aims at appeasing a disgruntled country through use of peaceful methods of dispute resolution such as negotiation in order to avert war or escalation of the grievances.

The British policy of appeasement presents the classical case of foreign policy of discouraging aggression and deterrence, however, it is often described as a weakness robed in hope.¹⁰¹ Appeasement policy presented Hitler the opportunity to expand Germany territory in Europe in line with the famous dictum by “Carl Von Clausewitz”; “War is the continuation of policy by other means”. The culmination of the appeasement policy by British was the signing of “the Munich Agreement between Hitler’s Germany, British Chamberlain and France to cede the German-speaking area of Czechoslovakia to Germany”. As Andrew Stedman asserts Chamberlain was regarded as a poor leader who was used by Hitler and failed to protect his

¹⁰⁰Sbacchi, A. (1938). *An Appraisal of the Diplomacy of Appeasement*. La Rivista di studi: MariaGraziaMelchionni

¹⁰¹Record, J. (2005). *Appeasement Reconsidered: Investigating the Mythology of the 1930's*. Washington D.C: Strategic Studies institute

people from the horror that befell the country.¹⁰²The end result was the ratifying of the 1938 Munich Agreement.

The Munich Agreement has become a reference case by modern state's to implement their foreign policies and settle both economic, military and political aggression. The Iranian nuclear program presents the modern day military and political aggression and the foreign policies towards it, particularly from the U.S and Israel. What is happening today in Iran can be compared to the same events that took place in Germany in 1938 during Hitler's administration. This also corroborates the statement made by Israeli Prime Minister Netanyahu in 2006 that, "Its 1938 and Iran is Germany".¹⁰³ The application of appeasement as a policy to handle such threats, either economic or political can be regarded as a double edged; with both opportunities and pains. This therefore explains why the policy was utilized to address Hitler's demands in September 1938 and also the reason why it's being utilized in solving current international diplomatic crises, for instance the US in addressing the Iranian nuclear program. These two cases can used to make a comparative methodology of assessing the appeasement policy used by Tanzania towards Kenya as illustrated by the Peacocks diplomacy used by President Magufuli.

In August 2019, President Uhuru Kenyatta of Kenya received four peacocks from Tanzania's President John Pombe Magufuli. According to a statement read by President Uhuru Kenyatta "the birds were to signify the values of love, unity and brotherhood which exists between the people of the two countries".¹⁰⁴The gifting of peacocks to Kenya by Tanzania can be taken as an

¹⁰²Stedman, A. D. (2011). *Alternatives to Appeasement: Neville Chamberlain and Hitler's Germany*. London: I.B. Tauris,

¹⁰³Netanyahu, B. (2015). *Transcript: Speech to Congress*. Available online at. <http://time.com/3730318/transcript-netanyahu-speech-to-congress/> Accessed on 8/9/2021

¹⁰⁴The EastAfrican. (2019). *Can Peacock Diplomacy Smooth Tanzania-Kenya Relations?* Available online at: <https://www.theeastafrican.co.ke/tea/news/east-africa/can-peacock-diplomacy-smooth-tanzania-kenya-relations--1424162> Accessed on 7/9/2021

appeasement policy by an aggrieved country (Tanzania) to prevent escalation of the trade dispute with Kenya. In the case of Tanzania-Kenya economic dispute, appeasement has been used to diffuse tensions between the two countries. The appeasement policy was signified by the “gifting of four peacocks” from Tanzania to Kenya. According to a statement by the PSCU, the birds were gifted to President Kenyatta by his host during his recent visit to Tanzania in what President Mugufuli termed as a sign of deep respect and appreciation for the Kenyan leader and for strengthening the spirit of brotherhood and friendship between the people of the two countries.¹⁰⁵

The peacock diplomacy between Kenya and Tanzania seeks to diffuse the inter-state frosty relations experienced since 2017 and which has seen escalation of disputes, with banning of Kenyan goods and services (airlines) to Tanzania as well as burning of 6000 two-Day old chicks by Tanzania’s authorities and confiscation of cattle owned by Kenyan herders. While Kenya is a democratic country pursuing a friendly neighborliness in her foreign policy, aggression and retaliation can be options for responding to Tanzania’s actions. This study argues that; the Peacock appeasement policy managed to diffuse such aggression and economic retaliation, hence presents a rational choice strategy of dispute resolution between two states.

4.6 Elimination of Cross Border Economic Restrictions

Elimination of cross border economic barriers to trade between Tanzania and Kenya presents the second most preferred strategy for ending the economic rivalry between the two countries, as indicated by 24.42 per cent of the respondents. According to peer dialogue meeting report issued jointly by the KEPSA and the TPSF on issues reported concerning unresolved NTBs and other

¹⁰⁵ Available online at; <https://www.president.go.ke/briefing-room/> Accessed on 8/9/2021

threats and emergence of new NTBs and TBTs, both Kenya and Tanzania had economic issues which created rivalry and needed elimination for a cordial inter-state relation(s).

Among the issues reported by Kenya private sector included; discrimination of Kenyas manufactured goods, for instance; “edible oil products, automotive products (as reported by Toyota Kenya), Plastic stripping products, textiles, cement, tobacco etc”.¹⁰⁶ KEPSA also reported issues of involving various institutions to verify Kenya products for example; “Tanzania Dairy Board, Weights and Measures, TFDA, Veterinary Department, Tanzania Atomic and Radiation, Longindo and Arusha Municipal Councils”. Others include; High charges or costs of regulation, paying of license and business permit among other services and documentations.¹⁰⁷

On the other hand Tanzania Private Sector reported issued among them; Kenya’s denial of special treatment of some products from Tanzania such as wheat flour and gas products and challenges confronting Tanzania milk companies to enter into Kenyan market.¹⁰⁸Tanzania’s private sector reported the hurdles businesspersons face in penetrating Tanzania beer into Kenyan market. It hardly possible to find Tanzania’s beer on Kenyan Counters except for *Konyagi*-a local Tanzanian Cane spirit.¹⁰⁹

The formation of a JBC under the broad umbrella of JCC between Kenya and Tanzania’s private sectors with the primary objective of eliminating the NTBs and the TBTs provided a tangible and a practical strategy of solving inter-state economic rivalry. The Joint Cooperation Commission was formed in 2016 following a state visit by H.E President John Pombe Magufuli to Kenya’s

¹⁰⁶KEPSA & TPSF. (2017). *Expanding Business Opportunities beyond Borders: Bridging the Trade Gap between Kenya and Tanzania*. Available online at: <https://www.tralac.org/images/docs/11983/expanding-business-opportunities-beyond-borders-bridging-the-trade-gap-between-kenya-and-tanzania-kepsa-tpsf-august-2017.pdf>
Accessed on 8/9/2021

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

H.E. President Uhuru Kenyatta of the Republic of Kenya from October 31st -1st November 2016. The joint cooperation commission is work in progress and several notable changes have been realized. For instance, The KPSA and the TPSF have signed a MoU to guide the elimination of NTBs specifically to; “tackle non-conforming measures, Tariff and (NTBs including SPS and TBTs to increase Inter and Intra regional trade and boost Investment and growth”. Since the formation of the JCC, the overall, Kenya’s trade value to Tanzania has grown significantly.¹¹⁰Kenya’s exports to Tanzania were US\$ 294.94 million in 2020.¹¹¹

According to the *East African* Newspaper publication issued on 11 August 2021, “Kenya’s imports from Tanzania have exceeded its exports to the EAC partner state for the first time in decades, signaling improved trade flows under President Samia Suluhu’s administration”.¹¹² In the same period, the overall Tanzania’s trade value to Kenya grew significantly to hit a high of Ksh 18.28 billion (US\$ 167.5) based on assessment made by KRA. Tanzanian goods increased by 70.06 percent which surpassed the exports, which increased after five years leading to a trade deficit of Sh21.02 billion.¹¹³ This improvement in trade volume between the two countries can be attributed to the elimination of NTBs and TBTs between the two countries and the cordial relations established by their respective leaders as well as the able work of the (JCC. The elimination of trade barriers between the two EAC member states constitute an effective strategy which for solving the inter-state rivalry.

¹¹⁰Muluvi, A. Kamau, P., Githuku, S., &Ikiara, M. (2016). *Kenya’s Trade within the East African Community: Institutional and Regulatory Barriers: Accelerating Growth through Improved Intra-African Trade*. Brookings Africa Growth Initiative

¹¹¹ Available online at: <https://tradingeconomics.com/kenya/exports/tanzania> Accessed on 8/9/2021

¹¹² The EastAfrican-Business. (2021). Available at <https://www.theeastafrican.co.ke/tea/business/tanzania-imports-overtake-exports-from-kenya-3507216>

¹¹³ Available at: <https://www.trademarka.com/news/tanzania-becomes-kenyas-largest-east-africa-market/> Accessed on 8/9/2021

Finally, the researcher sought to establish from the respondents which other strategy could be adopted to improve the effectiveness of the EAC dispute resolution among partner states, and particularly the Tanzania-Kenya trade rivalry. Varied propositions were offered in line with the question and notably; equitable sharing of transboundary resources featured prominently among the strategy recommended by the respondents. Quoting one of the responses;

*“Equitable sharing of transboundary natural resource need to be prioritized to minimize tourism rivalry particularly in the Maasai Mara and Serengeti national parks. All the problems start from unequal revenue sharing from tourist numbers and destination of choice among them”.*¹¹⁴

4.7 Conclusion

This chapter investigated the strategies which have been applied to solve the inter-state rivalry between Kenya and Tanzania within the EAC economic bloc. The strategies established include; diplomacy, bilateral negotiations, elimination of NTBs and the appeasement policy as a means of foreign policy. Diplomacy is the preferred strategy as opined by majority of the respondents (45.80%), followed by elimination of NTBs and TBTs (24.42%). The effectiveness of the strategies differ from one to the next and have all combined to drastically reduce the inter-state rivalry which characterized Tanzania-Kenya relations. As a result of the above strategies, Tanzania has emerged as the largest EAM as reported by the East African Trade mark Authority. Respondents recommended for equitable sharing of transboundary resources among the two states to avert such rivalry in future. This chapter argues that; both diplomatic practice and economic policies have enabled the thawing of the hitherto frosty relations between Kenya and Tanzania.

¹¹⁴Respondent Remarks. B/P 008. (2021). Obtained from the Questionnaire

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0 Introduction

This chapter presents the findings established by the research in line with the objectives set out in the first chapter. The chapter makes general generalizations informed by the findings established which constitutes the summary and conclusion as to what is the link between regional integration and economic rivalry within the EAC bloc using Kenya-Tanzania as a case study. Lastly, this chapter presents recommendations which can be utilized to further academic discourse on regional integration while at the same time offering suitable tailor-made policy recommendations capable of influencing effective policy making in regards to solving economic rivalry among the EAC partner states.

5.1 Summary of the Findings

Based on the first objective of this study, which sought “to examine the efficacy of the EAC Institutional Framework in enhancing the regional cooperation”, the study established that, the Article 9 of the Treaty provides the framework for establishment of EAC and it is upon such institutional framework upon which the institutions and organs of the community are established. There are notable institutions that guide the pursuit of the organizational objectives of the EAC. They include; “the EALA, the common market council, the communications council, the economic and planning council, the finance council and the EAAC and the EAHC, the EARC, the EAP and TC”. Others include; judicial bodies such as the CoAEA; the EAAIC; specialized bodies such as the EADB, the EACSC, the EATB, EAMRC and the EATI. Majority

of the respondents 122 affirmed that, the EALA was the most ineffective institution of the integration while the sectoral committee was the most effective institutional framework followed by the co-ordination committee.

The EALA also known as the “Assembly” is the legislative organ of the community mandated with collaborating with the national assembly of the member states on issues associated with functioning of the community. The Assembly takes into account the views and debates expressed in the national assemblies of member states in order to assume people-centered approach of the community. Most of the respondents (58.6 per cent) opined that the EALA (Assembly) is representative and pursuing a people centered approach, towards the integration process by agreeing to the one people one destiny mantra propagated by the integration agenda. However, the assembly faces critics of exhibiting absence of institutional ownership of the community within the population of EA. Others include the secretariat that is administratively responsible for the institutional framework of the community. The summit of the head of states who are also charged with handling and admitting foreign countries into the community in addition to expelling errant partners from the community. The EAC court has jurisprudence to address issues regarding the *inter alia* to different rules that regulate various aspects or spheres in line with the “Article 54(2) of the Protocol for the Establishment of the EACCM” in managing issues emanating from execution of to the Protocol. Notably, the achievement of monetary union and political federation can only be achieved through an elaborate and functionally-purposed institutional framework.

In line with the second objective which sought “to examine the factors that contributes to economic rivalry between Kenya and Tanzania” the study findings established that, there exist notable economic and political ideological differences between the two countries since the

political nationalism as well as economic nationalism practiced by the two countries differs significantly. Kenya has maintained an aggressive capitalist political and economic ideology while its counterpart Tanzania has maintained a liberalized capitalist economic ideology rooted in socialist political economy. While Ujamaa ideology has for a long time characterized Tanzania's economic policy orientation until the recent reforms, free market based economic ideology pursued by Kenya have come into sharp contrast to the Tanzania's political and economic ideology potentially causing the rivalry. The ideological difference between the two countries has developed over the years to the current economic rivalry which has played out in the public gallery challenging regional integration. Consequently, this has led to geopolitical supremacy in East Africa that has seen competing infrastructural development take supremacy battle to new economic considerations.

Further, 19.08 per cent of the participants opined that, fear and suspicion are factors responsible for the economic difference between the two states. Other factors include; disparities in national policies and social institutions entrenched in civil culture and societal norms presented a possible fragmentation of regional integration in East Africa as exemplified by the 2019-2020 inter-state economic rivalry. For instance, the difference in national education policy presents a defining contrast between the two countries which could feed to the fragmentation of the integration ideals of "*one people one destiny*". Disparities in the Socio- Economic Levels of development as well as fear of competition have challenged the harmonization of fiscal policies to achieve a common tax regime and standardize fees and charges among the member states. The problem of economic asymmetry in levels of GDP creates fears among partner states which historically caused the breakdown of EAC in 1977. The Kenya's economic dominance is closely associated

with fear and skepticism from the Tanzania's political and economic elites which is largely driven by differences in various stages of economic development.

The third objective sought "to investigate the strategies that have been applied to solve the inter-state rivalry between Kenya and Tanzania within the EAC economic bloc". The strategies aim at addressing both political and economic concerns of both countries by incorporating dispute resolution methods and diplomatic practices with a goal of restoring cordial economic inter-state relations. There are various strategies that have been utilized to resolve the economic rivalry between Kenya and Tanzania and they include; Diplomacy, bilateral negotiations, Elimination of NTBs, Appeasement Policy as well as Elimination of Cross Border Economic Restrictions. According to majority of the respondents (45.80 per cent) opined that; diplomacy constituted the most utilized strategy by the EAC partner states to resolve their disputes followed by elimination of Non-Tariff Barriers and bilateral negotiations respectively. Diplomacy was the most effective strategy utilized to solve the long-standing dispute between Kenya and Tanzania which has slowed down the trade activities. The diplomatic meeting between Kenya's President Uhuru Kenyatta and Tanzania's President Samia Suluhu Hassan has been lauded as an effective strategy for restoring bilateral ties between the two countries. Therefore, diplomacy as a dispute resolution strategy has been hailed as effective with the trade and economic ties improving drastically since the State visit.

Additionally, bilateral negotiations between Kenya and Tanzania helped in resolving trade disputes particularly on elimination of NTBs. They were also employed to solve the inter-state dispute which occurred after the demise of the first integration arrangement of the EAC in 1977. Bilateral negotiations produce bilateral agreements which are consensual and promote long term cooperation due to the binding nature and mutually acceptable terms. Appeasement policy

as a method of discouraging aggression and deterrence was signified by the “gifting of four peacocks” by President John Pombe Magufuli to President Uhuru Kenyatta of Kenya in 2019 in order to prevent escalation of the trade dispute with Kenya. The Peacock appeasement policy managed to diffuse such aggression and economic retaliation between the two countries. Lastly, Elimination of cross border economic barriers to trade between Tanzania and Kenya also played a significant role in solving trade dispute between the two countries. Respondents also recommended for equitable sharing of transboundary resources among the two states to avert such rivalry in future.

5.2 Conclusion

It is evident that, the institutional framework in the EAC can be traced to the inter-governmental system of cooperation which established distinct organs and institutions that guides the pursuit of the organizational objectives of the East African Community. These organs are based on an institutionalized framework and forms the basis for institutionalized legal entities of inter-governmental, supra-national and operational community of states. Notably, these institutions and organs have helped to improve the relationship among the member states, accelerating regional integration, solve disputes in a peaceful manner as well as achieve some of the EAC goals despite being confronted by myriad of challenges. This affirms the first hypotheses which states that; trade framework within the EAC is influencing the integration process within the EAC.

Based on the second objective it can be deduced that there are several factors which are contributing to acrimony and diplomatic row between Kenya and Tanzania. These factors hinder achievement of the EAC objectives as well as led to fragmentation of the integration ideals.

These factors are also responsible for the proactive responses towards economic challenges experienced in 2019-2020 which had adverse implications on trade activities between the two countries. For instance, the disparities in economies have challenged the harmonization of fiscal policies to achieve a common tax regime and a standardized fees and charges regime among the partner states. This therefore, contrasts the second hypotheses which state that, Trade economic rivalry between the members of the EAC is not influencing the integration process within the EAC. Hence, there is need to address these drivers of rivalry between the two countries in order to fast track achievement of the EAC goals.

Lastly, it's evident that the Kenya and Tanzania have employed various strategies aimed at restoring cordial economic inter-state relations. Diplomacy as a strategy has been utilized by the two countries and it has been effective in improving trade volumes which had slowed down due to the dispute and also helped in rebuilding of trust and deepening of economic integration. Other strategies such as bilateral negotiations between Kenya and Tanzania have facilitated economic dispute resolution and can be recommended for future inter-state engagement. However, the effectiveness of the strategies differ from one to the next and have all combined to drastically reduce the inter-state rivalry which characterized Tanzania-Kenya relations.

5.3 Recommendations

This research study offers some policy and academic recommendations which can improve the rivalry between Kenya and Tanzania as well as restore cordial economic inter-state relations.

Ensure strict adherence to the stipulations of the common market protocols and those of the Treaty which led to formation of the EAC. Also follow and adhere to all binding decisions

stemming from the joint cooperation commission (JCC) on matters pertaining the two states. i.e Kenya and Tanzania.

Harmonize all trade policies by adopting standard procedures acceptable to both countries to eliminate double standards. Further, ensure constant joint review of the policies, guidelines and directives to ascertain their conformity with integration principles and objectives. Eradicate economic sabotage, discrimination and NTBs which hinder free trade and movement of factors of production.

There is need for harmonization of immigration and travel documents among partner states so as to reduce trade and immigration bottlenecks, emanating from differences in national policies.

There is also need for equitable sharing of transboundary resources among the two states to avert such rivalry in future.

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Appendix 1: Questionnaire

Introduction

Dear Respondent

I am carrying out a study on regional integration and economic rivalry within the EAC Bloc utilizing the case of Kenya-Tanzania. The findings and recommendations established by this study will contribute to knowledge aimed at improving inter-state relations among East African countries and generally in knowing regional integration process. In this regard, I would like to collect data that will assist in accomplishing the objectives envisioned by this study. Kindly, answer the questions appropriately since your contribution will be much appreciated and the information provided will be treated with utmost confidentiality for academic purposes only.

General Information

i. What is your gender? (Please tick in the boxes provided)

a) Male

b) Female

ii. Please tick the age bracket in which you fall.

21-30 years ()

31-40 years ()

41-50 years ()

51-60 years () above 60 years ()

iii. Kindly indicate your profession

.....
.....

.....
.....

Part A: The efficacy of the EAC Institutional Framework in enhancing the regional cooperation

1. From your knowledge and understanding how effective can you describe the policy and Institutional framework in accelerating regional integration in the East Africa Community?

.....
.....
.....

2. Do you Agree or Disagree with the realization of *one nation, one people and one destiny* mantra propagated by the EAC regional integration?

AGREE { }

DISAGREE { }

3. Based on the prevailing economic disparities among EAC member states do you think the realization of Monetary Union Stage of regional Integration is achievable in EAC regional bloc?

.....
.....
.....

4. From your knowledge and understanding, is the common market protocol distributing trade dividends/benefits equitably among the EAC partner states?

.....
.....
.....

5. How do you describe the current EAC health response plan to Covid-19 pandemic among the EAC member states?

.....
.....
.....

PART B. The Factors Responsible For Economic Rivalry between Kenya and Tanzania

6. In your opinion what factor(s) is/are responsible for the Economic acrimony between Kenya and Tanzania?

.....
.....
.....

7. In your knowledge and experience with the East Africa Community, does the recent 2019-2020 economic and diplomatic state rivalry between Kenya and Tanzania present a possible fragmentation of regional integration in East Africa?

Yes { }

No { }

8. Using the Likert Scale where 1 = strongly agree, 2 = Agree, 3 = Un-decided, 4 = Disagree and 5 = strongly disagree respectively, how strongly do you agree with the following statement.

State rivalry between Kenya and Tanzania resulted into an Economic decline in both states	1	2	3	4	5	

9. Given the overlapping membership of Tanzania to other RIAs, do you predict an exit of the country from the EAC in resemblance to *Brexit* in European Union (EU). Kindly, explain your argument.

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.....
.....

Part C. Suggestions on Improving the EAC trade dispute resolution framework.

10. In your knowledge and understanding what can be done to avert inter-state rivalry between Kenya and Tanzania?

.....
.....
.....

11. How do you describe the effectiveness of current dispute resolution framework in EAC regional bloc

.....
.....
.....

12. What strategy can be adopted to improve the effectiveness of the EAC dispute and conflict resolution?

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.....
.....

THANK YOU

Appendix 11: RESEARCH PERMIT