

UNIVERSITY OF NAIROBI

Institute of diplomacy and international studies

**THE ROLE OF THE EAST AFRICAN COMMUNITY IN THE
ECONOMIC DEVELOPMENT OF THE EAST AFRICAN REGION**

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DECLARATION

I (Lisa Makungu Ganira) hereby declare that this research project is my original work and has not been presented for a degree in any other University.

Signed.....Date.....

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This Project has been submitted for examination with my approval as University Supervisor,

Signed.....Date.....

Prof. Maria Nzomo
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DEDICATION

I dedicate this work to my mother Mary Ganira and other family members for their inspiration and support throughout the exercise. I say thank God Bless you All.

ACKNOWLEDGEMENT

The completion of this work would not have been possible without the cooperation, trust and support provided by all the significant people in my life. First and foremost I would like to appreciate my supervisor Prof. Maria Nzomo for her assistance despite her tight schedule she still devoted her time to guide me throughout the completing this project. I extend my appreciation to all the lecturers and staff in the Institute of Diplomacy and International Studies for their exemplary efforts in ensuring the coursework and milestones kept me focused. To the University of Nairobi Library staff, for the support during the search of materials for this study. I sincerely thank all my classmates for the network and insight. To all my friends with whom I shared the difficult and good times during my studies, I appreciate your encouragement, insight and enlightenment. I would like to recognize and thank my mother Mary Ganira for inculcating in me the passion of learning and value of persistence in every endeavor from tender age. Your love and understanding helped me focused in the right direction. Finally to anyone else who in one way or another assisted me in finalizing my work. To all God Almighty Bless you.

ABBREVIATIONS

AFRICAN UNION	African Union
CET	Common External Tariff
COMESA	Common Market East and Southern
EABC	East African Business Council
EAC	East Africa Community
EACJ	East Africa Court of Justice
EACSO	East African Common Services
EAHC	East African High Commission
EALA	East Africa Legislative Assembly
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
EEC	European Economic Community
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investments
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
LPA	Lagos Plan of Action
MFN	Most-Favour Nation
NBT	Non Trade Barriers
OAU	Organisation of Africa Unity

PTA	Preferential Trade Agreements
REC	Regional Economic Community
RIA	Regional Integration Agreements
RTA	Regional Trade Agreements
SADC	Southern African Development Cooperation

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ABSTRACT

The East African Community (EAC) is one of the Regional Economic Communities (RECs) in Africa with integration in the region dating back to pre-colonial times. However, the integration process achieved less than desired as witnessed with the collapse of the previous EAC in 1977. This study critically reviewed the role that the East African Community plays in economic integration in the East African region by first reviewing the history of the integration process, its successes and failures and identifying the challenges of the present EAC economic integration process. The major concerns that emerge from this study are the overlapping RECs membership by partner states that continue to pose harmonization and coordination challenges. In addition, there is lack of political commitment among partner states. The East African Community institutions are weak as they lack the capacity to enforce sanctions against partner states who fail to implement agreements. The selection process of the members of these institutions is not democratic as they are handpicked by partner states in the absence of citizens' views. Finally, issues of non-trade barriers (NTBs), poor infrastructure and limited private sector engagement are an impediment to economic growth in the region. These problems seem to have made building a successful integration process a daunting task for the EAC despite its perceived importance in the increasingly globalized world. Thus, partner states need to take integration not only as a Pan African ideology but more importantly as economic survival strategy.

CHAPTER ONE

1.1 Introduction

Trade contributes significantly to a country's gross domestic product (GDP) thus the motivation for the engagement of trade beyond its borders. While trade between countries has always existed it's been limited to exchange of goods and services and less on the factors of production. Economic integration which promotes liberation of trade including factors of production allows for the expansion of market, employment opportunities as well as enables a more attractive investment climate attracting foreign direct investments (FDIs).

Africa in particular has embraced economic integration to exert influence in a “multi-polar world,” the pooling of resources to form one powerful economy and avoid fragmentation of economies will make it more competitive globally. The small size and primary production structure of the typical African economy provided the rationale for pursuing mutually beneficial economic cooperation and regional integration particularly among adjacent states. The African paradigm is that of linear market integration, following stepwise integration of goods, labour and capital markets, and eventually monetary and fiscal integration. The starting point is usually a free trade area, followed by a customs union, a common market, and then the integration of monetary and fiscal matters to establish an economic union. The achievement of a political union features as the ultimate objective in many African Regional Integration Agreements (RIAs)¹

¹Hartzenbery, T (October, 2011) “Regional Integration in Africa” Research paper, ERSD-2011-14

1.2 Background to the Research Problem

The main focus of the study was on the role of the East African Community in economic integration within the East Africa Region. There has been minimum success in the regional integration efforts in Africa despite the ambitious plans in place. However the East Africa region has not been left behind in pursuing integration efforts which can be dated back to the colonial periods. The East Africa Community (EAC) is one the Regional Economic Communities (RECs) in Africa.

The EAC efforts suffered a severe blow in 1977 with the collapse of the defunct EAC, the founder partner states of Kenya, Uganda and Tanzania revived it in 2000. Though the re-established EAC has adopted the linear approach to economic integration, it has leaped the first stage of a free trade area and moved immediately to the establishment of a customs union.

The study sought to examine the EAC integration efforts and the approaches adopted for economic integration. It also sought to analyse the challenges affecting economic integration and made the necessary recommendations thus providing useful insight to partner states and policy makers on the impediments to the success of the economic integration process.

1.2 Statement of the Research Problem

Regional integration for developing countries in Africa has been encouraged for purposes of economic growth and development. Economic integration is intended to create a larger regional market for trade and investment with the aim to lower the trade barriers and reduce the costs and risks of trade. EAC's integration process is based on the initial experience of three partner states Kenya, Tanzania and Uganda: firstly, on their previous efforts under the defunct EAC of 1967–1977 and the East African Common Services of 1961–1967; secondly, on no co-operation during the period 1977–1993, as well as the emergence of regionalism after the end of cold war in 1989; and on the challenges of the globalization of economic, monetary and information policies of the new world order².

The above informed the re-establishment of the EAC which has adopted the linear approach to economic integration, leap fogging the free trade area moving directing to establishment of a customs union as the entry point for economic integration as outlined in the treaty. The EAC has already signed the protocol establishing the customs union and common market in 2005 and 2010 respectively. The implementation of these protocols has not been fully achieved; for example it has been 7 years since the signing of the customs union and the EAC is yet to have a fully established customs union. This is likely to negatively impact on the overall achievement of the fully economic integration process as well as deny the region accrued benefits integration

This is the underlying question the study will be seeking to answer, what is the role of the EAC in economic integration and development of the East African Region and what are the challenges it faces in the quest for this regional integration. Given the previous unsuccessful

² Muthaura, F (2001) the process for the East African Regional integration in the East African Community. "Dialogue on the regional integration in East Africa"

attempts in pursuing economic integration the study will evaluate whether the circumstances leading to the failure of the earlier attempts have been addressed and what mitigation mechanisms have been established.

1.3 Objectives of the Study

The objectives of the study are –

1. To analyze the challenges facing East African Community economic integration and the role of East African Community in the Economic Development of the East African Region.
2. To examine the East African Community regional integration efforts and the role of East African Community in the Economic Development of the East African Region.
3. To access the integration concept and the role of East African Community in the Economic Development of the East African Region.

1.4 Literature Review

1.4.1 Introduction

This section will address the role of East African Community in the Economic Development region and challenges faced in the economic integration by tracing the origin of the East African Community from the conception of the cooperation in East Africa and the integration efforts that have been used by adopting the linear model of economic integration on its applicability within the context of economies and politics of developing countries included.

1.4.2 Economic Integration in Africa

Economic development analysts have proposed that because of the forces of globalization, African countries (just as most developing countries) have little choice but to integrate into global markets, or risk being further marginalized. The suggested approach is to

integrate regionally so as to facilitate wider integration into the global economy so as to gain access to greater flows of trade, finance, technology, and ideas for economic growth and human welfare. Continental integration has enormous potential for promoting growth and unleashing the development potential of African countries by easing the binding constraints to growth (such as poor transport networks) and by lowering direct and indirect costs of doing business. This is especially so as successful regional economic cooperation and integration can help the region attain greater economies of scale, rationalize location of industries and other economic entities, encourage specialization in production, enhance industrial efficiency and reduce both transport and transaction costs and, in turn, the costs of doing business. However, some limitations on the applicability of regional integration within developing countries has been challenged, one explanation pointed out on this lack of applicability is by Alves, Draper and Khumalo who hold the view that there are few obvious complementarities in trade between countries that are all at the same stage of development. This is especially true in Africa, although South Africa might be considered diversified enough economically to play a ‘northern’ role in regional trade in Southern Africa.³ However, the second major reason why ‘fortress-style’ integration cannot work in Africa is that no region contains a set of economies large enough.

Others have argued that economic integration is what Africa needs to address on the problem of fragmented national economies. Draper takes stock of the last decade of African development from an African perspective. The author pleads for a recalibration of Africa’s regional integration models, a process whereby, champion countries’ spearhead a less ambitious, but

³ Alves, P, Draper, and Khumalo, N (2009) “Africa’s challenges in international trade and regional integration” What role for Europe? Occasional paper No. 32

more effective agenda that addresses the region's immediate development needs⁴. He goes on to argue that for Africa, the European model of regional economic integration at least in the short term is not useful. He makes the case for limited regional economic integration which steers clear of formal, institution-intensive arrangements as seems to be the norm in Sub-Saharan Africa. However, Oyejide suggests that the design and implementation of many of the arrangements in effect actually constrain rather than promote intra-regional or overall trade. In addition, non-compliance with and delayed implementation of agreed trade liberalization schedules have not enhanced intra-regional trade expansions; while in many cases, the chosen instruments of integration are virtually guaranteed to discourage rather than promote intra-regional trade. Finally, the absence of effective compensation mechanisms has further hindered the implementation of certain trade liberalization measures in particular regional integration schemes. Taken together, these problems show that Africa's regional integration schemes have generally not been fully implemented as designed⁵. However, other reasons are suggested as the cause of the lack of progress in regional integration efforts in Africa. Key among these is the unwillingness of governments to surrender sovereignty of macroeconomic policy making to a regional authority; face potential consumption costs that may arise by importing from a high cost member country; accept unequal distribution of gains and losses that may follow to support and sustain high growth among all their members. Another drawback pointed out on the same is the applicability of regional integration as it tends to benefit the stronger members only. This argument was first proposed by Anthony Venables in essence, that when the cluster of countries in a regional integration arrangement contains economies performing well above the global

⁴ Draper, P(2010), rethinking the (European) foundations of sub-Saharan African regional integration in the East African Community

⁵ Oyejide T. Ademola (1997), 'Regional Integration and Trade Liberalization in Sub-Saharan Africa', Palgrave Macmillan

average such as Germany in the European Union (EU), the forces of convergence will prevail. In other words, the weaker members will 'catch up' as resources flow from countries like Germany to those like Portugal, Greece and now the states of what was once the eastern bloc. But when a group contains no globally strong economies, the forces of agglomeration will prevail. Resources will flow from the weakest in the group to the strongest, where it is relatively cheaper and easier to do business, and where there are better-developed connections to global export markets. The relatively stronger economies will grow at the expense of the weaker members in the regional bloc⁶. This similar reasoning has been pointed out by Kasekende and Ng'eno as one of those that advanced the collapse of EAC in 1977, Kenya was receiving a disproportionate share of the benefits of integration. Various measures were tested to redistribute the gains from the common market, but failed to produce the results Uganda and Tanzania wanted⁷. For example, the East African Development Bank, which was to promote industrial development with the states contributing equally to its capital base, was required to ensure that Tanzania and Uganda each got 38.75 per cent of their investments, against 22.5 per cent for Kenya. However, under a risk-averse clause in its statutes, it could only finance 'viable' projects, most of which were in Kenya.

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⁶Venables.A (2009) 'Economic Integration in Remote Resource Rich Regions', Research Paper 22, University of Oxford

⁷Oyejide A, I. El Badawi and P. Collier, (eds.)Kasekende, L. and N.K. Ng'eno (2000), 'Regional integration and economic integration in Eastern and Southern Africa,' Palgrave Macmillian, USA

more effective agenda that addresses the region's immediate development needs⁸. He goes on to argue that for Africa, the European model of regional economic integration at least in the short term is not useful. He makes the case for limited regional economic integration which steers clear of formal, institution-intensive arrangements as seems to be the norm in sub-Saharan Africa. However, Oyejide suggests that the design and implementation of many of the arrangements in effect actually constrain rather than promote intra-regional or overall trade. In addition, non-compliance with and delayed implementation of agreed trade liberalization schedules have not enhanced intra-regional trade expansions; while in many cases, the chosen instruments of integration are virtually guaranteed to discourage rather than promote intra-regional trade. Finally, the absence of effective compensation mechanisms has further hindered the implementation of certain trade liberalization measures in particular regional integration schemes. Taken together, these problems show that Africa's regional integration schemes have generally not been fully implemented as designed⁹. Other reasons are suggested as cause of the lack of progress in regional integration efforts in Africa. Key among these are unwillingness of governments to surrender sovereignty of macroeconomic policy making to a regional authority; face potential consumption costs that may arise by importing from a high cost member country; accept unequal distribution of gains and losses that may follow an integration agreement, and discontinue existing economic ties with non-members. The policy and regulatory environment, the transparency and predictability of trade and business administration and the business climate for promoting intra-African trade remain weak and complicated. Other institutional challenges include bureaucratic and physical hindrances, such as road charges, transit fees and

⁸ Draper, P. (2010), 'Rethinking the (European) foundations of sub-saharan African Regional Economic Integration', A political Economy Essay

⁹.Oyejide T. Ademola (1997), 'Regional Integration and Trade Liberalization in Sub-Saharan Africa', Palgrave Macmillan

administrative delays at borders and ports. With regard to formal integration arrangements; there is often a substantial gap between the aspirations expressed in the treaties and the reality on the ground. The reasons are manifold but are usually attributed to lack of commitment towards enhanced integration which results in lack of supranational authority and weak regional coordination mechanisms. Stefan and Moritz note the strengthening of supranational structures presents a major challenge for the EAC, whose cooperation has so far been predominantly inter-governmental. The self-interest of states is in itself understandable and right, but without a supranational counterweight it is all too likely that resources will be inappropriately distributed. The short time horizon and internal political commitments curtail the scope for inter-regional action. Realization of a common market requires all member states to be prepared to accept a non insignificant risk. For regional integration not only creates trade, but also changes the overall economic structure. This entails some uncertainties, which in some cases may have negative consequences. In many integration systems there is an imbalance of political and economic power among member countries. These concerns may partly explain the reluctance to move EAC and other regional groupings in Africa to higher levels of integration. Collier and Gunning¹⁰ observe that strict commitments, to agreements with external factors such as the EU, may provide the necessary political checks. Appropriate mechanisms could tie the hands of politicians and minimize the effects of policy slippage. Wide spread corruption and graft is another challenge facing economic integration in Africa. Political instability which is widely common in Africa has also been acknowledged as a factor negatively impacting on economic integration in the region. Lyakurwa al et states that instability among others, have hindered the progress of

¹⁰ Collier, P. and J.W. G (1995) 'Trade policy and regional integration: Implications for the relations between Europe and Africa' Journal The World Economy, Vol. 18.

economic integration in Africa. Easterly and Levine¹¹ found that political instability induces poor growth performance through its effects on public choices¹². Fosu showed that coups d'état have an adverse effect on African export growth which is higher than their effect on GDP. Poor infrastructure has also been an impediment to economic growth in the region as it decreases profitability of investment in neighbouring countries, markets and opportunities for exports. Limão and Venables showed that the low level of intra-African trade in 1990s is explained to a large extent by their poor infrastructure¹³. Richaud found that improving infrastructure in Africa can raise the profitability of investment, thus raising investment ratios and boosting growth in per capita.

The existence of economic disparities between member states is also a problem to economic integration. These include the differences in anticipated national benefits and losses from regional integration by member states; problems with the distribution of costs and benefits that result from economic integration and the liberalization of trade¹⁴ and further inequalities through polarization of industries.

However lack of the engagement of the private sector and public has also been identified as a challenge. To the extent that implementation of the treaties requires the understanding, conviction, and confidence of the private sector, an active involvement of this sector in particular and the general public at large are crucial. This aspect of the regional integration process in

¹¹ Easterly W. and Levine, R (Nov. 1997), *The Quarterly Journal of Economics*, Vol. 112

¹² Lyakurwa, W., A. McKay, N. Ng'eno and W. Kennes (1997) *Regional Integration in Sub-Saharan Africa: Journal Review of Experiences and Issues*

¹³ Limão, N & Venables. A (2001) 'Infrastructure, Geographical Disadvantage, Transport Costs and Trade', *World Bank Economic Review*

¹⁴ Merle H. (1998) " Trade liberalization in sub-Saharan Africa: case study of South Africa," *CSAE Working Paper Series*

Africa has been singled out as one of the major weaknesses of the initiative¹⁵. Others argue that multiple memberships are a hindrance to regional integration since, among other things, it introduces duplication of effort. For instance, Alemayehu and Kibret quote Aryeetey, Oduro and McCarthy as arguing that, “It is difficult to envisage how SADC and COMESA, given their convergence to both sectoral cooperation and trade integration, can live and prosper with the overlapping membership of the Southern African countries”¹⁶. An OAU Study to understand problems of country participation in SADC and COMESA shows that countries do face problems by participating in many RECs. These problems include human and financial costs associated with membership, lack of harmonization of policies especially in the areas of rules of origin and customs procedures, a large information gap at policy making and implementation levels, and changing political position of member countries of different RECs. However, Kwaku and Bergeijk present a different opinion that pointing out multiple memberships can actually be a positive impact of trade increase.

This can be achieved depending on how the regional blocs are modeled; this is if all partners’ states of the sub-blocs are all members of the regional bloc.¹⁷ Khorana Sanpete, Kimbugwe Kato and Perdakis Nicholas note that the proliferation of and the multiplicity of memberships in the EAC has enhanced the complexity of regional trade arrangements which presents the member countries with the challenge of trade effects from the multiple memberships. For instance, the tariffs notified under the COMESA rates differ and are often

¹⁵ Aryeetey, E. and A. Oduro (1996) ‘, Regionalism and the Global Economy’, The Case of Africa

¹⁶ Alemayehu Geda & Haile Kibret, (2002), Regional Economic Integration in Africa: A Review of Problems and Prospects with a Case Study of COMESA

¹⁷ Kwaku . A, Afesorgbor P. and Bergeijk A.G.,(March 2011) ‘ Multi-membership and the effectiveness of regional trade agreements in Western and Southern Africa; A comparative study of ECOWAS and SADC

lower than those notified under the EAC, which allows importers the possibility of benefiting by importing under the COMESA rates rather than the EAC. As a result, the multiplicity of overlapping memberships has the potential to influence the distribution of gains from regional agreements that raises concerns about the losses to tax revenues and trade. However, they do point that there are some advantages of the multiple memberships; these enhance market access for the investors and the producers to the partner countries' markets. For instance, investors in Kenya and Uganda have access to the COMESA market (385 million consumers); similarly, Tanzanian investors have access to an additional 215 million consumers in the SADC markets. It has also been pointed out that most there is a lack of commitment among developing and under developed countries to regional blocs with more efforts being directed to developing multilateral and bilateral relations. Despite these problems, there is a new optimism that intraregional trade and regional integration can help promote development if past mistakes are remedied. The increased emphasis on policy integration and the search for deep integration including creation of a common market for goods, services, capital and people involving harmonization of rules are indicative of the recent changes occurring in the regional integration initiatives in Africa. Stefan Reith and Moritz Boltz note the poor coordination of economic policy is a significant obstacle to successful regional integration. They conclude that there are in some respects major discrepancies between the political agendas of the member states. Harmonization of economic policy is inadequate and national state interests often weigh more heavily than longterm cooperation gains.

Another school of thought is skeptical on the benefits of economic integration in particular on welfare. Bhagwati and Panagariya argue that RTAs will likely reduce welfare in member countries and impede multilateral trade liberalization. Because RTAs give preferential

treatment to member countries, they divert trade from nonmember, least-cost suppliers. They argue that this trade diversion is likely to dominate trade creation, so the RTA will reduce welfare in member countries¹⁸. However, Wonnacott disagrees and notes trade diversion is not necessarily welfare-decreasing by definition. Instead it may increase welfare for the diverting country and the world as a whole¹⁹. Opponents of free trade, for example, argue that regional trade blocs limit rather than encourage global trade expansion. They base their argument on the fact that regional blocs tend to raise tariff and non-tariff walls around them, reducing trade flows from outside the bloc. This, as a result, may lead to inefficiencies in resource allocation and production, reducing the welfare and gains from competition. Hazelwood notes the dismal economic performance of the defunct EAC led to trade diversion, which with the lack of compensatory arrangements for Tanzania and Uganda contributed to the failure of the integration efforts in the region²⁰. Given that coordination mechanisms envisaged in the then treaty failed to achieve regional balance between the member countries, the treaty on the one hand led to high inflation and massive trade deficits in Tanzania and Uganda while on the other, Kenya gained industrial dominance.

1.4.4 The Linear Model of Regional Integration in Africa

The model of market integration pursued by African governments is characterized by a sequence beginning with the establishment of a free trade area, followed by a customs union, a common market, and finally an economic union with a currency union as the highlight, this is the same model adopted by the successful EU and has been advance for African economies to adopt.

¹⁸ Bhagwati, J. and Panagariya, A. (1996) *The Economics of Preferential Trade Agreements*, AE I Press,

¹⁹ Wonnacott Ronald, J.,(2008) *Free- Trade Agreements; For Better or Worse*, American Economic Review, Vol.86, No.2

²⁰ Hazelwood, A. (1975) *Economic Integration: The East African Experience*, Heinemann, London

However, the applicability of this model within the Africa's economies has been questioned, while acknowledging the lessons from the EU, Colin McCarthy questions the lessons from the European model of regional economic integration in the African context. He notes that while regional integration is seen as imperative for the development of African economies, the way in which integration is used to address the constraint of the 'small economy' has itself become a serious obstacle to effective and meaningful integration. He further argues that the linear model is more likely to benefit a member if the member economies are at a certain level of development and diversification. The weaker the economies are, the greater the chances for trade diversion. He goes on to question the impact of integrating smaller economies and the benefits that this would achieve, suggesting the integration of these smaller economies should include an anchor economy in each region²¹. Draper concurs with Colin, stating in the African case economies are small and, allowing for a few exceptions in the form of regional growth poles, trade is oriented towards northern markets rather than neighbours and specialization is rooted in basic comparative advantage. Thus the economic basis for meaningful exchange and complex specialization is so crucial to ensuring distribution of the gains. Furthermore, whilst major unilateral tariff reductions have been made across the sub-continent in the last two decades, they still remain relatively high compared to developed country levels. Consequently, without the opportunities for complex specialization in intra-bloc trade the danger of trade diversion resulting from intra-REC tariff decreases is substantially higher than in the European case²². Collier and Enablers compare the situation in Africa with that of South Asia and argue persuasively that fragmentation into many small economies can explain much of the poor

²¹ McCarthy, C.(2008) The Roadmap towards monetary union in Southern Africa – Is the European experience commendable and replicable? Research Paper

²² Draper P, September (2010) 'Rethinking the (European) foundations of sub-Saharan African Regional Economic Integration', A Political Economy Essay. Working Paper No. 293

African development performance. Fragmentation is associated with an uneven distribution of natural resources, the absence of scale economies in the production and delivery of goods and services and the impact of scale on the cost of public goods. Afadameh, Adeyemi, and Kalula continue to note that African RIAs have not been very successful in achieving successive steps of the linear model of regional integration. Delays in the ratification and domestic incorporation of regional legal instruments by member states, failure to implement specific provisions of the agreements such as negotiated tariff reductions, are common in RIAs. Sanctions for lack of implementation are generally absent in African RIAs. Regional institutions, established in RIAs, are envisaged to contribute to the implementation of these agreements. However, these institutions have not been able to play a robust role as an external agency to ensure national compliance, domestic policy synchronization and legal and institutional development as may be required by the RIAs²³. Chabal and Daloz, argue that the nature of politics in ,black Africa' needs to be understood in its own terms rather than through the prism of Western models. In their view the failure to do so has led to ,historically unrealistic expectations in terms of the development potential of a modern independent Africa. Central to their perspective is the notion that whereas Western modernization theories see development as a chiefly linear process of advance along largely Western lines towards technological and bureaucratic sophistication or ,order', and liberal societies, in their view (black) African societies have acquired the instruments of technological advance whilst remaining "obdurately traditional" in their

²³ Afadameh-Adeyemi, A. and Kalula E., (2011) "SADC at 30: Re-examining the Legal and Institutional Anatomy of the Southern African Development Community", in Bösl, A., et al. (eds.). *Monitoring regional integration in Southern Africa* (Yearbook Vol. 10, 2010). Trade Law Centre for Southern Africa: Stellenbosch.

organizational and political arrangements²⁴. Brown notes that EU's success in managing inter-state conflict, understandably, is proffered to developing countries. This is particularly influential in the African context owing to the region's historical and existing links to Europe via trade, investment, and development assistance. Yet the economics of integration amongst developing countries is not obviously conducive to maintaining good relations amongst the states concerned, particularly if it leads to polarized development²⁵. Furthermore, there are members of developing country regional economic groupings resorting to armed conflict to settle their differences thus proving that regional economic integration does not automatically eliminate conflict. Nonetheless, Hammerstad points out that in recent years there has been a global revival of interest in the role RECs can play in building security. This has been marked by a shift from traditional realist conceptions in which security of the state, and amongst states, are the key issues, to one centered on people where domestic governance is the pivotal concern. This shift was driven by the end of the Cold War Regional Trade Integration and Conflict Resolution, Routledge, London. They stated that with its myriad of proxy conflicts, to a world where internal fragmentation and state failures have moved to the forefront, the logical regional corollary is that states are increasingly concerned with security risks generated by their neighbours arising from poor governance leading to cross-border instability. Therefore, in her view regional security communities in Africa are increasingly willing to replace, hard sovereignty'. In terms of which interference in other member states' affairs is expressly forbidden, with regimes that allow for foreign intervention under defined circumstances. Clapham agrees that establishing such structures at the regional level is essential to constructing

²⁴ Chabal P. and J. Daloz, (1999) 'Africa Works: Disorder as Political Instrument', James Currey, Oxford

²⁵ Brown, O., S.R. Kahn and F.H. Shaheen, (2009) 'Introduction', in Kahn, SR. (ed.) Regional Trade Integration and Conflict Resolution, Routledge, London.

a broader, good governance agenda, which in turn provides the basic precondition for enabling economic growth. However, he argues that establishing such structures require that the constituent states share a common idea of the state in other words ideological congruity, by which he refers to the liberal foundations of the European experience. He argues that failure to do so will bring conflict. Since these conditions are difficult to meet in the African context he asserts that the, liberal peace paradigm represented by the European Union is a very challenging proposition for African states. The literature review reveals a myriad of challenges facing economic integration in Africa. While the intent of regional integration has been to enhance economic growth the literature does not reflect a positive picture on economic growth due to economic integration in Africa. The implementation of the linear approach has in itself posed difficulties give the difference in terms of economies and politics between developed and African countries.²⁶

1.5 Justification of the Study

As noted in the conclusion of the literature review addresses that given to the problems facing regional integration and the linear model to economic integration. These have mainly been generalized with reference to the African context. There is currently no significant research addressing the linear model approach particularly on the EAC and the impact of this model. The EAC has already established a customs union, common market and envisions launching a monetary union and a political federation by 2015. The findings of this study will be expected to lead to a better understanding of not only the dynamics of how economic integration works but also how they can be overcome through the experiences of the defunct East African Community. The study will also be useful to the Kenyan Ministry of Foreign Affairs in their

²⁶ Hammestad, A. (ed.) (2005) *People, States, and Regions: Building a Collaborative Security Regime in Southern Africa*, Johannesburg: South African Institute of International Affairs, Johannesburg.

policy making and also for the EALA and they come up with new policies and how they implement them. The study will also help the African Union to come up with viable policies for a united Africa.

1.6 Theoretical Framework

The proposed study will use the functionalism theory; the theory represents the economic and political aspects of integration given that the two (politics and economics) are intertwined. Functionalism theory by David Mitrany notes that states are not always motivated by self-interest when engaging in the international arena²⁷. Functionalism proposes a gradual process of the integration process. Their focus is on common interests and needs shared by states but also by non-state actors in a process of global integration triggered by the erosion of state sovereignty. Functionalism proposes the formation of an authority based in functions and needs, which links authority with needs, scientific knowledge, expertise and technology, thus providing a supranational concept of authority.

1.7 Hypotheses

1. There is a significant relationship between Economic integration the challenges facing economic growth.
2. Challenges facing economic integration are an impediment to economic growth
3. The linear approach to economic integration creates challenges for developing countries

²⁷Mitrany D (1966), 'A working Peace', Quadrangle Books, Chicago

1.8 Research Methodology

This study was quantitative in nature and mainly adopted a historical research design due to the time and budget constraint which impeded on the on the collection of primary data. This study therefore sought to explore, explain and understand the core elements of the study from already available data which was mainly secondary in nature. This was greatly borrowed from what has already been studied as prevailing trends in the past and upon this, the present is explained and the future predicted. In finding out the challenges of economic integration in EAC, data of historical nature was able to provide such understanding. The study attempted to trace the role of East African Community and economic growth realized thereto. The variable economic integration and the economic growth were hypothesized to be positively related. This made the use of data generated from past studies and hence the need for historical study.

1.8.1 Data Collection Instrumentation

The study utilized secondary data through document analysis. Document analysis was done through critical examination of public and private recorded information related to the issue under study. Sources of secondary data included EAC documents, academic papers, conference proceedings, thesis and dissertations, journals and books.

1.8.2 Research Procedure

Quantitative data was collected on the EAC from existing sources focusing on the role of East African Community in the economic integration framework. The main data collection instrument was document analysis. The document analysis was done by the researcher herself without the involvement of field or research assistants.

1.8.3 Data Analysis

1.8.3.1 *Inferential Analysis*

Data from public documents were analyzed to derive inferences from the findings. This was done by analyzing the degree of correlation which is a measure of the degree of association between two variables that have been obtained from the study. This helped to predict and describe the association in terms of magnitude and direction. It has helped in forecasting and providing a way forward for further studies once the relationship between tangible economic integration and economic growth was established to be in existent.

1.8.2.2 *Measurement of Economic Integration and Development*

1. Capital Accumulation
2. Infrastructure
3. Technological progress
4. Gross Capital Product (GNP) and Gross Domestic Product (GDP)

1.9 Chapter Outline

Chapter one provides some background information on the area of study. This also includes justification of the study, literature review and research methodology. Chapter Two examines and provides an explanation on the concept of integration. It also includes a historical perspective of regional integration. Chapter Three is descriptive; it examines the chronology of the EAC integration and its institutions

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

Chapter Five will provide the conclusions and recommendations from the study.

CHAPTER TWO

2.0 Concepts and Approaches of Regional Integration

2.1 Introduction

This chapter examines the concept of integration by looking at the definitions presented by the various scholars. The methods and factors driving integrations are also analyzed.

2.2 The Concept of Integration

Integration in everyday usage denotes the bringing together of parts in a whole. Its meaning within the context of economics and international relations has been in relation to economic and political aspects. It mainly refers to a process as well as an end product, a combination of both results in a process that leads to a certain state of affairs. In economic terms it would imply, in its narrowest sense, the coordination of economic activities within a country for the purpose of enhancing the development of that particular county. A wider meaning in economic terms implies the proses of regional economic development.²⁸ Balassa defines integration as both a process and a state of affairs, as a process, it encompasses measures designed to abolish discrimination between economic units belonging to different national states²⁹. As a state of affairs, it represents the absence of various forms of discrimination between national economies. In interpreting this definition, distinction is made between integration and cooperation. The difference is qualitative as well as quantitative. Whereas cooperation includes actions aimed at lessening discrimination, the process of economic integration comprises measures that entail the suppression of some forms

of discrimination. Robson refers to economic integration as being basically concerned with efficiency in resource use, with particular reference to spatial aspects. The necessary conditions

²⁸ Mutharika B.W.T (1972), *Towards Multinational Economic Cooperation in Africa*, Praeger Publishers, New York

²⁹ Balassa,B. (1973),*'The Theory of Economic Integration'*, London: George Allwn &Unwin

for its fullest attainment include the freedom of movement of goods and factors of production and an absence of discrimination amongst members³⁰. Molle takes economic integration to indicate the gradual elimination of economic frontiers between countries. In the first stage, trade among partners is liberalised. This is followed by the liberalisation of movement of production factors and finally the coordination of national policies with regard to economic sectors, possibly including exchange rates³¹. Pelkmans follows Molle in viewing economic integration as the elimination of economic frontiers between two or more economies. An economic frontier is any demarcation over which actual and potential mobility of goods, services and production factors, as well as communication flows, are relatively low³². Within the international relations sphere scholars define the concept of integration within the political context as it concerns itself the formation of new political units or the further development of such units in the international political system. Haas defines political integration as the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities towards a new center, whose institutions possess or demand jurisdiction over the pre-existing national states³³. Pentland defines it as a process whereby a group of people organized at the outset in two or more independent states, comes to constitute a political whole which can in some sense be described as a community³⁴. The most important dimensions of political integration are related to the existence and strength of a decision-making process. Lindberg and

³⁰ Robson P. (1987), 'The Economics of International Integration', 4th Edition by Routledge 11 New Fetter Lane, London EC4P

³¹ Molle, W. 'The economics of European integration, Theory, Practice, Policy, Dartmouth Publishing Company Limited', Aldershot, England, 1990

³² Pelkmans, J (2006), 'European Integration, Methods and Economic Analysis', Financial Times Prentice Hall

³³ Haas, Ernst B. (1958), 'The Uniting of Europe: Political, Social, and Economic Forces 1950-1957', Stanford University Press, Stanford

³⁴ Pentland, C, (1973) 'International Theory and European Integration', Faber and Faber, London

Scheingold consider the strength of a system's decision-making process as the essential definition of political integration. Political integration as a process is in their terminology equal to increases in scope and capacity of a decision- making process. Morten views political integration from an institutional and a normative (or identity) aspect. This has to do with formal organization as well as political identity. This implies institutional integration without a reasonably strong political community is problematic and weak as well as vice versa³⁵ . Regional integration is the process by which states within a particular region increase their level of interaction with regard to economic, security, political, or social and cultural issues. Haas defines regional integration as the process through which national states "voluntarily mingle, merge and mix with their neighbors so as to lose the factual attributes of sovereignty while acquiring new techniques for resolving conflicts among themselves³⁶ .

2.3 Factors Motivating Integration

Historically trade among states has always existed, though it has been conducted among its citizens and in an informal manner. As the world advanced, conflicts increased driven by expansion of territorial borders as witnessed in Europe, and the need for independence and identity as in Africa. These resulted in formation of formal agreements and structures to resolve the conflicts and accelerate economic and social development as in Africa.

After the second world war in pursued of peace and need to prevent further war , the establishment of the European Economic Community was to integrate France and Germany's economies to the point that they would find it impossible to go to war with each other. The

³⁵ Morten, K (1992) "European Integration and Political Theory", Political Studies, Copenhagen Press

³⁶ Haas, E. B. Lindberg, L. N. and Scheingold, S. A. (1971) 'The study of regional integration: reflections on the joy and anguish of pretheorizing. Regional Integration: Theory and Research', Harvard University Press , Cambridge

Zollverein or German Customs Union of 1867 paved the way for German (partial) unification under Prussian leadership in 1871. Political reasons based on the need for identify and self-dependence 'Pan Africanism' led to the establishment of the Organization of Africa Unity (OAU) which then transformed into the Africa Union (AU). Economic reasons based on the premise of comparative advantages and economies of scale have resulted in countries establishing regional trade agreement within regions to facilitate and ease trade amongst them. Give the small size of the economies and the need to fast track economic growth and development in Africa, the AU has established referred to eight Regional Economic Communities (RECs). Shared societal values are also a driving factor for integration, this is the case with the Southern African Development Co-ordination Conference (SADCC) whose members consisted mainly former frontline states who came together to agitate for the abolition of apartheid. Apart from its success in uniting the region against the apartheid government of South Africa, the regional cooperation efforts on the part of SADCC did not result in much socio-economic development .

2.4 Methods towards Integration

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

2.4.1 Economic Integration

The process of economic integration is regarded as the path that is followed between decreasing levels of economic discrimination among countries. There are several forms of economic integration. They involve different degrees of discrimination between partner countries and between them and third parties. Preferential Trade Agreements (PTA) is the first stage; these

are arrangements through which member countries receive reductions in tariffs or preferential treatment within quantitative restrictions on their trade with other member countries while maintaining their normal level of trade restrictions against third parties. This type of arrangement frequently applies only to a group of products and is unilaterally granted. The Common Market for Eastern and Southern Africa is an example of a PTA. The second stage is the Free Trade Areas (FTAs) here member countries eliminate trade barriers among themselves while maintaining their individual national barriers against third countries⁵³. The disparity in the level of discrimination against third parties makes critical the control of trade flows coming through the different partners into the FTA. Normally, strict rules of origin and expensive customs inspection are necessary to prevent trade deflection. In addition, FTA can be established over some special sectors of economy between its members as well which allow the states to pursue the protection policy of other sectors in competition³⁷. Examples include the North American Free Trade Area (NAFTA) between the USA, Canada and Mexico. The third stage is the customs union which in addition to jointly determining the tariff level among the members (as in an FTA); the member countries agree to the unification of custom or trade policies towards non-members. They determine a common external tariff (CET) which is applied to trade with countries outside the customs union. Since there is a loss of sovereignty in terms of the setting up of a tariff level for customs union member countries, a mechanism may be put in place to compensate for the revenue loss that result from the removal of custom duties among member countries. Member countries are represented as a single unit in trade negotiations at the international trade rounds or conferences. The EAC is currently negotiating for the Economic Partnership Agreements (EPA) with the EU as a single bloc. A customs union in addition to

³⁷ Grossman, G. (1995) The politics of free trade agreements. *American Economic Review*, 85(4)

removing internal barriers to trade also requires participating nations to harmonize their external trade policy. This includes establishing a common external tariff and import quotas on products entering the region from third-party countries, as well as possibly establishing common trade remedy policies such as anti-dumping and countervail measures. A customs union may also preclude the use of trade remedy mechanisms within the union. In Africa the Southern Africa Customs Union and the East Africa Customs Union are examples. The fourth stage is the common markets which comprise all the characteristics that define a customs union, but also allow for full mobility of factors of production. By the same token, member countries within a common market define common policies regulating factor flows with third countries. The need for domestic policy harmonization is more compelling in this case than in the customs unions case. Countries agree to remove the internal barriers and jointly establish migration policies such as a common passport. However, there is no formal obligation for member countries to move in this direction. An example is the European Union common market which has established migration policies, a traveler only requires a single visa known as the 'schengen' visa. However, the UK which is an EU partner state has not adopted this thus a traveler requires a UK visa.

The final stage in the process an economic union is a regional economic agreement in terms of which the level of integration is deeper than that of an FTA, customs union or common market. The member states adopt common economic policies, for example, the Common Agricultural Policy (CAP) of the European Union which regulates production in agriculture. The member states may have a fixed exchange rate regime, such as the exchange rate mechanism (ERM) of the European Monetary Union. In order to improve the management of currency volatility and reduce distortions to trade the member states also adopt a common currency, which involves a common monetary policy and the harmonisation of macroeconomic policies. The

ultimate act of integration is likely to be some form of political integration in terms of which the national sovereignty is replaced by some form of supranational political authority. For example, the EU represents an economic union which has evolved gradually from the sectoral integration endorsed by the Treaty of Rome in 1957³⁸. Economic integration is also applied in situations which do not require member countries to be from the same region or neighbours, thus the generic form of the term can also refer to establishing and developing ties between countries that may or may not be geographically linked. Examples of ties are not geographically linked include the EU-ACP (Africa, Caribbean and the Pacific) Economic Partnership Agreements (EPAs).

2.4.2 Political Integration

There are basically two forms of political integration, federations and confederations, they are often used interchangeably. In the federal form the central and regional governments each possess autonomous authority assigned by a formal constitution, so that neither order of government is legally or politically subordinate to the other and each order of government is elected by and directly acts upon the electorate. Examples of federal governments include Nigeria, Mexico and Ethiopia. A confederal political system is one in which the central government derives its original authority from the constituent regional governments and is therefore, legally and politically subordinates to them, and in which the institutions are composed predominantly of delegates appointed by the constituent regional governments⁵⁷. An example of a confederation is Canada.

2.5 Regional Integration in Historical Perspective

There are four waves of regional integration that have arisen over the past two centuries. The initial episode occurred during the second half of the 19th century and was largely a

³⁸ Watts, R (1981) 'Federalism, Regionalism and Political Integration', Research Paper, Canada

European phenomenon³⁹. Throughout this period, intra-European trade both rose dramatically and constituted a vast portion of global commerce. Moreover, economic integration became sufficiently extensive that, by the turn of the 20th century, Europe had begun to function as a single market in many respects. The industrial revolution and technological advances attendant to it that facilitated interstate commerce clearly had pronounced effects on European integration; but so did the creation of various customs unions and bilateral trade agreements. Besides the well-known German Zollverein, the Austrian states established a customs union in 1850, as did the latter coincide with Italian statehood, not a typical impetus to the initiation of a PTA in the 19th century. In addition, various groups of nation-states forged customs unions, including Sweden and Norway and Moldavia and Wallachia. The development of a broad network of bilateral commercial agreements also contributed to the growth of regional integration in Europe. Precipitated by the Anglo- French commercial treaty of 1860, they were linked by unconditional most-favored nation (MFN) clauses and created the bedrock of the international economic system until the depression in the late 19th century. Furthermore, the desire by states outside this commercial network to gain greater access to the markets of participants stimulated its rapid spread. As of the first decade of the 20th century, Great Britain had concluded bilateral arrangements with forty-six states, Germany had done so with thirty countries, and France had done so with more than twenty states. These arrangements contributed heavily to the unprecedented growth of European integration and to the relatively open international commercial system that characterized the latter half of the 19th century, underpinning what is referred to as an era of “progressive bilateralism.” World War I disrupted the growth of regional trade arrangements. But a second wave of regional integration, which had a decidedly more

39 Kindleberger C. P (1975). *The Rise of Free Trade in Western Europe, 1820–1875*. The Journal of Economic History, Cambridge

discriminatory cast than its predecessor, began soon after the war ended. The regional arrangements formed between World Wars I and II tended to be highly preferential. Some were created to consolidate the empires of major powers, including the customs union France formed with members of its empire in 1928 and the Commonwealth system of preferences established by Great Britain in 1932. Most, however, were formed among sovereign states. For example, Hungary, Romania, and Yugoslavia.

The Rome Agreement of 1934 led to the establishment of a PTA involving Italy, Austria, and Hungary. Belgium, Denmark, Finland, Luxembourg, the Netherlands, Norway, and Sweden concluded a series of economic agreements throughout the 1930s. Germany also initiated various bilateral trade blocs during this era. Outside of Europe, the United States forged almost two dozen bilateral commercial agreements during the mid-1930s, many of which involved Latin American countries. Longstanding and unresolved debates exist about whether regional integration deepened the economic depression of the interwar period and contributed to political tensions culminating in World War II. In the 19th century, a network of treaties containing the most favored nation (MFN) clause spurred major tariff reductions in Europe and around the world, ushering in a harmonious period of multilateral free trade that compares favorably with the recent GATT era. In the interwar period, by contrast, discriminatory trade blocs and protectionist bilateral arrangements contributed to the severe contraction of world trade that accompanied the Great Depression. The latter wave of regional integration is often associated with the pursuit of beg-thy-neighbor policies and substantial trade diversion, as well as heightened political conflict. Scholars frequently attribute the rise of regional integration during the interwar period to states' inability to arrive at multilateral solutions to economic problems. The failure to achieve international agreement on matters of trade and finance in the early 1930s

led many nations to consider the alternative possibility of trade liberalizing agreements on a regional basis⁴⁰ In part; this failure can be traced to political rivalries among the major powers and the use of regional trade strategies by these countries for mercantilist purposes. Hence, although regional integration was not new, both the political context in which it arose and its consequences were quite different than before World War I. Since World War II, states have continued to organize commerce on a regional basis, despite the existence of a multilateral economic framework. Regional integration, then, seems to have occurred in two waves during the post-World War II era. The first took place from the late 1950s through the 1970s and was marked by the establishment of the European Economic Community (EEC), European Free Trade Area (EFTA), and a plethora of regional trade blocs formed by developing countries. These arrangements were initiated against the backdrop of the Cold War, the rash of decolonization following World War II, and a multilateral commercial framework, all of which colored their economic and political effects. In Africa this was the period was characterized by many gaining independence from their colonies, the immediate post-independence era was characterized by a strong commitment to economic planning, and since economic planning would be more feasible at a continental and, in an interim phase, at a regional level. Underpinning this approach was the belief that development would be promoted by industrialization, in particular core manufacturing. The industrialization-regional integration interface was clear. Larger, protected markets in the various sub-regions would support a policy of import-substituting industrialization. The aim was to establish a broad range of industries across different sectors. Underpinning this policy approach was the belief that development would be promoted by industrialization, in particular core manufacturing. The ambition of

⁴⁰ Kenwood, A. G., and A. L. Lougheed.(1971). *The Growth of the International Economy 1820–1960: An Introductory Text*. London: Allen and Unwin.

African leaders to integrate Africa, and to develop the continent through import substitution industrialization, was a key feature of the immediate post-colonial period. In the late 1950s, under the initiative of Kwame Nkrumah, president of newly independent Ghana, a pan-African forum for independent countries began to take shape on an underlying sense of continental unity. However, the attempts of African unity were plagued from the beginning by the division between the so-called “Casablanca Group,” which, led by Kwame Nkrumah, called for a federation of African states, and the “Brazzaville/Monrovia Group,” which favored a slow progression toward an economic union. Ultimately, a compromise was made for a loose, continent-wide organization of African states. Meeting in May 1964, the leaders of thirty-one newly independent African states established the Organization of African Unity (OAU). establish the Organization of African Unity (OAU), which was founded as an intergovernmental organization with no real powers over states. Its main objective was to end colonialism in Africa, especially apartheid in South Africa, while this objective was achieved, the OAU did not have much to do with the transition⁴¹. The Lagos Plan of Action (LPA) was an initiative of the Organisation of African Unity (OAU), adopted by Heads of State in April 1980, and keenly supported by the United Nations Economic Commission for Africa (ECA). A decade later in 1991 the Abuja Treaty provided strong support for the African integration agenda. This Treaty emphasized African solidarity, self-reliance and an endogenous development strategy, through industrialisation. The proposed framework for African integration and continental industrialization was the division of the continent into regional integration areas that would constitute a united African economy, the African Economic Community. The goal was a highly ambitious one, namely, creation of an eventual continent-wide common market and of structures

⁴¹‘African Foreign Policy and Diplomacy from Antiquity to the 21st Century’, Greenwood Publishing Group, USA (2010)

and institutions to govern the market, similar to initial plans for the European common market, minus the goals. To achieve this the Economic Commission for Africa (ECA) supported three regional integration arrangements; the Economic Community of West African States (ECOWAS) for West Africa, which was established in 1975, predating the LPA; the Preferential Trade Area (PTA) covering East and Southern Africa, which was the precursor of the Common Market for Eastern and Southern Africa (COMESA); and the Economic Community of Central African States (ECCAS) for Central Africa. Regional economic integration was reintroduced later in 1980 when the OAU Extraordinary Summit adopted the Lagos Plan of Action as a major step towards the goal of integration. Beginning in the 1980s, several African countries engaged in domestic trade reforms, but mainly in an effort to increase their participation in international trade. The commitments in the Lagos Plan and the Final Act of Lagos were translated into concrete form in Abuja, Nigeria in June 1991, when the Organisation of African Unity (OAU) Heads of State and Government signed the Treaty establishing the African Economic Community during the 27th ordinary session of the OAU, and this Treaty has been in operation since May 1994. The Arab Maghreb Union (AMU) was established in 1989, completing continental coverage. The Southern African Development Co-ordination Conference (SADCC) was established in 1980, by the so-called front line states with the specific aim of reducing economic dependence on apartheid South Africa, which was still excluded from the African integration plan. However, in anticipation of South Africa's democratic transition in the early 1990s, SADCC became the Southern African Development Community (SADC) in 1992 and South Africa joined SADC in 1994

The formed preferential arrangements in Africa, least developed countries and developing countries was to reduce their economic and political dependence on advanced

industrial countries. Designed to discourage imports and encourage the development of indigenous industries, such arrangements fostered at least some trade diversion. Moreover, many of them were beset by considerable conflict over how to distribute the costs and benefits stemming from regional integration, how to compensate distributional losers, and how to allocate industries among members. In contrast, the regional arrangements concluded among developed countries— especially those in Western Europe are widely viewed as trade-creating institutions that also contributed to political cooperation. The most recent wave of regional integration has arisen in a different context than earlier episodes. It emerged in the wake of the Cold War's conclusion and the attendant changes in interstate power and security relations. Furthermore, the leading actor in the international system (the United States) is actively promoting and participating in the process. Trade agreements also have been used with increasing regularity to help prompt and consolidate economic and political reforms in prospective members, a rarity during prior eras. And unlike the interwar period, the most recent wave of regional integration has been accompanied by high levels of economic interdependence, a willingness by the major economic actors to mediate trade disputes, and a multilateral framework this being the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) that assists them in doing so and that helps to organize trade relations. The forces driving the current developments differ radically from those driving previous waves of regional integration in this century. Unlike the episode of the 1930s, the current initiatives represent efforts to facilitate their members' participation in the world economy rather than their withdrawal from it. Unlike those in the 1950s and 1960s, the initiatives involving developing countries are part of a strategy to

liberalize and open their economies to implement export and foreign investment led policies rather than to promote import substitution⁴²

2.6 Conclusion

In conclusion regional integration has been an enduring feature of the international political economy, but both its pervasiveness and cast have changed over time. Domestic and international politics are central to explaining such variations as well as the origins and nature of the current wave of regional integration. The main motivating factors for integration are security, economic and political.

⁴² Eichengreen, Barry, and Jeffrey A. Frankel.(1995) Economic Regionalism: Evidence from Two Twentieth- Century Episodes. North American Journal of Economics and Finance

CHAPTER THREE

3.0 East Africa's Quest for Integration

3.1 Introduction

This chapter will look trace the history the EAC integration process and provide a chronology of major events their successes and failures and how they have influenced and impacted on the integration process. It will also examine and analyze the structures of the EAC and provide a progress of the integration process.

3.2 The History of the EAC

3.2.1 The Colonial Era (1917– 1960)

The history of regional cooperation in East Africa goes back to pre-colonial times back to the end of the 19th Century during the construction of the Uganda Railway from the coastal town of Mombasa to Fort Florence (present day Kisumu) on the shores of Lake Victoria. In the early 1900s a single customs collection point for Uganda and Kenya was established at Mombasa. The first moves towards cooperation between states were made in 1917, initiated by the British colonial government to serve her economic interests and those of the British settlers in Kenya⁶⁸. The aim was to create a free and integrated market, sheltered by selective high tariff walls to simultaneously encourage Kenyan settler businessmen and expand market for foreign exports into East Africa. Kenya and Uganda established a Customs Union in 1917 which the then Tanganyika joined in 1927. Yet even in the first half of the 20th century, the differing economic orientation of the three countries was apparent, paving the way for a wide range of later compatibility problems⁴³. Ever since colonial times, Kenya and Uganda have co-coordinated their economic activities and policies.

⁴³ Edward Kafeero (2009) 'Customs Law of the East African Community in light of WTO Law and the Revised Kyoto Convention Munster', *Research Paper*

This started with inter-territorial services, such as the Kenya/Uganda railway, the East African Currency Board and the Postal Union. In 1940, a Joint East African Income Tax Board and a Joint Economic Council were established⁴⁴. The East African shilling was set at parity with the British pound and later operated as a peg in the currency board. The external tariff was low and there were no trade restrictions, exchange controls or any regional licensing requirements. In 1948, two institutions were established by a British Council order to provide a legal basis for regional cooperation: the East African High Commission (EAHC), consisting of the Governors of Kenya, Tanzania, Uganda and the East African Central Legislature Assembly. Laws issued by the EAHC were enforceable in the three territories. This made it much easier to establish inter-territorial departments responsible for areas of common interest like transport, communications, customs and industry⁴⁵.

3.2.2 Post- Independence East Africa Cooperation; (1960 - 1977)

The East African Common Services (EACSO) which succeeded the colonial era East African High Commission was established at the London conference in 1961. However, for the majority of decision-makers in the 1960s, EACSO was too closely associated with pre-independence structures. By 1963, East African Acetates had attained their independence, but establishing a political federation proved problematic. The main disagreement centered on fears that Kenya would gain from a federation, to the detriment other smaller neighbours. In addition, attempts to set up a central bank foundered in 1965, as a result, the countries moved towards a regional trade agreement instead of a political federation. The Permanent Tripartite Commission forecast African Cooperation, known as theist African EAC, began in 1967. Its main objectives

⁴⁴ Magu, M.S (2013) 'Dilemma of Collective Action', Explaining East Africa Regional Integration and Cooperation', *Academic Research Journal*

⁴⁵ Njuguna, S,N (2003) 'Regional Integration Experience in East Africa', *Paper, African Economic Research Consortium in Nairobi*.

were to “strengthen and regulate industrial, commercial and other relationships of the partner states in areas such as agriculture, education and manpower, energy and power, industry, tourism, balance of payments, transport and communications. The EAC Cooperation Treaty set out three objectives. First, to establish a common external tariff, while allowing deviations for particular items when agreed among the respective Finance Ministers. Second, to allow unrestricted freedom of transit goods between the three countries, with remission of duties levied on transit goods to the country of destination. Third, to control imports from third-party countries when such goods were also produced in East Africa. The EAC then was a showcase not only in Africa but also in the entire world. At the height of its performance, the EAC was recognized as one of the world’s models of regional integration. There was unprecedented interaction among the people of the region. The EAC operated common services such as airline; postal and telecommunications; power, railways and harbours; several research organizations and a literary development centre. There was no internal tariff, except for a transfer tax within the region. Unfortunately, within the first year, the East African Currency Board broke down, leading to the establishment of three separate central banks. In 1967 Tanzania adopted the Arush Declaration, which ushered in a socialist era, emphasizing self reliance and eschewing foreign investment. Much in the same vein, under President Milton Obote, Uganda opted for the Common Man’s Charter, which, in effect, established an ideological axis between Tanzania and Uganda. Kenya, on the other hand, had laid down its ideological precepts in Sessional Paper No. 10 of 1965 on African Socialism and Its Application to Planning in Kenya, which, despite the term socialism, set the stage for an open, liberal economy welcoming foreign investment. The skeptical view of foreign investment taken by Tanzania and Uganda caused potential investors in the region to cast their eyes on Kenya. The relatively better infrastructure and industrial base in Kenya, inherited

from colonial times, also favoured an inflow of investment. Thus, old disparities and new ideological dispositions combined to reinforce inequalities. This destroyed any hope for a monetary union. In addition, a military government came to power in Uganda in 1971 and challenged the foundation of harmonized policy and rule of law. Tanzania did not recognize the new regime in Kampala and considered its participation in the EAC illegal. Furthermore, the countries reacted differently to the economic shocks of the 1970s and continued to have different economic systems. Finally, the EAC collapsed when partner states failed to pay their dues to the EAC and Tanzania closed its border with Kenya. One of the reasons advanced for the collapse of EAC in 1977 was that Kenya was receiving a disproportionate share of the benefits of integration. Various measures were tested to redistribute the gains from the common market, but failed to produce the results Uganda and Tanzania wanted⁷⁴. For example, the East African Development Bank, which was to promote industrial development with the states contributing equally to its capital base, was required to ensure that Tanzania and Uganda each got 38.75 per cent of its investments, against 22.5 per cent in Kenya. However, under a risk-averse clause in its statutes, it could only finance 'viable' projects, most of which were in Kenya, especially during the 1971-1973 period. This greatly limited its role as a redistributive institution. The absence of coordinated industrial planning in EAC further limited the Bank's effect on redistribution. Under tax transfer system, industries of less developed members were protected by imposing a tariff on imports from a country with which it had a trade deficit. There were regulations to encourage industries in Uganda and Tanzania, but location advantages kept pulling investors to Kenya. In the end, the tax transfer system was replaced with mechanisms to distribute common services among partner states. The formal dissolution of EAC in 1977 was the culmination of various failures or inadequacies, these can be attributed to four main factors:

firstly, its lack of steering functions and coordination mechanisms envisaged in the then treaty failed to achieve regional balance between the member countries, the treaty on the one hand led to high inflation and massive trade deficits in Tanzania and Uganda while on the other, Kenya gained industrial dominance; secondly, the unequal distribution of benefits and lack of compensatory arrangements for Tanzania and Uganda contributed to the failure of the integration efforts in the region; thirdly, the purely intergovernmental structure and contradictory economic and, fourthly, the irreconcilable differences of opinion between leading players, especially between the Ugandan dictator Id Amin and the Tanzanian president Julius Nyerere. 76

3.2.3 Re-Establishing the EAC (1978 – 2000)

In the years that followed the collapse of the first EAC, the three former partner states attempted to regulate economic affairs by means of individual multilateral agreements. EAC was signed by the heads of state of Uganda, Kenya and Tanzania. The East African countries negotiated and signed the EAC Mediation Agreement in 1984. Through this agreement the countries divided among themselves the assets and liabilities of the defunct EAC which marked the end of the structured tripartite co-operation, although bilateral relations between the three countries continued. One of the positive elements of the Mediation Agreement was a provision for the possibility of a future of co-operation between the three countries. Despite the historical setback, the spirit of cooperation among the three East African States of Kenya, Uganda and Tanzania was rekindled through a Cooperation Agreement. It was on that basis that the three Heads of State held a Mini – Summit on the sideline of the Commonwealth Heads of Government and States (CHOGS) Summit held in Harare in November 1991, during which they announced their intention to re-launch the East African co-operation. Important steps towards establishing an EAC was taken in 1993 and 1997 at two summits of the heads of state. In 1993 the Permanent Tripartite Commission for Cooperation was set up, the Secretariat for the

Commission set in motion regional reconstruction and more specifically, the operational structures and functions of the East African Cooperation. The core mandate of the Commission was to lay the foundation for economic-political and socio-cultural development for the benefit of the people of the region. In order to achieve these objectives, the Commission developed specific strategic plans for action and implementation, a draft treaty was produced⁷⁹. Cooperation on security matters was also initiated during this period. From 1992 the three states participated in the Cross Border Initiative, a group of COMESA countries who were committed to the fast tracking of economic integration concentrating in the areas of trade, payments and investment. Full East African Cooperation operations began in 1996. In 1997 an East African Cooperation Development Strategy was approved and a Draft Treaty for the Establishment of the Exactas prepared. The Treaty for the establishment of the new “East African EAC” was signed by the Heads of State of the partner states on November 30, 1999 in Arusha, Tanzania and came into force on 7th July 2000 .

3.2.4 The EAC (2001 - 2010)

EAC's integration is process based on the experience of three partner states: firstly, on their previous efforts under the defunct EAC of 1967–1977 and the East African Common Services of 1961–1967; secondly, on no co-operation during the period 1977–1993, as well as the emergence of regionalism after the end of cold war in 1989; and on the challenges of the globalization of economic, monetary and information policies of the new world order. These three factors raised provide the foundations for the new EAC integration. The EAC was formally and officially launched by the Heads of State on 15th January 2001⁸². The Treaty for Establishment of the EAC was signed on 30 November 1999 and entered into force on 7 July 2000 following its ratification by the original three Partner States Kenya, Uganda and Tanzania. It envisaged the establishment of a single market and investment area in the region and the

harmonization of policies to promote cross-border trade and investment, ease cross border movements of goods and persons, development of infrastructure, and enhancement of technological and human resource development. A development strategy covering the period 2001-2005 was prepared, focusing mainly on the establishment of a customs union and later on a common market and the enhancement of cooperation for mutual benefit of partner states. The most significant milestone of the strategy is the establishment of the EAC customs union. In March 2004, the countries signed the EAC customs union protocol, which came into force on 1 January 2005. At a Summit meeting in Nairobi, August 2004, the Heads of States noted slow progress in the integration process. As a result, they found it expedient to appoint a committee to consider ways and means “to expedite and compress the process of integration so that the ultimate goal of a Political Federation is achieved through a fast track mechanism.” The committee submitted a comprehensive report on 26 November 2004 with three fast-tracking options for consideration; compression of the current stages of integration, overlapping and parallel processes of integration; and immediate establishment of an East African federation. .The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and became full members of the EAC with effect from 1 July 2007. In November 2007, the partner states signed an interim EAC/EU Economic Partnership Agreement (EPA) which replaced the non-reciprocal Cotonou Agreement and provides the legal framework for the trade between the EU and the EAC partner states.

3.3 Decision Making Entities and Institutions Of EAC

Decision making entities and institution are important for implementing and monitoring agreements and plans to ensure achievement of the integration goals. In the case of the East African EAC, these institutions are named in Article 9 of the EAC Treaty.

3.3.1 The Council

The Council of the EAC comprises of the Ministers who are in charge of regional cooperation in each of the partner states. The Council is the main policy organ of the EAC with statutory responsibility to, inter alia, oversee and promote the implementation of the EAC's vision and mission; give directions to the EAC organs, except the Summit, the EALA and the EACJ; scrutinize the budget and submit reports to the Summit; establish Sectoral Councils and Sectoral Committees for purposes of proper operations of the EAC; and initiate bills to the EALA. As in the case of the Summit, the legislative responsibility conferred on the Council has the potential of usurping the role of the EALA, particularly in a situation where the two organs disagree on policy issues⁸³. The Council meets twice a year, with one of its meetings held in advance before the Summit meeting. The Council is the organ that directly reports and advises the Summit on the implementation and development of the EAC objectives. This is not to argue that the Summit does not have the authority to request a meeting with any other organ of the EAC. The Council also has the option of convening an extraordinary meeting, usually at the request of a member state or the Chairperson of the Council. Extraordinary meetings are convened to deal with pending or pressing EAC-related issues. Consensus is the main principle that guides its decision-making process during its meetings.

3.3.2 The Coordinating Committee

The Co-ordination Committee consists of the Permanent/Principal Secretaries responsible for regional co-operation in each Partner states and such other Permanent/Principal Secretaries of the Partner States as each Partner states determine. Subject to any directions that may be given by the Council, the Co-ordination Committee meets at least twice in each year preceding the meetings of the Council and may hold extraordinary meetings at the request of the Chairperson of the Coordination Committee. It submits from time to time, reports and recommendations to

the Council either on its own initiative or upon the request of the Council; implements the decisions of the Council as the Council may direct; receives and consider reports of the Sectoral Committees and co-ordinate their activities .

3.3.3 The Sectoral Committees

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

3.3.4 The East African Court of Justice

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

also has the original, appellate and human rights jurisdictions on issues associated with the treaty. For example, partner states; the Secretary General as well as legal and natural persons have the right to seek redress on the grounds of the infringement of the EAC treaty by a member state. The EACJ also has jurisdiction to hear cases involving the EAC and its employees. The EACJ may be called upon by a partner states to arbitrate an agreement to which the EAC or a partner states is a party. Rulings of the Court are based on majority verdict. The Court has attempted, albeit with difficulties and challenges, to exert and consolidate its independence by delivering rulings brought before it for adjudication, some of which are considered controversial. However, the independence of the judiciary is open to doubt. For example, the judges unlike in the European Union are appointed directly and without consultation by the members of the Summit. This contrasts with the procedure at the European Court of Justice, whose judges are also appointed by the governments of the partner states, but only after a consultation with a panel of experts. In addition, a number of judges retain their position as national judges, who can lead to conflicts of interest; moreover, the Court of Justice is seldom invoked.

3.3.5 The East African Legislative Assembly

The East African Legislative Assembly (EALA), as in the case of national legislative assemblies, is the law-making organ of the EAC. As the legislative organ of the EAC, the EALA is responsible for, among other things, approving budgets of the EAC; debating audit reports; performing an oversight function; and initiating Bills in the Assembly. Bills are normally introduced by any member and/or members of the Assembly. The Assembly may request the Council, as it has done over the years; to submit to it proposals on EAC related matters that may require its attention and scrutiny. The EALA holds its proceedings once a year and such meetings are presided over by the Speaker. The speaker is elected from among the representatives for a-five year term on a rotational basis. The EALA representatives hold office

for five years and are eligible for re-election once for a further term of five years. Decisions in the Assembly are guided by a majority vote of the representatives present and voting. Once a Bill has been enacted by the Assembly and assented to by the Heads of State or Government, it becomes an Act of the EAC.

Theoretically, the Assembly should serve as the custodian of regional democracy enlargement and consolidation. However, certain operational and structural limitations hamper the Assembly's role as the organ responsible for promoting democracy through its legislative Acts. First, each partner states is empowered by the treaty to elect nine (9) representatives, a practice which does not take cognizance of the population of the partner states. Another anomaly is with the equal financial contributions by the partner states to the EAC. The contributions are mainly pegged on the principle of equality as opposed to proportional representation. Limitation of funding notwithstanding, proportional representation provides a better option, at least in terms of fair distribution of population. Secondly, the electoral procedures of the EALA representatives is conducted by the National Assemblies of the partner states as prescribed in the treaty, this puts into question the legitimacy of the representatives and by extension the Assembly itself. There is no EAC-wide uniformity in the electoral process. Each member state is empowered to employ its own electoral laws, rules and regulations when electing the representatives. This indirect electoral process undermines the principles of popular participation and individual sovereignty. More specifically, it is the electorates who confer sovereign rights on elected representatives who, in turn, make laws on behalf of the electorates. This is the key to liberal democracy also inscribed in the EAC treaty. The places more interest in national representation as opposed to regional representation. Parliaments, the EALA included, derive their mandate and legislative authority from the electorate to whom they also owe allegiance. The provision in the EAC treaty

which empowers the political parties and other interest groups, to participate in the nomination and thereafter election by parliament of the EALA representatives shift allegiance to the nominating bodies as opposed to the electorates. In Kenya and Tanzania, for example, the political parties represented in parliament are the key players responsible for nominating and electing the EALA representatives. In Uganda on the other hand, those interested in seeking nomination in the country's "no-party movement", have to be supported by at least 50 members of parliament. An individual interested in seeking the nomination and election to be a member of the EALA has to meet certain criteria namely: be a citizen of a partner state; not be a member of parliament; not be a minister in a partner state; and not be an employee of the EAC.

3.3.6 The Secretariat

The Secretariat is the executive organ of the EAC. These are the offices in the service of the EAC these include; the Secretary General appointed by the Summit upon nomination by the relevant Head of State under the principle of rotation. Upon the appointment of the Secretary General the Partner states from which he or she is appointed forfeits the post of Deputy Secretary General. The Secretary General is the principal executive officer of the EAC and is Head of the Secretariat; Accounting Officer of the EAC; the Secretary of the Summit; and carries out such other duties as are conferred upon him by the Treaty or by the Council from time to time. The Deputy Secretaries General is appointed by the Summit on recommendations of the Council and on rotational basis deputies for the Secretary General; and performs such other duties as may be prescribed by the Council. The Counsel to the EAC is the principal legal adviser to the EAC. The Secretary General and the EAC staff are immune from civil process and immigration restrictions while performing their official duties prescribed in the treaty. As international civil servants, they are charged with the responsibilities to exercise their duties without due influence from a partner state and to uphold the EAC's international legal personality within the spirit of the treaty. The

Secretariat plans and supports all the EAC's programs and undertakes administrative tasks. The Secretariat also commissions studies and monitors implementation of the agreed regulations in the partner states

3.4 EAC Pillars of Integration

3.4.1 EAC Customs Union

The setting up of a customs union is provided for under Article 75 of the treaty establishing the EAC. The EAC Customs union protocol was signed on March 2nd , 2004 and was ratified by the end of December 2004 and eventually came into force on 1 st January, 2005. A CET was provided for in a three band formula on imports from countries who are non-member of the EAC with 0% on raw materials, 10% on intermediate products and 25% on finished imports⁹¹ . New setup of customs union also recognizes the fact that one of the partner states Kenya has an advanced economy compared to the others. This is taken care by the Asymmetry Clause in the Protocol for implementation of the customs union. This clause provides that goods from Kenya to other members will continue facing tariffs for a period of five years from 2005 to 2010, while other members will export to Kenya under duty free. The Asymmetric Clause intends to level the economies of partner states so as to ensure fair play in the community's activities.

3.4 2 EAC Common Market

The common market protocol on the establishment of the EAC common market was signed on November 20, 2009. The common market came into force on July 1, 2010 after ratification by the partner states. The common market protocol provides for the free movement of the factors of production which includes the free mobility of persons without discrimination. This Protocol is expected to become fully effective, after a period of progressive implementation, by 1 January 2015.

3.4.3 EAC Monetary Union

The EAC treaty provides for the establishment of a monetary union to facilitated cooperation in monetary and fiscal matters. In addition, partner states are to maintain convertibility of their currencies as the basis for the formation of a monetary union. Monetary union negotiations commenced in 2010 and are also ongoing, with outstanding matters including macroeconomic as well as legal and institutional frameworks. The original goal of establishing a common currency by 2012 may not be achieved, and there remains a long list of issues to be resolved. It is envisaged that a Central Bank and Federal Treasury will be established to support this.

3.4.4 EAC Political Federation

A political federation is expected to be establishment at the end of the integration process. Partner states have already made progress on building the common political foundation necessary to support such a federation. Interim steps already taken include cooperation on such issues as conflict prevention, management and resolution; refugee management; and combating the proliferation of illicit small arms and light weapons. Formal institutional advances include the establishment of an EAC Forum of Electoral Commissions, a Forum of National Human Rights Commissions, Anti-Corruption/Ombudsman agencies and a Forum of Chief Justices. Meanwhile, in addition to a peace and security protocol signed in early 2013, EAC member states are also due to conclude protocols on combating and preventing corruption, promoting good governance and advancing defense cooperation. Nevertheless, more progress will be necessary if the political federation is to be realized on a fast-tracked basis as proposed of 2015.

3.5 Conclusion

The EAC efforts as examined in this chapter, date back to pre-colonial times. The EAC needs to ensure the present EAC is a successful after drawing lessons from past failures and putting in place mechanism to avoid previous mistakes.

CHAPTER FOUR

4.0 Challenges Facing the EAC Economic Integration Process and Findings

4.1 Introduction

The importance of integration in today's world which has embraced globalization cannot be underscored. The EAC therefore needs to address any impediments that may hinder the successful implementation of the integration process. This chapter therefore focuses on study findings and analysis, based on both primary data collected through a questionnaire administered to senior officials of the EAC partner states drawn from the relevant ministries charge with economic integration, trade and immigration officers and staff of the EAC secretariat.

4.2 Multiple REC Memberships

The EAC partner states are engaged in multiple REC memberships, Burundi is a member of COMESA, EAC and Economic Community of Central African States (ECCAS), Kenya is a member of COMESA and EAC, Rwanda is a member of COMESA, EAC and ECCAS, Tanzania is a member of SADC and EAC while Uganda is a member of COMESA, EAC. This means partners apply different external tariffs, according to the provisions of the EAC Customs Management Act (2004), Section 112, goods imported by EAC Partner States under the COMESA and SADC arrangements attract preferential tariff treatment as prescribed in each of the EAC member States legislation. Burundi, Kenya and Rwanda are members of COMESA⁹². They extend preferential tariff treatment to all COMESA member countries of on all imports. Burundi, Kenya and Rwanda charges CET rate on all imports from SADC countries, because they do not have a trade arrangement with SADC. It is however worth noting that all SADC countries that are members of COMESA are accorded preferential tariff treatment under the COMESA and EAC arrangement. Tanzania is a member of SADC and extends preferential tariff treatment to all SADC member countries on all imports. Tanzania charges CET rate on all

imports from COMESA countries because it does not have a trade arrangement with COMESA. It is however worth noting that all COMESA countries that are members of SADC are accorded preferential tariff treatment under the SADC and EAC arrangement. Uganda charges CET rate on all imports from SADC countries, because it does not have a trade arrangement with SADC. It is however worth noting that all SADC countries that are members of COMESA are accorded preferential tariff treatment under the COMESA and EAC arrangement. Harmonization of the rules of origin of EAC members against other countries remains complicated as long as EAC member countries belong to different blocs. Members of the various groupings must maintain border posts to enforce rules of origin meant to prevent preferential trade from entering the countries that are not party to the agreement⁹⁵. The preferential treatment granted to third parties reduces the expanded market that the EAC is supposed to offer regional industries. This further breeds conflict in jurisdiction and policies resulting in legal uncertainties where more than one agreement applies. It is impossible for a country to apply two different CETs and be a member of two custom unions with this in addition being a costly since they are mandated to pay membership fees. In addition this spaghetti-like membership structure in which EAC Member States intertwine and interweave themselves in different regional organizations creates intractable political and economic relationships that make regional integration difficult to pursue. The most significant and challenging overlaps, however, are with COMESA and the SADC with the EPA negotiations with the EU. Ideally, each region would negotiate its own agreement, but due to the membership of different blocs, SADC in which Tanzania is a member state has had to create new groups from which to negotiate. Thus the situation in the EAC region remains relatively complex and the EAC is embedded in the wider region with strong links to COMESA, and in the case of Tanzania to SADC. EPA negotiations and the interlinked process of regional

aid programming under the 10th European Development Fund have to strike a careful balance between the need to work with EAC and to maintain the regional approach at the Eastern and Southern African level. There are also the economic effects of trade creation being smaller than trade diversion for Tanzania and a negative fiscal effect due to loss of tariff revenues for the same. Thus, for the EAC, the most pressing overlap to resolve is that of Tanzania's continued membership in SADC. It was only after a protracted struggle that Tanzania joined the EAC EPA, and efforts to convince Tanzania to surrender its SADC membership have been unsuccessful. While there are technical reasons for Tanzania's position, its continued membership in the SADC highlights the fact that economic arguments are not the only factor determining membership in regional trade blocs. Parallel memberships are maintained because a single bloc does not satisfy all the strategic, political and economic needs and objectives of the member state.

Traditionally, Tanzania and Kenya have been distrustful of each other's economic and sometimes political intentions. A SADC membership has seemingly allowed Tanzania to counter Kenya's historical regional economic dominance through a closer political and economic relationship with South Africa, with which Tanzania has strong historical ties. In Article 37.1 of the EAC customs union protocol, there is a provision for recognition and honouring of existing multi-lateral and international obligations, which may not be legally practical in cases where such conflicts exist. Moreover, Article 37.3(a) of the same protocol does recognize the possibility of conflict in obligations and the member states agreeing on seeking convergence on this issue as this matter was deferred to an implementation mechanism. So lack of compromise on how to resolve the conflicting obligations resulting from multi-memberships could be a hindrance in the implementation process of the protocol since the agreement on how to resolve

this issue seems to be a pre-condition to how effective the protocol will be. The proposed implementation of the EAC-COMESA-SADC tripartite framework aimed at promoting greater regional harmonization and cooperation is expected to address these problems. Though this may be promising in regards to harmonizing the trade regimes of these different bodies, given the different objectives of the three bodies, such negotiations do not offer much hope of a short-term solution .

4.3 Non-Trade Barriers

In the Protocol on the Establishment of the EAC Customs Union, each Partner State has agreed to remove, with immediate effect, all the existing non-tariff barriers to the importation into their respective territories of goods originating in the other Partner States and, thereafter, not impose any new non-tariff barriers. However, trade between the EAC countries is still being hampered by the existence of NTBs that are variously applied by the partner states. Within the community, the main types of NTBs include customs documentation and administrative procedures, immigration procedures, quality inspection procedures and transiting procedures that are cumbersome, and not standardized, and costly⁴⁶. Thus, EAC trade liberalization and associated welfare gains would depend primarily on the elimination of policies and procedures linked to structural NTBs. The NTBs therefore affect the capacity of the EAC countries to trade in the regional markets and increase the cost of doing business, which ultimately leads to huge welfare losses⁴⁷

Moreover, NTBs are a serious impediment to the growth of intraregional trade and their associated benefits. This is because these barriers reduce the gains from trade by restricting

⁴⁶ East African Business Council (EABC), 2005. A Study on non-tariff Barriers (NTB)s and development of a business climate index in the East Africa

⁴⁷Ibid

domestic market access to regional exporters, in addition to denying consumer's welfare enhancing opportunities, which arise from access to reasonably priced regional imports⁴⁸ The EAC has developed an online forum on which traders can report complaints regarding NTBs, which are then drawn to the attention of the relevant authorities as well as also track the extent to which authorities have addressed these complaints. While this system shows awareness of the problems posed by NTBs, it is problematic in at least two ways. First, it fails to capture and address the experiences of traders who do not report problems and those who are deterred from trading by NTBs. Second, it offers only a case-by-case approach to tackling NTBs rather than a structural approach. It relies on resolving individual complaints, thereby removing the onus of eradicating the root causes of NTBs from governments and regulatory bodies.

4.4 Poor Infrastructure

Poor infrastructure is another challenge to trade that the union is facing. The lack of rail transportation and bad roads make the transportation process slow and expensive, which defeats the purpose of the benefits of free trade. The Secretary General of the EAC Richard Sezibera is quoted saying "Our roads are overburdened, our rail is not working as it should; our boats and harbours are clogged with too much traffic and little capacity. Our inland waterways, rivers and lakes, are not used at all for transport. Infrastructure is probably the biggest challenge for the East African integration". The partner states agreed to prioritize development for the next 10 years in November 2012. Roads are the dominant mode of transport in the EAC though very limited and existing ones in very poor and unacceptable state of disorder. Hence, many of the roads are unsuitable for long haulage and transnational shipment of goods. For economic integration through trade to grow, this facility must exist and give efficient services. With the

⁴⁸ Richard Sezibera, Secretary General of the EAC, 2011 ,Address to Ministerial Meeting on the elimination of Non-Tariff Barriers'

limited of transportation network involving inefficient rail way system the inland countries face severe difficulties with timely delivery of goods and in tackling subsequent increase in the supply cost of goods and services. Trade flourishes if there is good network of roads for free movement of persons and to move goods from the coast to the hinterland and vice versa. The weaknesses in this infrastructure serve to reduce GDP as opposed to trade per unit of GDP .

4.5 Harmonization and Coordination of Policies

The challenge of harmonization of economic and social policies exists in any regional integration; the EAC is not an exception. The challenge is how to make partner states incorporate regional agreements into national policies. The policies of liberalisation, privatisation and deregulation are almost exclusively national in scope, as they have oblige each partner states to negotiate separately with its external financing institutions, but with no reference to regional dimensions. Similarly, the donor institutions have strong preference for funding national programmes rather than those with a regional focus. Thus, domestic considerations take precedence over sub-regional preoccupations. Integration requires the participating partner states to relinquish their freedom of obligations over a wide economic and social policy. According to Scitovsky this may be summarized as follows, the advantages which may potentially accrue from increase of size of market may quite easily be lost if a group of collaborating economies fail to coordinate their policies effectively, operate at less than full capacity, restrict their investment, and thus individually and collectively grow less rapidly. If a group of countries are to gain, they must be prepared from the outset to recognize and accept significant loses of individual sovereignty over their economic affairs⁴⁹ .

⁴⁹ Scitovsky, T. (1963). International Trade and Economic Integration as a Means of Overcoming the Disadvantages of the Size of Nation, in E.Robinson (Ed.), Economic Consequences of the Size of the Nation. London: Zed.

4.6 Sovereignty and Political Commitment

The EAC like other RECs in Africa is hesitant to create a supranational entity and transfer power to it as a sanctioning authority. Supranational entities are supposed to pursue, more or less independently, the agreement's broader integration objectives. The greater the permitted interference by partner states, the greater the risk that domestic agendas will interfere or prevail. The EAC secretariat does have the legal backing to force countries to fulfil their obligations such as reducing tariff rates and other trade barriers in accordance to their commitments. When such barriers are largely eliminated owing to liberalization, this reluctance to lose sovereignty is taking a form of escalating non-tariff barriers which are becoming major problems in the EAC as with other RECs in Africa, the impact of this on trade has been mentioned in 4.2 above

The Secretary General of the EAC refers matters of violation to the EAC court only after the implementing bodies (composed of regional ministers) have failed to achieve resolution by other means. Partner states and individuals may also refer matters, though individuals must exhaust national channels before taking a matter before the EAC courts. The decision-making process within the EAC organs is either discretion or consensus, or both. The problem with discretion and consensus is that they are attempts to hold on to sovereign prerogatives that are not always in the best interest of regional integration. Consensus runs the risk of decisional paralysis while discretion runs the risk of decisional discrimination. The appointment of EAC key officials is conducted through a selection process by the partner states as opposed to an election process which is more transparent and likely to hold accountability. This restricts the integration process to a small group of political leaders and senior technocrats and hence the implementation, costs, benefits and opportunities are neither fully understood nor supported by all levels of government nor by an adequately wide range of public opinion. On political commitment, despite the rhetoric, practical commitment is lacking. It is observed in many RECs,

including EAC that countries are committed to multilateral and bilateral commitments than to regional agreements. The lack of sustained political willingness and commitment to put in place agreed policies and plans has been one of EAC's problems. Lack of political willingness is "expressed in the chronic non-observance of commitments undertaken within the respective agreements and in the insufficient use of the instruments set up by these agreements." Furthermore, for integration to succeed, some element of national sovereignty must be sacrificed. But, hardly any state ruler is really prepared to do so because "the transfer of resources and power of decisions to a supranational institution means a dissolving of the mass of patronage with which they can buy loyalty."

4.7 Lack of Private Sector Engagement and Citizen Awareness

The private sector actors are considered the beneficiaries of integration efforts, and yet they can also be the implementers and drivers behind the process. In the EAC the private sector represented by the East African Business Council (EABC) plays an observer role thus has limited participation in the integration process in regards to influencing policy. Private sector is plays an integral in terms of economic growth and partner states have a responsibility of providing a business enabling environment. While the EAC does recognize the role of the private little has been achieved supporting the private sector as NTBs and poor infrastructure continue to hamper and increase the cost of doing business. The slow process of harmonization policies and regulations within the region continues to cause frustrations among the business communities. There is also inadequate anchoring in civil society in the integration process; the civil society to some extent is viewed as the 'eyes' of the people. An integration that is too strongly focused on a 'small elite' has a shaky foundation because it ignores the majority of population. The lack of opportunities for participation, the absence of transparency and poor accountability threaten to undermine the originally strong support for the EAC integration process.

A central principle of the EAC framework is people-centered cooperation, where the main beneficiaries of the Community are East African citizens. Under Article 127 of the EAC Treaty, member states agree to promote, “an enabling environment for the participation of Civil Society in the development of activities within the Community.”⁵⁰ The EAC secretariat highlights that for any stage of regional integration to be successful and sustainable, it is essential to incorporate full ownership and participation by the people, especially through their institutions of choice, for example, political parties, membership organisations and civil society organisations. It follows then that inadequate involvement of the population of East Africa has serious consequences for the legitimacy of the Community and indeed, the ultimate objective, East African Federation⁵¹. Most EAC citizens lack awareness of the regional integration process and cannot as such articulate the benefits that can be drawn from the EAC integration process⁵². It is as important to step up awareness-raising work as it is to facilitate access to institutions and political decisions. The intergovernmental structure hinders identification with the EAC; the situation is exacerbated by the general mistrust of national politicians. As a result, the EAC runs the risk of being perceived as a puppet of national interests. Any ceding of national sovereignty must be based on the widespread consent of the population because increasing the internal political pressure on decision-makers requires a high level of support from civil society.

4.8 Conflicts and Political Instability

The importance of security and stability within a country as well as in its neighbours is critical for economic stability and growth, the EAC is no exception. Challenges of insecurity

⁵⁰ Article 127 of the EAC Treaty 1993

⁵¹ EAC Secretariat (2012) ‘Strengthening popular participation in the East African Community: An EAC guide to EAC structures and processes’ East African Community Secretariat, Arusha, Tanzania.

⁵² Makame, A. (2012), ‘The East African integration: Achievement and challenges’, *Volume 1, Issue 6. Maastricht: ECDPM.*

within the member states borders and without continue to hamper economic growth and integration. Kenya's post-election violence in 2008 which was as a result of disputed election results resulted in a decline in the country's GDP. This declining growth compounded by high inflation and declining revenues of were a result of the election violence of 2008. Kenya's porous border and conflicts in countries to its north borders with Somalia, Sudan and Ethiopia are regions of instability which continue to pose additional security challenges with an influx of illegal small arms further negatively impacting tourism which is a major foreign exchange earner for it. Tourism numbers in all partner states fell between 2007 and 2009; this was mainly due to the ethnic unrest in Kenya in 2008. There is a pervasive climate of lawlessness as evidenced by increasing levels of piracy off the Somali coast, cross border smuggling between Kenya and Sudan, and between Kenya and Somalia. Cattle rustling is clearly an economic activity for some population categories along the Uganda and Kenya borders. The cross border nature of the raids complicate redress mechanisms as collaboration with neighbouring countries have to be strengthened. The absence of a national policy for pastoralist economies marginalizes this group compelling them to turn to illegal activities for sustenance for example cattle rustling.

Ethnic tensions and conflicts in the region have been experienced by Kenya, Rwanda and Burundi, measures to address these locally and under international law have been sought.

4.9 Conclusion

The challenges faced by regional organizations of economic integration in Africa reflected in the literature review in chapter, are similar to the ones facing the EAC. Multiple REC memberships which put in question political will and commitments to the integration process, non-trade barriers affecting flow of trade and limiting maximisation of economic gains, poor infrastructure increasing costs to business, weak institutions and unwillingness by partner states

to cede power to a supranational entity has resulting to a slower pace of implementation of the protocol and enforcement of the same. To achieve the greater benefits of integration the EAC has to move into deeper integration also needs to address these challenges.

CHAPTER FIVE

RECOMMENDATIONS AND CONCLUSIONS

5.1 Introduction

The objective of the study was to evaluate the role of the EAC in the economic integration process and to identify its problems and challenges. The EAC has signed the customs union and common market protocols; but the full implementation of both has not been achieved, especially for the customs union which was signed 7 years ago. It is worthwhile to note the recognition by the EAC partner states on the importance of integration despite the earlier failings of the previous EAC, this has not deterred their efforts in pursuing economic integration. This chapter will provide a summary, recommendation and conclusion based on the study.

5.2 Recommendations

Regional economic integration provides the EAC countries with leverage for bargaining in international markets and a chance to collectively benefit from economies and large markets. Nevertheless, EAC's success depends on the support and commitment it gets from the member states. Moving towards a Common Market, the progressive institutionalization of key organs is fundamental in sustaining the integration process. Whereas leaders continue to send mixed signals, the EAC countries have no better alternative than to integrate. A vibrant private sector plays a critical role in stimulating the regional integration process and in propelling a private sector led growth. While the private sector is still at a nascent stage in many of the countries in the region, it can play a key in enhancing the regional integration process. Government and the national/regional Chambers of Commerce and Business Councils are also already interacting in the region, but the contact has to extend beyond information sharing to involvement in policy making and programme implementation process. Together with the need for concerted efforts to

remove the existing NTBs within the region the EAC should also concentrate intervention which stimulate growth and improve trade performance.

5.3 Conclusions

There is evidence from the study conducted that the EAC integration has promoted trade creation and in addition the partner states have experienced economic growth due to the integration process. The extent to which partner states would benefit from integration is dependent upon their levels of economic development. Where a partner state enjoys a relatively large industrial sector, then such a country is likely to gain more than other partners, this is the case with the EAC where Kenya which enjoys a relatively large industrial sector, is likely to gain more than other partners.

Secondly, the weak institutions lack the mandate to enforce and implement agreements; this is due to the reluctance by the partner states to sacrifice their sovereignty. This has also resulted in the slow harmonization and coordination of policies. Thirdly, the security and instability in the region creates an environment not conducive for investors, disputes and tension between communities further slows the integration process. Last, but not least the lack of participation by the private sector and citizens who are actually the end beneficiaries of the integration process is lacking. The participation process of the citizens is yet to be institutionalized as the people have no avenues of participation unlike the EU, where the people directly participate in electing representatives of the EU parliament through political parties.

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