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THIRTEENTH PARLIAMENT- SECOND SESSION

THE NATIONAL ASSEMBLY

COMMITTEE ON REGIONAL INTEGRATION

REPORT ON VISIT TO SEMI-AUTONOMOUS INSTITUTIONS OF THE EAST
AFRICAN COMMUNITY IN ARUSHA, TANZANIA

JUNE 2023

THE NATIONAL ASSEMBLY PAPERS LAID	
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TABLED BY:	Hon. Wanjiku Muthia (Chairperson, Committee on Regional Integration)
CLERK-AT THE-TABLE:	Inzafu Mwale

*The Directorate of Audit, Appropriations
& other Select Committees
The National Assembly
Parliament Buildings
NAIROBI.*



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ABBREVIATIONS/ACRONYMS

CMP	Common Market Protocol
EACA	East African Competition Authority
EACJ	East African Court of Justice
EAC	East African Community
GDP	Gross Domestic Product
SAGA's	Semi- Autonomous Government Authorities
SCT	Single Customs Territory
SO	Standing Order

CHAIRPERSON'S FOREWORD

The East African Community (EAC) is a regional intergovernmental organization comprising of seven (7) Partner States: the Democratic Republic of Congo, the Republics of Burundi, Kenya, Rwanda, South Sudan, Uganda, and the United Republic of Tanzania.

The EAC whose headquarters is in Arusha is home to an estimated 300 million citizens. The Community has a land area of 4.8 million square kilometers and a combined Gross Domestic Product of US\$ 240 billion whose realization bears great strategic and geopolitical significance and prospects for the renewed and reinvigorated EAC.

The work of the EAC is guided by its Treaty which established the Community. It was signed on 30th November 1999 and entered into force on 7th July 2000 following its ratification by the original three Partner States being Kenya, Tanzania and Uganda. The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18th June 2007 and became full Members of the Community with effect from 1st July 2007, while the Republic of South Sudan acceded to the Treaty on 15 April 2016 and become a full Member on 15th August 2016. The Community's newest member, the Democratic Republic of the Congo acceded to the EAC Treaty on 8th April 2022.

Since the coming into force, the Treaty, in pursuance of the provision of Article 5(2), the EAC has registered significant achievements in the implementation of the four pillars of the EAC integration agenda i.e. the Customs Union, Common Market, Monetary Union and Political Federation.

The community is considered the most successful regional economic community in Africa as it is progressing well towards continental integration. In a bid to implement the four pillars of the EAC Integration, the Assembly and other Organs and Institutions of the Community have over the years initiated a number of legal and policy reforms which have led to among others the establishment of the Single Customs Territory, free movement of labour, free movement of persons, free movement of capital, free movement of goods and services, rights of residence and right of establishment.

This report contains the presentations, observations and recommendations of the Committee on its familiarization visit to Semi-Autonomous institutions/organs of the East African Community undertaken from 2nd to 8th April 2023, the objectives were as follows-

- i) To appreciate the operations of the EAC Institutions/Organs that provide services in the facilitation of EAC integration;
- ii) To establish a basis for awareness creation in the East African region on the role of the Parliament in the integration process;
- iii) To enhance mutual relationships and sustainable networking between the National Assembly and the EAC organs and institutions; and
- iv) To get feedback and recommendations from EAC institutions/Organs on areas of policy support and advocacy.

In order to appreciate the Community's services in the integration process, it needs to urgently address key challenges adversely affecting the implementation of its integration agenda. Delayed remittance of Partner States' equal contribution to the EAC budget, political/economic disputes among some Partner States, lack of awareness of Treaty obligations by various stakeholders, dependence on donor support for core functions of the Community, fear to cede

power and authority to Organs and institutions and under staffing in the EAC Organs and Institutions need to be addressed.

To address the challenges associated with delayed financing, the council of ministers is encouraged to creatively explore alternative financing mechanisms including the establishment of a levy on imports to the EAC region, or exports out of the region. The founding partner states could also consider paying contributions due for South Sudan and Burundi on the BIG Brother basis and review the EAC treaty to allow partner states' contributions to be based on the ability to pay and retention of veto power by the highest paying partner states. The Council of Ministers to consider and increase the budgets of all institutions/organs of the East African Community. There is also a need to review the current EAC treaty and initiate mechanisms of mobilizing funds at the regional level to inspire regional ownership of EAC projects and programmes.

In addition, the council of ministers should also establish a basis for awareness creation in the East African region on the role of the Parliament in the integration process.

In considering the report, the committee had briefings from the representative of the EAC Secretary-General and Head of various institutions and organs of the East African Community as well as submission by the Director General of Eastern and Southern Africa Management (ESAMI).

The committee also had an engagement with the Ministry of East African Community and Regional development whereby various concerns were raised on the matter of the integration process and on the inspection visit to the One Stop Boarder Points.

I wish to most sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate.

On behalf of the Members of the Select Committee on Regional Integration and pursuant to Standing Order 212 it is my pleasure and duty to present to the House, the Committee's **Report of the Inspection visit to Semi-Autonomous Institutions of the East African Community in Arusha, Tanzania**

HON. WANJIKU MUHIA, M.P.

1.0 INTRODUCTION

1.1 Establishment and Mandate of the Committee

1. The Committee on Regional Integration is a select Committee of the House established under Standing Order 212 of the National Assembly's Standing Orders which sets out the mandate of the Committee. The Committee was constituted in October 2023 following adoption of a motion on membership of committees by the House and is comprised of twenty-one (21) members who will serve for the life of the 13th Parliament.
2. The Committee is also mandated to –
 - (a) examine the records of all the relevant debates and resolutions of the meetings of the East African Legislative Assembly;
 - (b) examine the Bills introduced in the East African Legislative Assembly and Acts of the East African Community;
 - (c) examine the records of all the relevant debates and resolutions of the meetings of the Pan African Parliament, the African, Caribbean and Pacific European Union Joint Parliamentary Assembly and other regional integration bodies; and
 - (d) inquire into and examine any other matter relating to regional integration generally requiring action by the House.

1.2 Committee Membership

The Committee comprises of the following twenty-one Members -

Hon. Wanjiku Muhia, MP – Chairperson
Kipipiri Constituency
United Democratic Party

Hon. Farah Salah Yakub, MP- Vice- Chairperson
FAFI Constituency
United Democratic Party

Hon. David Ochieng Ouma, MP
Ugenya Constituency
Movement for Democracy and Growth

Hon. Rael Chepkemai Kasiwai, MP
West Pokot (CWR)
Kenya Union Party

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency
Orange Democratic Party

Hon. Elizabeth Karambu Kailemia, MP
Meru (CWR)
United Democratic Party

Hon. Joseph Gachoki Gitari, MP
Kirinyaga Central Constituency
United Democratic Party

Hon. Beatrice Chepnig'eno Kemei, MP
Kericho (CWR)
United Democratic Party

Hon. Didmus Wekesa Barasa Mutua, MP
Kimilili Constituency
United Democratic Party

Hon. Fatuma Hamisi Masito, MP
Kwale (CWR)
Orange Democratic Party

Hon. Danson Mwashako Mwakuwona, MP
Wundanyi Constituency
Wiper Democratic Movement -

Hon. Irene Njoki Mrembo, MP
Bahati Constituency
Jubilee Party

Hon. Andrew Adipo Okuome, MP
Karachuonyo Constituency
Orange Democratic Party

Hon. Japheth Nyakundi Mokaya, MP
Kitutu Chache North Constituency
United Democratic Party

Hon. Christopher Aseka Wangaya, MP
Khwisero Constituency
Orange Democratic Party

Hon. Peter Ochieng Orero, MP
Kibra Constituency
Orange Democratic Party

Hon. Naomi Jillo Waqo, MP
Marsabit (CWR)
United Democratic Party

Hon. Julius Kipletting Rutto, MP
Kesses Constituency
United Democratic Party

Hon. Zaheer Jhanda, MP
Nyaribari Chache Constituency
United Democratic Party

Hon. Peter Kalerwa Salasya, MP
Mumias East Constituency
Democratic Alliance Party

Hon. Richard Kipkemai Yegon, MP
Bomet East Constituency

United Democratic Party

1.3 Committee Secretariat

3. The secretariat facilitating the Committee comprises –

Mr. Mohamed Jimale
Clerk Assistant I (Team Leader)

Ms. Purity Macharia
Clerk Assistant III

Mr. Bernard Toroitich
Clerk Assistant III

Mr. Dominic Kyalo
Legal Counsel II

Ms. Damacrine Kwamboka
Research Assistant II

Ms. Edith Chepngeno
Media Relations Officer II

Mr. Samuel Nyambei
Serjeant at Arms

Mr. Rahab Chepkilim
Audio Officer

Ms. Faith Oira
Protocol officer

2.0 BACKGROUND

2.1 Resolution and delegation

1. In a meeting held on 9th March, 2023, the Committee on Regional Integration resolved to undertake a familiarization visit to the Semi-Autonomous institutions/organs of the East African Community and the Eastern Southern Management Institute (ESAMI) on 2nd to 8th April 2023 in Arusha, United Republic of Tanzania. The delegation comprising of five (5) members heard submissions from the institutions head.
2. The delegation consisted of the following members -
 - 1) Hon. Farah Salah Yakub, MP- Vice- Chairperson - **Leader of the Delegation**
 - 2) Hon. Andrew Adipo Okuome, M.P.
 - 3) Hon. Beatrice Chepng'eno Kemei, MP
 - 4) Hon Richard Kipkemoi Yegon, MP
 - 5) Hon Peter Kalerwa Salasya, M.P.
 - 6) Mr. Jimale Mohamed - Delegation Secretary

2.2 Objectives of the Study Visit

3. The purpose of the visit was to familiarize with the institutions of the East African Community based in Arusha, Tanzania. The specific objectives include-
 - a) To appreciate the operations of the EAC Institutions/Organs that provide services in the facilitation of EAC integration;
 - b) To establish a basis for awareness creation in the East African region on the role of the Parliament in the integration process;
 - c) To enhance mutual relationships and sustainable networking between the National Assembly and the EAC organs and institutions; and
 - d) To get feedback and recommendations from EAC institutions/Organs on areas of policy support and advocacy.

2.3 Expected Outcomes

4. The following were the expected outcomes of the delegations engagement with EAC organs and institutions:
 - a) A greater understanding of the achievements, challenges and opportunities of the integration process;
 - b) Enhanced mutual relationships networking between Partner National Assemblies and the Semi-autonomous Institutions/Organs of the East African Community ;
 - c) Adoption of the necessary policy/legislative recommendations to address challenges specifically on funding mechanisms and ratification of stalled protocols.

3.0 EAST AFRICAN COMMUNITY (EAC) – THE COMMUNITY

3.1 Brief Background of the East African Community (EAC)

5. The East African Community (EAC) is a regional intergovernmental organization of seven (7) Partner States: The Democratic Republic of the Congo, the Republic of Burundi, Kenya, Rwanda, South Sudan, Uganda, and the United Republic of Tanzania, with its headquarters in Arusha, Tanzania¹.
6. EAC is considered the most successful regional economic community in Africa. In a bid to implement the four pillars of the EAC Integration, the Organs and institutions of the

¹ www.eac.int

Community have over the years initiated a number of legal and policy reforms which have led to among others the establishment of the Single Customs Territory, free movement of labour, free movement of persons, free movement of capital, free movement of goods and services, rights of residence and right of establishment.

7. The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and became full Members of the Community with effect from 1 July 2007. The Republic of South Sudan joined on 15th April 2016 and became a full Member on 15th August 2016. The Community's newest member, the Democratic Republic of the Congo acceded to the EAC Treaty on 8th April 2022.
8. The EAC treaty covers cooperation agreements in every sector of the public service such as legal and constitutional issues, defense, foreign affairs, trade and industry; infrastructure planning and development; education, science and technology; health and social development; agriculture and food security; environmental management and natural resources; finance and monetary issues, political development and institutional governance. To actualize the areas of cooperation, the partner states have developed legal instruments including memoranda of understanding, cooperation agreements, pacts and protocols.
9. The current integration agenda started with the inauguration of a customs union that later graduated to a common market. Currently, the EAC is in the process of developing a legal framework for the monetary union, and ultimately a political federation among the seven-member states. At formulation, the founding fathers anticipated a higher flow of investment and trade as a result of the Customs Union. The consequent increase in trade completion was also expected to lead to improved quality of exports from individual countries. Member states still view regional integration as an essential plank of their development strategy and an important ingredient of stimulating increased trade, investment and economic growth².

3.2 The EAC Management Structure

10. The EAC organization structure incorporates the Heads of State Summit as the top organ, charged with the responsibility of giving strategic direction towards the realization of the goals and objectives of the Community. The summit relies on the support and advice of the Council of Ministers, which is the central decision-making and governing Organ of the EAC. Its membership constitutes Ministers or Cabinet Secretaries from the Partner States whose dockets are responsible for regional co-operation. The Council meets twice a year to assist in maintaining a link between the political decisions taken at the Summits and the day-to-day functioning of the Community. Regulations, directives and decisions taken or given by the Council are binding to the Partner States and all other Organs and Institutions of the Community other than the Summit, the EACJ and EALA.
11. At the middle level is the coordinating committee, which has the primary responsibility for regional cooperation and coordinates the activities of the Sectoral Committees. The committee recommends to the Council the establishment, composition and functions of such Sectoral Committees. It draws its membership from Permanent/Principal Secretaries responsible for regional co-operation from the Partner States.
12. At the lower level, there are sectoral Committees that conceptualize programmes and monitor their implementation. Sectoral committees are usually established by the Council of Ministers on the recommendation of the Coordinating Committee. The Sectoral Committees meet as often as necessary for the discharge of their functions. The most

² www.eac.int/

notable Institutions/Organs of the EAC include, among others: East African Community Secretariat, East African Competition Authority and East African Court of Justice.³

³ Report on the inspection visit to EAC Organs in Arusha - 12th Parliament.

3.0 VISIT TO EAC ORGANS AND INSTITUTIONS BASED IN ARUSHA, TANZANIA

13. The delegation visited the Institutions/Organs of the East African Community at the headquarter in Arusha, Tanzania, namely; the EAC Secretariat, the East African Competition Authority, East African Court of Justice; and the Eastern and Southern African Management Institute (ESAMI).

3.1 EAST AFRICAN COMMUNITY SECRETARIAT

14. The delegation visited the EAC secretariat in Arusha, United Republic of Tanzania on Monday 3rd April 2023 and was received by the Representative of the Secretary-General of the EAC Secretariat Mr. Simon Owaka, who took Members through the journey of the Community and progress so far made.
15. Mr. Simon Owaka submitted that the East African Community (EAC) is a regional intergovernmental organization of seven (7) Partner States: The Democratic Republic of the Congo, the Republics of Burundi, Kenya, Rwanda, South Sudan, Uganda, and the United Republic of Tanzania, with its headquarters in Arusha, Tanzania. The EAC is home to an estimated 300 million citizens, of which over 22% is composed of urban population. With a land area of 4.8 million square kilometers and a combined Gross Domestic Product of US\$ 240 billion (EAC Statistics for 2019), its realization bears great strategic and geopolitical significance and prospects for the renewed and reinvigorated EAC.
16. He further submitted that the work of the EAC is guided by the Treaty establishing the Community which was signed on 30 November 1999 and entered into force on 7 July 2000 following its ratification by the original three Partner States - Kenya, Tanzania and Uganda. The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and became full Members of the Community with effect from 1 July 2007, while the Republic of South Sudan acceded to the Treaty on 15 April 2016 and became a full Member on 15 August 2016. The Community's newest member, the Democratic Republic of the Congo acceded to the EAC Treaty on 8th April 2022.
17. Mr. Simon Owaka also submitted that Article 5 (2) of the Treaty Establishing the East African Community commits the Partner States to undertake and to establish among themselves and in accordance with the provisions of the Treaty a Customs Union, Common Market, Monetary Union and ultimately a Political Federation to strengthen and regulate the industrial, commercial, infrastructure, cultural, social, political and other relations of the Partner states.
18. The delegation was informed that the East African Legislative Assembly is the legislative organ of the East African Community established under Article 9 of the Treaty Establishing the East African Community. Article 49 of the Treaty bestows upon the Assembly the functions of legislation, oversight and representation and provided for the establishment of committees by the Assembly for such purposes, as it deems necessary.

3.1.1 Customs Union

The Secretary-General informed the delegation that;

19. The EAC custom union was founded in 2005 is embedded in the EAC Customs Management Act, which is fully functional and since 2010 the EAC has been a single customs territory. It provides for the elimination of internal tariffs and a Common External Tariff structure of 0% for raw materials, 10% for intermediate goods and 25% for finished goods. Custom union provides for rules of origin that govern the applicable tariff rates. The following recent advancements related to this pillar are:-

- i) **Implementation of the Single Customs Territory** - The EAC Partner States are currently implementing the Single Customs Territory (SCT) regime which is at the final stage towards the full implementation of the Customs Union. The SCT is aimed at faster clearance of goods and therefore reducing the cost of doing business in the region.
- ii) To continuously reposition EAC as a major player in international trade and strengthen intra-EAC trade, the region commenced the comprehensive review of the EAC Common External Tariff (CET) and the EAC Customs Management Act (CMA), 2004. Under the CET review, Partner States have adopted a four-band structure (0%, 10%, 25% and a rate above 25%). The reviewed CET and EAC CMA are expected to enhance trade facilitation and spur growth and economic development in the region.
- iii) **Customs Interconnectivity Programmes.** Since the commencement of the SCT, Partner States have implemented bilateral country system-to-system interconnectivity and data exchange protocols. This has enabled the exchange of electronic documents such as manifests, customs declarations, releases, exit notes and arrival notifications. The implementation of SCT and other trade facilitation initiatives has seen major strides in the movement of goods across the borders within the region.
- iv) **Resolution of Non-Tariff Barriers (NTBs).** Non-tariff barriers continue to pose challenges to the EAC integration process by restricting the free movement of goods within the region as evident from reports of the EAC Regional Monitoring Committee on NTBs. Partner States have been using the EAC regional mechanism to resolve most of the NTBs and regulations for the elimination of NTBs have been adopted.
- v) The emerging regional integration blocs. The EAC is part of the COMESA and SADC integration blocs under the Tripartite Free Trade Agreement (TFTA). More recently, Partner States signed the Africa Continental Free Trade Area which came into force on 30th May 2019.
- vi) The Africa Continental Free Trade Area (AfCFTA) presents opportunities for trade and development. It has the potential to integrate Africa's fragmented markets, enhance competitiveness, increase access to regional and global markets and better re-allocation of resources. The AfCFTA is also expected to facilitate the attraction of FDI into the continent with a positive impact on industrial development and economic growth, especially in the EAC region.

3.1.2 Common Market

20. The Protocol for the establishment of the EAC Common Market was signed in November 2009 and came into force on 1st July 2010 upon ratification by the Partner States. The Common Market provides free movement of goods, persons, labour, services and capital; and rights of establishment and workers access to opportunities available across the borders without discrimination.
21. The following activities have been undertaken to ease the cross-border movement of persons, labour and services include:
 - i) Issuance of the new international EA e-passport: Since February 2019, all Partner States except the Republic of South Sudan commenced issuance of the International East African Community e-Passports.
 - ii) Free movement of persons and workers: Easing of procedures, formalities and fees connected with visas as well as work and residence permits.

- iii) Mutual Recognition Agreements (MRAs): so far, four Mutual Recognition Agreements (MRAs) have been signed and are under implementation for the Accountants, Engineers, Architects and Veterinarians professionals.

3.2.3 Monetary Union

- 22. The EAC Partner States signed a protocol on the establishment of the East African Monetary Union on 30th November 2013 setting out the process and convergence criteria for attainment of a Monetary Union in the EAC region for 10 years.
- 23. The envisaged Monetary Union is expected to be in place in 2024 with the introduction of a common currency to replace the National Currencies and the establishment of a Regional Central Bank and the introduction of a common single currency is aimed at facilitating the reduction in transaction costs and removal of foreign exchange volatility between the Partner States.

3.1.4 Political Federation

- 24. Article 123 (6) of the Treaty empowers the Summit to initiate the process towards the establishment of the Political Federation of the Partner States by directing the Council of Ministers to undertake the process.
- 25. At the 18th Summit of Heads of State of the East African Community held on 20th May 2017, the Summit adopted the Political Confederation as a transitional model of the East African Political Federation and directed the Council of Ministers to constitute a team of constitutional experts to draft the constitution for the Political Confederation and report to the 19th Summit of Heads of State.
- 26. The Council in its report to the 19th Summit of Heads of State in February 2018, reported on the progress of attaining Political Federation and presented the Concept Note, Road Map and Terms of Reference for Constitutional Experts. The Summit directed the Council to prioritize the Constitution drafting process and provide the required funding.
- 27. The EAC Secretariat has realized the following milestones;
 - i) The EAC is implementing road and railway projects in the Central and Northern Transport Corridors. Investment in infrastructure projects continues to receive the utmost political attention by the EAC Heads of States as expressed during their biennial retreats on infrastructure development and financing;
 - ii) The establishment of the One-Stop Border Post (OSBP). EAC has fully operationalized and trained personnel at 13 (OSBPs). The posts are aimed at facilitating trade and the free movement of goods in the region.
 - iii) In the health sector, EAC Partner States have expanded the capacity for delivery of high-quality health services, training and research through Regional Centres of Excellence (RCoE). The center is located in partner states: Kidney Diseases (Kenya); Heart Diseases (Tanzania); Cancer disease (Uganda); Health, Biomedical Engineering and Health Rehabilitation Sciences hosted by Rwanda, and; Vaccines, Immunization and Health Supply Chain Management, also hosted by Rwanda;
 - iv) Partner States have jointly operationalized an EAC Regional Network of Reference Laboratories for Communicable Diseases to strengthen the region's capacity to diagnose and respond to outbreaks of highly infectious diseases;
 - v) The Lake Victoria Water and Sanitation (LVWATSAN II) programme, coordinated by Lake Victoria Basin Commission is being implemented in 15 towns in five Partner States. LVWATSAN II has the objective of improving sustainable water supply and sanitation solutions in 15 towns within the Lake Victoria Basin. The affected towns include Ngozi, Muyinga and Kayanza located in Burundi; Keroka,

- Kericho and Isebania/Sirare located in Kenya; Kayonza, Nyagatare and Nyanza located in Rwanda; Geita, Sengerema and Nansio of the United Republic of Tanzania, and; Mayuge, Kayabwe-Bukakata, Ntungamo of the Republic of Uganda;
28. He further informed the delegation that, the Secretariat is facing the following challenges;
- i) The secretariat works under strenuous circumstances owing to low and unreliable funding;
 - ii) Partner states acting nationally and giving national interests priority over regional interests
 - iii) Inadequate implementation of Council resolutions and directives; and
 - iv) Some partner states moving slowly in adopting EAC instruments.

3.2 THE EAST AFRICAN COURT OF JUSTICE (EACJ)

29. The delegation visited the Court Premises on Monday 3rd April, 2023 and was received by Mr Boniface N. Ogoti, who is a Court Clerk.
30. The delegation was then informed that the EACJ is one of the key organs of the East African Community established under Article 9 of the Treaty for the Establishment of the East African Community. The Court became operational after its inauguration by the Summit and the swearing-in of judges and the Registrar on 30th November 2001. The operations of the Court during the transitional period are ad hoc until the Council of Ministers determines that there is enough business to make it operational. It means that the judges are not required to permanently reside in Arusha where the temporary seat of the Court is located but they only convene to conduct the business of the Court when the need to do so arises.
31. The delegation was also informed that the East African Court of Justice ensures the adherence to law in the interpretation, application of and compliance with Article 23 of the EAC Treaty. It provides necessary decisions and solutions to legal problems or disputes. Indeed, through other legal mechanisms, the Court prevents such disputes from escalating into lawsuits. Furthermore, the decisions of the Court have precedence over decisions of national courts on a similar matter pursuant to Article 33 of the Treaty.
32. The delegation was also informed that the Court is composed of judges appointed by the Summit from each of the Partner States of the EAC. Under the Treaty, the Court may consist of a maximum of ten (10) judges in the First Instance Division and five (5) judges in the Appellate Division.
33. (name of presenter) submitted that there are a total of eleven judges sitting in Arusha, (6) six judges in the First Instance Division, and (5) five in the Appellate Division. The judges of the Court are appointed by the Summit from among sitting judges of any national court of judicature or from jurists of recognized competence and the Registrar is appointed by the Council of Ministers.
34. The mandate of the court was extended to matters related to trade and human rights when the Heads of state signed a protocol to that effect. Parties that are by treaty allowed to file matters before the court include:
- i. Partner states against other partner states or EAC organs;
 - ii. The Secretary-General against the Partner States;
 - iii. EAC employees against the Secretary-General;
 - iv. Legal and natural persons against partner states and EAC organs.
35. (name of presenter) submitted that the court plays advisory roles including advising the Council of ministers, the summit and partner states on questions of law in the treaty. For instance, the court has previously advised EAC organs on the principle of variable

geometry, under which partner states are allowed to implement only those aspects of EAC programmes that their level of preparedness allows. The principle does not require simultaneous implementation of programmes by partner states.

36. Since its inception, 244 substantive cases have been filed before the court, out of which 212 have been heard and determined. 32 cases are pending, awaiting hearing and determination while out of 32 bills of costs filed, 30 have been taxed.
37. **The delegation was further informed that the Court had made significant achievements in the effort to dispense justice by leveraging on ICT to fast-track the filing of cases and manage the life cycle of matters in court.** The court registries are equipped with basic equipment such as computers and internet connection for ease of transmission of case records from one registry to another. The handling of cases electronically has assisted to transform cases into the ICT platform.
38. The Committee also heard that the Court is faced with the following challenges;
 - i) Delay in operationalizing the Court's administrative and financial Autonomy
 - ii) The service of the Judges of the Court continues to be ad-hoc and only the President and the Principal Judge are based in Arusha thus affecting the performance of the Court.
 - iii) The ad-hoc nature of the services of Judges and the limitation of their tenure by either age or duration of service negatively impact the performance of the Court.
 - iv) Visibility of the Court continues to be a challenge as there is limited knowledge of the Court among the citizenry, legal practitioners, and judicial officers resulting in limited use of the Court.
 - v) The court, like most other organs of EAC, faces financial difficulties arising from delayed partner state funding.

3.3 THE EASTERN AND SOUTHERN AFRICAN MANAGEMENT INSTITUTE (ESAMI)

The Director General, Prof. Martin Lwanga took the delegation through his presentation as follows -

39. The Eastern and Southern African Management Institute (ESAMI) is an intergovernmental regional management development centre. ESAMI's head office is located in Arusha, Tanzania.
40. The institute was established with the primary objective of providing the region with trained personnel in a number of critical areas including policy management, transportation management, financial management, information technology management, health management, human resources management, project management, energy and environment management and gender management among others.
41. The focus was to train middle to senior managers from the region to improve their managerial performance taking into consideration the global issues but with a regional focus relevant to the African environment.

3.3.1 ESAMI's Mandate, Mission, Vision and Philosophy

42. The Eastern and Southern African Management Institute (ESAMI) is a Pan African Regional Management Development Centre owned by ten member governments from the Eastern and Southern African region. These are Kenya, Malawi, Mozambique, Namibia, Seychelles, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe. It is a service and market-oriented institution offering high level specialized management training, consultancy, education programmes and action- oriented management research services. Other countries which regularly participate in ESAMI management development programmes include Lesotho, Botswana, South Africa, Angola, Rwanda, Sierra Leone, Nigeria, Eritrea, Ivory Coast, Liberia, Ghana, the Gambia, Sudan, Ethiopia and Burkina Faso.
43. The UN Economic Commission for Africa officially designated ESAMI as The African Centre of Excellence in Management Development. The recognition has necessitated ESAMI to extend its services to all countries in Africa.

3.3.2 Mandate

44. ESAMI's mandate is to improve the performance and management effectiveness of public, private, and international organizations in Africa through Management training and education; management consultancy and advisory services; management research, knowledge generation and publications; and promotion of best practices in management.
45. Since its establishment in 1980, ESAMI has made contributions in the area of human resources and management development in the region. Its role as a Regional Management Development Institute has expanded as a result of increased demand by countries of the region and beyond. It has so far trained 75, 000 middle and top-level personnel in the government, public, private and civic organisations who have attended open management development programmes offered by the Institute.
46. ESAMI offers Certificate, Diploma and Bachelors' degree programmes in Business management. In addition to the regular short course programmes and tailor-made programmes. ESAMI also runs an Executive MBA programme that has enrolled 3,600 students from across Africa.

3.3.3 ESAMI's Capability and Comparative Advantages

47. ESAMI has been a converging centre where people from different countries meet to share and exchange experiences in a regional framework. The Institute facilitate improvements in managerial performance and effectiveness of client organizations⁴.

⁴ www.esami-africa.org

3.4 THE EAST AFRICAN COMMUNITY COMPETITION AUTHORITY

The Registrar Ms, Lilian K Mukoronia, made a presentation to the delegation -

48. Ms, Lilian K Mukoronia presented that the East African Community Competition Authority (Authority) is an institution of the East African Community (EAC) established in accordance with Article 9 of the Treaty for the Establishment of the East African Community. The Authority is specifically established by Section 37 of the East African Community Competition Act, 2006 in furtherance of the commitment of the Partner States, to cooperate in trade liberalization and development including matters of competition, under Article 75 of the Treaty establishing the East African Community.
49. She submitted that under the Protocol on the Establishment of the East African Community Customs Union (Customs Union Protocol) Article 21 and the (Common Market Protocol Article 33-36) Partner States undertook to prohibit any practice that adversely affects free trade including any agreement, undertaking, or concerted practice which has as its objective or effect the prevention, restriction or distortion of competition within the Community.
50. The delegation heard that the Common market Protocol's strategic thrust is to create one flawless single market across the EAC Partner States. The protocol seeks to accelerate regional economic growth and development by introducing the free movement of goods, persons, labour, capital, and services, as well as the rights of establishment and residence.
51. The EACA is mandated to enforce the EAC Competition Act by promoting and protecting fair trade and providing for consumer welfare in the Community. The Act sets out that the objects of the competition policy and practice in the Community shall be to:

(a) enhance the welfare of the people in the Community by:

- i) protecting all market participants' freedom to compete by prohibiting anti-competitive practices;
- ii) protecting the opening of Partner States' markets against the creation of barriers to interstate trade and economic transactions by market participants;
- iii) guaranteeing equal opportunities in the Community to all market participants in the Community, and especially to small and medium-sized enterprises;
- iv) guaranteeing a level playing field for all market participants in the Community by eliminating any discrimination by the Partner States based on nationality or residence;
- v) providing consumers access to products and services within the Community at competitive prices and better quality;
- vi) providing incentives to producers within the Community for the improvement of production and products through technical and organizational innovation;
- vii) promoting economic integration and development in the Community;

(b) enhance the competitiveness of Community enterprises in world markets by exposing them to competition within the Community;

(c) create an environment that is conducive to investment in the Community;

(d) bring the Community's competition policy and practice in line with international best practices;

(e) strengthen the Partner States' role in relevant international organizations.

52. The delegation was informed that the function of the Authority is enshrined in Section 42 of the EAC Competition Act, 2006, which provides that the Authority has all powers, express and implied necessary for and conducive to the implementation and enforcement of the East African Community Competition Law. She also notified the delegation on the performance of its functions under the Act, the Authority shall have powers to:

1. Gather information;
2. investigate and compel evidence, including the search and seizure of documents;
3. hold hearings;
4. issue legally binding decisions;
5. impose sanctions and remedies;
6. refer matters to the Court for adjudication;
7. recommend to the Council to make regulations;

4.0 COMMITTEE OBSERVATIONS

53. The Committee having visited the various semi-autonomous institutions of the EAC in Arusha made the following observations:-

- 1) The current financial shortages occasioned by delayed partner state contributions and dwindling development partner support continue to adversely affect the performance of all EAC institutions thus frustrating the implementation of key projects and programmes meant to uplift the lives of East Africans.
- 2) The free movement of the EAC-originated goods is frustrated by the persistence of the NTBs even after sixteen (16) years of implementation of the Customs Union and eleven (11) years on the Common Market.
- 3) There is a lack of a legal framework for the elimination of NTBs due to the delay in the finalization of the amendment of the EAC Elimination of Non-Tariff Barriers Act, 2017 and its Regulations.
- 4) The intra-EAC trade for a number of years has constantly remained low at about 10% while international trade has been accounting for 90% of the EAC total trade.
- 5) There is a delay in operationalizing of East African Court of Justice's (EACJ) administrative and financial Autonomy.
- 6) The service of the Judges of the East African Court of Justice (EACJ) continues to be ad-hoc and only the President and the Principal Judge are based in Arusha thus affecting the performance of the Court.
- 7) The East African Court of Justice (EACJ) is temporarily hosted in Arusha, the United Republic of Tanzania even after two decades of Regional Integration.
- 8) Following an earlier freeze on staff recruitment and a lengthy governance process, the current staffing levels for EAC organs and Institutions are not sufficient to execute the assigned mandates with serious shortages of professional staff.
- 9) There is a disparity of privileges accorded to the Organs and Institutions of the Community depending on the host Partner State. The ratification of the Protocol on Privileges and Immunities would address this challenge;
- 10) The EACJ is a key institution of EAC with powers to hear matters of interest affecting partner states, EAC organs and EAC citizens. The majority of EAC residents, particularly business owners, however, are not aware of the free services offered by the court.
- 11) The Community's newest member, the Democratic Republic of the Congo acceded to the EAC Treaty on 8th April 2022.
- 12) The EACJ has developed a case management and recording system commissioned on 30th April 2014 by EAC Heads of State during the Summit in Arusha to enable access from any location within the EAC region by authorized Court users such as Judges and Staff for purposes of filing cases. It also has levels of security protocols to curb any security threats both externally and internally. The main court registry is situated at Arusha, while sub-registries are located in courts of partner states. The sub-registries receive and file cases free of charge and immediately transmit the records to the main registry via ICT. This has enabled litigants to file matters without having to travel to Arusha.

5.0 COMMITTEE RECOMMENDATIONS

54. Arising from the deliberations and observations during the visit, the Committee made the following recommendations:

- a) **Timely payment of contributions** - Partners States should strive to pay their obligatory contributions for the smooth running of the institutions of the EAC and the for full realisation of the aspirations of the Community as espoused in the treaty establishing the East African Community,
- b) **Exploring alternative financing mechanisms** - to address the challenges associated with delayed financing, the council of ministers is encouraged to creatively explore alternative financing mechanisms including the establishment of a levy on imports to the EAC region, or exports out of the region. In accordance with Article 132 (4) of the Treaty, the founding partner states could also consider paying contributions due for South Sudan and Burundi on the BIG Brother basis and review the EAC treaty to allow partner states' contributions to be based on the ability to pay and retention of veto power by the highest paying partner states.
- c) **Amendment of the EAC Treaty** - The Council of Ministers to fastrack the finalization of the amendment of the EAC Elimination of Non-Tariff Barriers Act, 2017 and its Regulations.
- d) **Rotational hosting of the East African Court of Justice (EACJ)** - The Government through the Ministry of East African and Regional Development to formally request the Summit Heads of State to host the East African Court of Justice (EACJ) based on equality in the location of Institutions/Organs of the East African Community.
- e) **Awareness** - the EACJ is urged to partner with Member states' court registries and Partner States National Assemblies to popularize the activities of the Court.
- f) **Extra Budgetary resources** - there is a need to review the current EAC treaty and initiate mechanisms of mobilizing funds at the regional level to inspire regional ownership of EAC projects and programmes. The Council of Ministers to consider and increase the budgets of all institutions/organs of the East African Community.
- g) **Staffing in EAC institutions and organs** – The Council of Ministers is urged to urgently complete the ongoing staff recruitment process and allow appropriate professional staffing in all EAC institutions and organs.

Signed.....



THE HON. WANJIKU MUHIA, M.P.
(CHAIRPERSON)

Date.....

04/05/2023

ANNEXURES

- 1. Adoption List**
- 2. Committee Minutes**
- 3. Presentations**


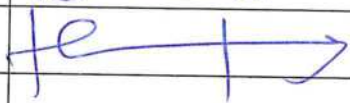
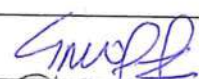
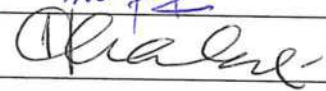



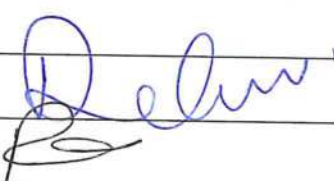
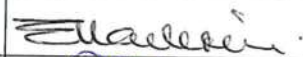


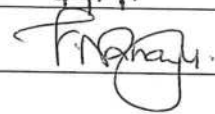
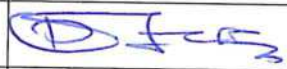
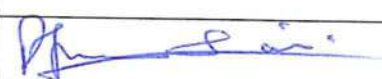
COMMITTEE REGIONAL INTEGRATION

ADOPTION LIST

Adoption of the Report on the Consideration of Report of the consideration of the Inspection visit to the EAC Saga's in Arusha, Tanzania

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: _____

	HON. MEMBER	SIGNATURE
1.	Hon. Wanjiku Muhia,, MP (Chairperson)	
2.	Hon. Farah Salah Yakub, MP (Vice Chairperson)	
3.	Hon. David Ochieng Ouma, MP	
4.	Hon. Geoffrey Makokha Odanga, MP	
5.	Hon. Joseph Gachoki Gitari, MP	
6.	Hon. Didmus Wekesa Barasa Mutua, MP	
7.	Hon. Danson Mwashako Mwakuwona, MP	
8.	Hon. Andrew Adipo Okuome, MP	
9.	Hon. Christopher Aseka Wangaya, MP	
10.	Hon. Naomi Jillo Waqo, MP	
11.	Hon. Zaheer Jhanda, MP	
12.	Hon. Rael Chepkemai Kasiwai, MP	
13.	Hon. Elizabeth Karambu Kailemia, MP	
14.	Hon. Beatrice Chepng'eno Kemei, MP	
15.	Hon. Fatuma Hamisi Masito, MP	
16.	Hon. Irene Njoki Mrembo , MP	
17.	Hon. Japheth Nyakundi Mokaya, MP	
18.	Hon. Peter Ochieng Orero, MP	
19.	Hon. Julius Kipletting Rutto, MP	
20.	Hon. Peter Kalerwa Salasya , MP	
21.	Hon. Richard Kipkemai Yegon , MP	

MINUTES OF THE 15TH SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON 4TH MAY, 2023 IN 2ND FLOOR BOARD ROOM, CONTINENTAL AT 10:00 AM.

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. Wanjiku Muhia, MP | - | Chairperson |
| 2. Hon. Farah Salah Yakub, MP | - | Vice Chairperson |
| 3. Hon. David Ochieng Ouma, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Joseph Gachoki Gitari, MP | | |
| 6. Hon. Andrew Adipo Okuome, MP | | |
| 7. Hon. Peter Ochieng Orero, MP | | |
| 8. Hon. Elizabeth Karambu Kailemia, MP | | |
| 9. Hon. Richard Kipkemoi Yegon, MP | | |
| 10. Hon. Danson Mwashako Mwakuwona, MP | | |
| 11. Hon. Christopher Aseka Wangaya, MP | | |
| 12. Hon. Beatrice Chepngeno Kemei, MP | | |
| 13. Hon. Irene Njoki Mrembo, MP | | |
| 14. Hon. Fatuma Hamisi Masito, MP | | |
| 15. Hon. Rael Chepkemoi Kasiwai, MP | | |
| 16. Hon. Zaheer Jihanda, MP | | |
| 17. Hon. Peter Kalerwa Salasya, MP | | |

APOLOGIES

1. Hon. Didmus Wekesa Barasa Mutua, MP
2. Hon. Julius Kipletting Rutto, MP
3. Hon. Japheth Nyakundi Mokaya, MP
4. Hon. Naomi Jillo Waqo, MP

IN ATTENDANCE

Committee Secretariat

- | | | |
|---------------------------|---|----------------------------|
| 1. Mr. Mohamed Jimale | - | Clerk Assistant I |
| 2. Ms. Purity Macharia | - | Clerk Assistant III |
| 3. Mr. Dominic Mwendwa | - | Legal Counsel II |
| 4. Ms. Edith Chepng'eno | - | Media Relation officer III |
| 5. Ms. Damacrine Kwamboka | - | Researcher III |
| 6. Ms. Esther Ngechu | - | Sergeant At Arms |

MIN. NA/ DAA&OSC/ RIC/2023/055 PRELIMINARIES

The Chairperson called the meeting to order at 10.10 a.m. with the Prayers by Hon Gachoki Gitari, MP.

MIN.NA/ DAA&OSC/ RIC/2023/056 ADOPTION OF THE AGENDA

The Committee unanimously adopted the Agenda with amendment having been proposed by Hon. Beatrice Chepngeno Kemei, MP and seconded by Hon. Peter Ochieng Orero, MP.

AGENDA

1. Prayer & Preliminaries;
2. Adoption of the Agenda;
3. Confirmation of the Previous Minutes, 10th – 14th Sittings;
4. Matters Arising;
5. **Meeting with the Officials from the Ministry of East African Community, ASAL & Regional Development to respond to the Members Queries on EAC Integration process;**
6. **Consideration of the inspection visit of the Semi-Autonomous Institutions/Organs of the East African Community in Arusha, Tanzania;**
7. Any other Business;
8. Adjournment.

MIN.NA/ DAA&OSC/ RIC/2023/057 CONFIRMATIONS OF MINUTES, 10TH to 14TH SITTINGS

Minutes of the 10th Siting held on Tuesday 25th April, 2023 were confirmed as true reflection of the proceedings as having been proposed by Hon. Danson Mwashako MP and seconded by Hon. Fatuma Masito, MP.

Minutes of the 11th Siting held on Friday 28th April, 2023 (morning session) were confirmed as true reflection of the proceedings as having been proposed by Hon. Joseph Gitari MP and seconded by Hon. Rael Kasiwai, MP.

Minutes of the 12th Siting held on Friday 28th April, 2023 (Afternoon session) were confirmed as true reflection of the proceedings as having been proposed by Hon. Fatuma Masito, MP and seconded by Hon. Irene Mrembo.MP.

Minutes of the 13th Siting held on Saturday 29th April, 2023 (morning session) were confirmed as true reflection of the proceedings as having been proposed by Hon. Beatrice Kemei, MP and seconded by Hon. Rael Kasiwai, MP.

Minutes of the 14th Siting held on Saturday 29th April, 2023 (Afternoon session) were confirmed as true reflection of the proceedings as having been proposed by Hon. Fatuma Masito, MP and seconded by Hon. Rael Kasiwai,MP.

MIN.NA/ DAA&OSC/ RIC/2023/ 058 MATTERS ARISING

No matters arose.

MIN.NA/ DAA&OSC/ RIC/2023/059 MEETING WITH THE OFFICIALS FROM THE MINISTRY OF EAST AFRICAN COMMUNITY, ASAL & REGIONAL DEVELOPMENT TO RESPOND TO THE MEMBERS QUERIES ON EAC INTEGRATION PROCESS

The Committee was informed that the Ministry of EAC, ASALs and Regional Development requested rescheduling of the meeting to a later date. The Committee acceded to the request and proposed to undertake a retreat with the aforementioned ministry in Nairobi and its environs on 15th and 16th May, 2023.

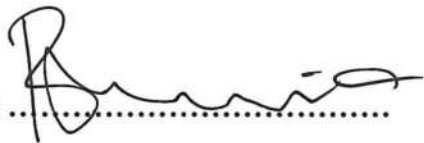
Having considered the **Report on the visit to Semi-Autonomous Institutions of the East African Community in Arusha, Tanzania**, the Committee adopted the Report pursuant to SO. 212 (2) (d), as having been proposed by the Hon. Danson Mwashako Mwakuwona, M.P. and seconded by the Hon. Elizabeth Karambu, M.P.

The following were discussed -

- 1) **Visit to the Republic of Uganda by The Joint Committee on Transport and Infrastructure and Committee on Regional Integration** - Hon Danson Mwashako briefed Members on his recent visit to the Republic of Uganda with the Departmental Committee on Transport and Infrastructure. He took Members through the mandate of the Network of African Road Safety Legislators which is aimed at strengthening and align legislation to meet the United National global target of reducing road crash deaths by 2030, which is overlooked and under-reported especially in Africa with the highest cases of injuries and deaths.
He further emphasized on the need of ratification of the African Road Safety Charter that is to be ratified by African Union (AU) member states to serve as a policy framework for road safety improvement in Africa. The report on the said visit will be shared with the Committee in due course.
- 2) **Free movement of persons - Statement by the Chair regarding the matters arising in regards to the free movement of persons** - The Chairperson, Hon Wanjiku Muhia, MP informed the Committee the long-standing delays in the issuance of 60,000 new Kenyan passports due to a lack of passport booklets and a printer breakdown at the Directorate of Immigration Services, which created a backlog. She further noted that some countries, such as Spain and other European Union (EU) members, were refusing to accept the old passport from Kenyan travelers in accordance with a decision to implement the new East African Community biometric e-passport in November 2022. She observed that the delays had resulted people not able to travel for medical and as well students were unable to travel abroad. She stressed the need for the Committee on Regional Integration to indulge the Speaker of the National Assembly and allow the Chairperson to make a formal request to the departmental committee on Administration and Internal Affairs when considering the budget estimates for the FY 2023/2024.
- 3) **Retreat with the Ministry of EAC, ASALs and Regional Development and the Ministry of Labour & Social Protection** - The Committee proposed to undertake a consultative meeting with the aforementioned ministries in Nairobi and its environs on 15th and 16th May, 2023.

There being no other business, the meeting was adjourned 11.30 a.m. Next meeting will be called on notice.

Signed



Date 06/06/2023

HON. WANJIKU MUHIA, MP – CHAIRPERSON

MINUTES OF THE 10TH SITTING OF THE SELECT COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY 25TH APRIL, 2023 IN THE BOARD ROOM ON 2ND FLOOR, CONTINENTAL HOSUE, PARLIAMENT BUILDING, AT 12:00 NOON

PRESENT

- | | | |
|--|---|------------------|
| 1. Hon. Wanjiku Muhia, MP | - | Chairperson |
| 2. Hon. Farah Salah Yakub, MP | - | Vice Chairperson |
| 3. Hon. Christopher Aseka Wangaya, MP | | |
| 4. Hon. Danson Mwashako Mwakuwona, MP | | |
| 5. Hon. Elizabeth Karambu Kailemia, MP | | |
| 6. Hon. Julius Kipletting Rutto, MP | | |
| 7. Hon. Andrew Adipo Okuome, MP | | |
| 8. Hon. Richard Kipkemoi Yegon, MP | | |
| 9. Hon. Beatrice Chepngeno Kemei, MP | | |
| 10. Hon. Irene Njoki Mrembo, MP | | |
| 11. Hon. Peter Ochieng Orero, MP | | |

APOLOGIES

1. Hon. Geoffrey Makokha Odanga, MP
2. Hon. Fatuma Hamisi Masito, MP
3. Hon. David Ochieng Ouma, MP
4. Hon. Didmus Wekesa Barasa Mutua, MP
5. Hon. Rael Chepkemoi Kasiwai, MP
6. Hon. Japheth Nyakundi Mokaya, MP
7. Hon. Naomi Jillo Waqo, MP
8. Hon. Zaheer Jhanda, MP
9. Hon. Peter Kalerwa Salasya, MP
10. Hon. Joseph Gachoki Gitari, MP

COMMITTEE SECRETARIAT

- | | | |
|--------------------------|---|------------------------------|
| 1. Mr. Mohamed Jimale | - | Clerk Assistant I |
| 2. Ms. Purity Macharia | - | Clerk Assistant III |
| 3. Mr. Bernard Toroitich | - | Clerk Assistant III |
| 4. Mr. Dominic Mwendwa | - | Legal Counsel II |
| 5. Ms. Edith Chepng'eno | - | Media Relation officer III |
| 6. Ms. Faith Oira | - | Public Communication Officer |

MIN. NA/ DAA&OSC/ RIC/2024/036 PRELIMINARIES

The Chairperson called the meeting to order at 12.28 p.m with the Prayer by Hon. Elizabeth Karambu Kailemia, MP.

AGENDA

1. Prayer & Preliminaries;
2. Adoption of the Agenda;

3. Confirmation of the Previous Minutes, 8th Sitting;
4. Matters Arising;
5. Consideration of the following Reports –
 - (i) the Proceeding of the First Ordinary Session of the Sixth Parliament of the Pan- African Parliament (PAP);
 - (ii) the inspection visit of the Semi-Autonomous Institutions/Organs of the East African Community in Arusha, Tanzania;
6. Any other Business;
7. Adjournment.

MIN.NA/ DAA&OSC/ RIC /2023/044 ADOPTION OF THE AGENDA

The Committee unanimously adopted the Agenda with amendment having been proposed by Hon. Julius Kipletting Rutto, MP and seconded by Hon. Peter Ochieng Orero, MP.

MIN.NA/ DAA&OSC/ RIC/2023/ 045 CONFIRMATION OF THE PREVIOUS MINUTES

Minutes of the 9th Siting held on Thursday, 18 April, 2023 were confirmed as true reflection of the proceedings as having been proposed by Hon. Andrew Adipo Okuome, MP and seconded by Hon. Richard Kipkemoi Yegon, MP.

MIN.NA/ DAA&OSC/ RIC/2023/ 046 MATTERS ARISING

No matters arose.

MIN.NA/ DAA&OSC/ RIC/2023/047 CONSIDERATION OF THE PROCEEDING OF THE FIRST SESSION OF THE SIXTH PARLIAMENT OF THE PAN-AFRICAN PARLIAMENT (PAP)

Having considered the Report on the Kenyan delegation to the First Ordinary Session of the Pan African Parliament and related meeting held in Midrand, South Africa from 23rd October 2022 to 12th November 2022, the Committee adopted the Report pursuant to SO. 212 (2) (d), as having been proposed by the Hon. Elizabeth Karambu, M.P. and seconded by the Hon. Peter Orero, M.P.

MIN.NA/ DAA&OSC/ RIC /2023/042 CONSIDERATION OF THE DRAFT THE INSPECTION VISIT OF THE SEMI-AUTONOMOUS INSTITUTIONS/ORGANS OF THE EAST AFRICAN COMMUNITY IN ARUSHA, TANZANIA

The Committee considered the draft Report and made the following observations -

- 1) The current financial shortages occasioned by delayed partner state contributions and dwindling development partner support continue to adversely affect the performance of all EAC institutions thus frustrating the implementation of key projects and programmes meant to uplift the lives of East Africans.
- 2) The free movement of the EAC-originated goods is frustrated by the persistence of the NTBs even after sixteen (16) years of implementation of the Customs Union and eleven (11) years on the Common Market.

- 3) There is a lack of a legal framework for the elimination of NTBs due to the delay in the finalization of the amendment of the EAC Elimination of Non-Tariff Barriers Act, 2017 and its Regulations.
- 4) The intra-EAC trade for a number of years has constantly remained low at about 10% while international trade has been accounting for 90% of the EAC total trade.
- 5) There is a delay in operationalizing of East African Court of Justice's (EACJ) administrative and financial Autonomy.
- 6) The service of the Judges of the East African Court of Justice (EACJ) continues to be ad-hoc and only the President and the Principal Judge are based in Arusha thus affecting the performance of the Court.
- 7) The East African Court of Justice (EACJ) is temporarily hosted in Arusha, the United Republic of Tanzania even after two decades of Regional Integration.
- 8) Following an earlier freeze on staff recruitment and a lengthy governance process, the current staffing levels for EAC organs and Institutions are not sufficient to execute the assigned mandates.
- 9) The East African Competition Authority (EACA) has only six (6) staff which hinders the core functioning of the Authority.
- 10) The political conflicts witnessed between some partner states have had a negative effect on business in the community. This calls for mitigation at the summit level.
- 11) Some services, particularly those in the telecommunications and Air Transport sector continue to be unreasonably expensive despite agreements at various levels to make the services affordable.
- 12) The EACJ is a key institution of EAC with powers to hear matters of interest affecting partner states, EAC organs and EAC citizens. The majority of EAC residents, particularly business owners, however, are not aware of the free services offered by the court.
- 13) All the EAC organs and Institutions visited by the committee are affected by staff deficits, particularly professional staff cadres.
- 14) The Committee also noted that ESAMI needed to have a land to build its institution in Kenya in order to advance training to government officials and the Committee promised to fast track with the relevant authorities.

Way forward

The Committee resolved to consider the Report on the inspection visit of the Semi-Autonomous Institutions/Organs of the East African Community in Arusha, Tanzania in the subsequent sitting.

MIN.NA/ DAA&OSC/ RIC /2023/042 ANY OTHER BUSINESS

Statement by the Chairperson regarding the unfolding security situation in Sudan - the Chair appraised Members on the Statement she will make in the Floor of the House on 25th April, 2023 afternoon session. She also requested the Members to contribute to the motion.

MIN. NA/ DAA&OSC/ RIC /2023/043 ADJOURNMENT

There being no other business, the meeting was adjourned 1.30 p.m. Next meeting will be called on notice, at time and venue to be communicated.

Signed

Date 04/05/2022

HON. WANJIKU MUHIA, MP - CHAIRPERSON



EAST AFRICAN COMMUNITY

One People, One Destiny

EAC INTEGRATION PROCESS – AN OVERVIEW

Presented
by:

Simon Peter Owaka

Senior Public Relations Officer, EAC

Secretariat



THE EAST AFRICAN COMMUNITY

In Brief

The East African Community (EAC) is a regional inter-governmental organization of the Republic of **Burundi**, Republic of **Kenya**, Republic of **Rwanda**, Republic of **South Sudan**, the United Republic of **Tanzania**, and the Republic of **Uganda**, with its headquarters in Arusha, Tanzania.

Vision

A prosperous, competitive, secure, stable and politically united East Africa.

Mission

To widen and deepen economic, political, social and cultural integration in order to improve the quality of life of the people of East Africa through increased competitiveness, value added production and investment.

Quick Figures



Total Surface Area
2.5 million sq. km



Population
177 million (2019)



GDP Nominal
US\$ 193.7 billion (2019)



EAC REGIONAL INTEGRATION PILLARS

A HIGHLIGHT

CUSTOMS UNION

2005

Enabling the EAC Partner States to enjoy economies of scale, with a view to supporting the process of economic development through the establishment of a Single Customs Territory.

COMMON MARKET

2010

Accelerating economic growth and development while maintaining a liberal stance towards the 5 Freedoms of movement for all factors of production in the region.

MONETARY UNION

2013

Laying the groundwork within a 10-year span, while allowing the EAC Partner States to progressively converge their currencies into a single currency in the Community.

POLITICAL FEDERATION

ONGOING

Putting in place initiatives to fast-track political integration. In May 2017 EAC Heads of State adopted the Political Confederation as a transitional model of the East African Political Federation.



Structure of the Presentation

- ☐ General Information on the Community
- ☐ Stages of the Integration
- ☐ Organs of the Community
- ☐ Projects and Programmes
- ☐ Achievements of the Integration
- ☐ Challenges



General Information on the Community

1. Inter-governmental Organisation comprising the Democratic Republic of the Congo (DRC) Republics of Burundi, Kenya, Rwanda, Uganda, South Sudan, and the United Republic of Tanzania (URT)
2. Combined population of approximately 283.7 million (2021)
3. Total combined area of approximately 4.8 million km²
4. Total GDP nominal of US\$305.3 billion (2021) [not inclusive of DRC]



General Info: Vision & Mission

- **Vision:** To create a Prosperous, Competitive, Secure (Stable) and Politically United East Africa
- **Mission:** To Widen and Deepen Economic, Political, Social and Cultural Integration in order to improve the quality of life of the people of East Africa



General Info...cont'd

Inter-dependency among the 6 Partner States:

- (i) The People share a Common History, Language, Culture and Infrastructure
- (ii) The Region is endowed with abundant and varied Natural Resources
- (iii) Has the Ultimate Goal of a Political Federation!



Criteria for Admission of States into the Community

9

- ☐ Acceptance of the Community as set out in the Treaty;
- ☐ Adherence to universally acceptable principles of good governance, the rule of law, respect for human rights and social justice;
- ☐ Potential contribution to the strengthening of integration within the East African region;
- ☐ Geographical proximity to and inter-dependence between it and the Partner States;



Criteria for Admission of States...cont'd

- ☐ Establishment and maintenance of a market driven economy, and;
- ☐ Social and economic policies being compatible with those of the Community



Causes of the Collapse of 1st EAC

- Personality and political differences amongst the founding fathers
- Differences in political ideology – socialism and capitalism
- Cold war pressures from superpowers for economic reasons
- Disagreement on sharing of economic benefits
- Suspicions and mistrust among Partner States
- Political instability in some Partner States



Stages of EAC Integration

Article 5 (2) of the Treaty for the Establishment of the EAC states:
The Partner States undertake to establish among themselves and in accordance with provisions of the Treaty:

- ☐ a Customs Union;
- ☐ a Common Market;
- ☐ a Monetary Union, and;
- ☐ ultimately a Political Federation.



Structure of the EAC

13

The Community is structured into Organs and Institutions:

□ **Organs include:** Summit, Council, Coordination Committee, Secretariat, Legislative Assembly and Court of Justice

□ **Institutions include:** the Inter-University Council of East Africa, Civil Aviation Safety and Security Oversight Agency (CASSOA), Lake Victoria Basin Commission (LVBC), Lake Victoria Fisheries Organisation (LVFO), East African Science and Technology Commission (EASTECO)



Structure of the EAC' cont'd

□ **Other Institutions include:** EAC Competition Authority (EACCA), East African Kiswahili Commission (EAKC), East African Health Research Commission (EAHRC), and East African Development Bank (EADB)

□ **Apex Bodies include:** East African Business Council, East African Law Society, East African Trade Union Council, East African Magistrates' and Judges Association, East African Civil Society Forum, etc.



EAC Organs...Summit & Council

- **Summit:** consists of the Heads of State or Government of the Partner States
- The function of the Summit, among other things, is to give general directions and impetus as to the development and achievement of the objectives of the Community
- **Council of Ministers:** the Council is the policy organ of the Community. The Council promotes, monitors and keeps under constant review the implementation of the programmes of the Community and ensures the proper functioning and development of the Community in accordance with the Treaty
- The Council: makes policy decisions for the efficient and harmonious functioning and development of the Community; ~~initiates and submits Bills to~~



EAC Organs... Coordination Committee

□ **Coordination Committee:** consists of the *Permanent/Principal/Under Secretaries* responsible for EAC affairs in each Partner State and such other PSs of the Partner States as each Partner State may determine

□ The Coordination Committee:

- a) Submits from time to time, reports and recommendations to the Council either on its own initiative or upon the request of the Council, on the implementation of this Treaty;
- b) Implements the decisions of the Council as the Council may direct;
- c) Receives and considers reports of the Sectoral Committees and coordinate their activities.



EAC Organs...Sectoral Committees

☐ The Coordination Committee:

- a) May request a Sectoral Committee to investigate any particular matter, and;

- b) May perform such other functions as are conferred upon it by the Treaty

☐ **Sectoral Committees:** The Coordination Committee shall recommend to the Council the establishment, composition and functions of such Sectoral Committees as may be necessary for the achievement of the objectives of the Treaty

☐ The functions of each Sectoral Committee include:

- Being responsible for the preparation of a comprehensive implementation programme and the setting out of priorities with respect to its sector;



EAC Organs...Sectoral Committees (cont'd)

□ The functions of each Sectoral Committee include:

- Monitor and keep under constant review the implementation of the programmes of the Community with respect to its sector;
- Submit from time to time, reports and recommendations to the Coordination Committee either on its own initiative or upon the request of the Co-ordination Committee concerning the implementation of the provisions of the Treaty that affect its sector, and;
- Perform such other functions as may be conferred on it by the Treaty.



EAC Organs...Secretariat

- ☐ The Secretariat is the executive organ of the Community
- ☐ The functions of the Secretariat include, among other things:
 - initiating, receiving and submitting recommendations to the Council, and forwarding of Bills to the Assembly through the Coordination Committee;
 - the strategic planning, management and monitoring of programmes for the development of the Community;
 - the general promotion and dissemination of information on the Community to the stakeholders, the general public and the international community, and;
 - the general administration and financial management of the Community



EAC Organs...Secretariat (cont'd)

20

- The functions of the Secretariat include, among other things:
 - resource mobilisation from Development Partners and other sources for the implementation of Community projects;
 - proposing draft agenda for the meetings of the organs of the Community other than the Court and Assembly;
 - implementation of the decisions of the Summit and the Council, and;
 - the custody of the property of the Community



EAC Organs...East African Legislative Assembly

- ☐ The East African Legislative Assembly is the legislative Organ of the Community.
- ☐ The Assembly consists of nine members elected by each Partner State
- ☐ The Assembly has ex-officio members consisting of: Minister responsible for EAC Affairs from each Partner State; the Assistant Minister responsible for EAC Affairs from each Partner State, and; the Secretary General and Counsel to the Community
- ☐ The function of the Assembly are three: representation; oversight, and; appropriation of the budget
- ☐ Proceedings of the Assembly are presided over by a Speaker who serves for five years non-renewable



EAC Organs...East African Court of Justice

- ☐ The East African Court of Justice (EACJ) is the judicial organ of the Community that ensures the adherence to law in the interpretation and application of and compliance with the Treaty
- ☐ The Court consists of a First Instance Division and an Appellate Division
- ☐ The jurisdiction of the Court is limited to the interpretation of the Treaty
- ☐ Judges of the Court are appointed by the Summit from among persons recommended by Partner States



EAC Budget

—

- ☐ The EAC Financial Year runs from 1st July in one year to 30th June the following year as is the tradition in the Partner States
- ☐ In the 2022/2023 FY, the Community had a budget amounting to US\$91 million
- ☐ The budget is funded by Partner States' contributions and Development Partners
- ☐ Currently, Partner States contribute equally
- ☐ Community is working on a Sustainable Financing Mechanism



Role of Partner States Parliament in the EAC integration

- ❑ The role of Parliaments the world over are threefold: Budget making; Legislation, and; Representation and Oversight
- ❑ The Community draws its budget from Partner States and Development Partners. The budget is not sufficient
- ❑ National Parliaments can lobby their respective governments to increase allocations to the EAC Organs and Institutions
- ❑ Parliament also has a role to ensure that Government Ministries, Departments and Agencies are implementing EAC policies



Role of Partner States Parliament in the EAC integration...cont'd

- National Parliaments have a duty to ensure that laws made at the regional level are domesticated into national laws e.g. the EAC Plastic Bill
- National Parliaments have the onerous duty of harmonising national laws to conform to the EAC protocols
 - there are almost 700 national laws that need to be harmonised with the Common Market Protocol



Role of Partner States Parliament in the EAC integration...cont'd

- ☐ Representation – ensure that interest of EAC citizens is represented in the integration through the free and fair election of EALA Members
- ☐ People usually ask why MPs are not directly elected.
- ☐ Awareness creation on the integration – legislators have a duty to sensitize their constituents on the integration process and the concomitant opportunities and challenges



EAC Achievements

—

- ☐ Implementation of the Single Customs Territory;
- ☐ Harmonisation of national policies, laws and regulations to conform to the
Common Market Protocol;
- ☐ Increased intra-regional trade;
- ☐ Increased cross-border investment;
- ☐ Elimination of non-tariff barriers to trade;



Achievements...cont'd

- ☐ Harmonisation of education systems and curricula;
- ☐ Payment of tuition fees at local rates by EAC nationals studying in other Partner States;
- ☐ Establishment of the EAC One Area Network for mobile calling and data charges



Achievements...cont'd

- - Convertibility of EAC Partner States' currencies
 - Harmonisation of fiscal, monetary and exchange rate policies
 - Harmonisation of banking rules and regulations, trading practices and regulations in the stock exchanges and financial markets



Achievements...cont'd

- ☐ Abolition of visa fees for EAC nationals traveling to other Partner States;
- ☐ Collaboration in improving EAC citizens welfare in education, health, agriculture, environmental conservation, water supply and sanitation;
- ☐ Cooperation in development of infrastructure including railways, roads, One Stop Border Posts and ports;



Achievements...cont'd

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- - Implementation of diverse initiatives aimed at providing East Africans with adequate, reliable and cost effective energy, and;
 - Cooperation among Partner States in facilitating cross-border security, defence, peace and security initiatives.



Achievements...cont'd

- ☐ Establishment of the EAC-KfW-GIZ Scholarship Programme (student exchange programme)
- ☐ Establishment of EAC Centres of Excellence in various sectors
- ☐ Establishment of the EAC Mobile Labs to test for infectious diseases including Covid-19
- ☐ Establishment of the EACPass app to ease cross-border travel during the Covid-19 pandemic



Challenges

- Tedious and Costly Decision/Policy Making Process (Meetings)
- Implementation of agreed projects and programmes....lies with the Partner

States

- National Sovereignty and lack of Executive Authority at EAC level
- Economic disparity at Partner States level and lack of Equitability Mechanism
- The Changing Global Environment
- Resource constraints
- Lack of awareness among East Africans on the integration process
- Lack of uniformity in responding to emergencies especially Covid-19 pandemic



Conclusion

- The positive developments taking place within the region are indicative of the right path EAC is pursuing
- In the period ahead, emphasis will be on full implementation of the Common Market Protocol, implementation of the EAMU Protocol, regional infrastructure development, and movement towards the ultimate political federation
- The integration process may be delayed or slowed down but it can't be halted or reversed.



Conclusion

- Website: www.eac.int/
- Twitter: @jumuiya
- Facebook: www.facebook.com/proudlyeastafrikan
- Instagram: @eac_secretariat1



East African Community



One People, One Destiny





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Tel: +255 (0)27 216 2100

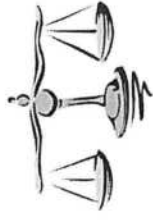
Fax: +255 (0)27 216 2190

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www.eac.int



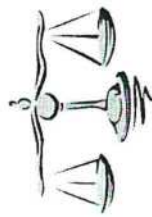
EAST AFRICAN COMMUNITY



EAST AFRICAN COURT OF JUSTICE

OVERVIEW OF THE EAST AFRICAN COURT OF JUSTICE

EAST AFRICAN COURT OF JUSTICE Tel: 255-27-2506093 E-mail:
eac@eachq.org Web: <http://eacj.org/>



Vision of the Court

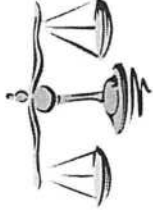
A world class Court dispensing quality justice for a prosperous Community

Mission

To contribute to the enjoyment of the benefits of Regional Integration by ensuring adherence to justice, rule of law and fundamental rights and freedoms through the interpretation and application of and compliance with the East African Law



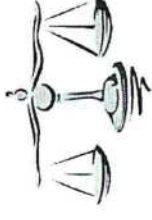
Core Values



- Independence
- Integrity
- impartiality



Overview



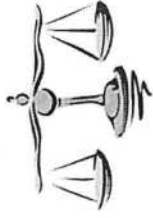
- History
- Structure and Tenure
- Composition
- Mandate / Jurisdiction
- Access to the Court
- Court Operations
- Statistics
- Challenges

EAST AFRICAN COURT OF JUSTICE Tel: 255-27-2506093 E-mail:
eac@eachq.org Web: <http://eacj.org/>

6/5/2023



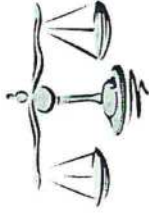
History



- ◎ 1999- The Treaty Establishing the East African Community signed.
- ◎ Treaty confers EACJ powers & functions
- ◎ Article 9- EACJ is one of the organs of the Community
- ◎ The judicial body ensuring adherence to the law in interpretation, application & compliance with the Treaty – Article 23
- ◎ Mandate: peaceful resolution of disputes
- ◎ Court inaugurated in November 2001 (As a one chamber court until 2006 when the Treaty was amended and it was reconstituted to two Divisions.)
- ◎ First case filed in 2005- (C. Mwatela & others V EAC)



Structure & Tenure

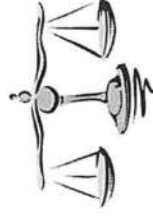


- Two divisions sit in Arusha
- First Instance Division – 6 Judges
- Appellate Division – 5 Judges
- Maximum number of Judges - 15
- Appointed by Summit on recommendation of each Partner State
- Maximum 7 year tenure
- At first staggered tenure - 5 and 6 years – for continuity
- Immunity from legal action – Article 43
- Retirement – 70 years
- Can be removed by an ad hoc independent tribunal or resignation or expiry of term.
- Registrar & other staff in all five countries - Articles : 24 -26, 45

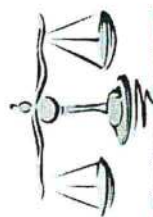




Current Composition

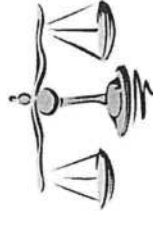


Appellate Division	First Instance Division
Hon. Justice Nestor Kayobera – President	Hon. Justice Yohane Masara – Principal Judge
Hon. Justice Saida Mjasiri – Vice President	Hon. Justice Dr. Charles Nyawello -Deputy Principal Judge
Hon. Justice Anita Mugeni	Hon. Justice Charles Nyachae
Hon. Justice Kathurima M’Inoti	Hon. Justice Richard Muhumuza
Hon. Justice Cheborion Barishaki	Hon. Justice Richard Wejuli
	Hon. Justice Dr. Leonard Gacuko



Jurisdiction

First Instance Division	Appellate Division
<p>Article 27 (1) Original jurisdiction on the interpretation & application of the Treaty</p> <p>Article 27(2)- Court shall have: original, appellate, human rights and other jurisdiction as the Council of Ministers determines & a protocol to operationalise the extended jurisdiction will be concluded.</p> <p>Disputes between the Community & its employees (Article 31)</p> <p>EAST AFRICAN COURT OF JUSTICE Tel: 255-27-2506093 E-mail: eac@eachq.org Web: http://eacj.org/</p>	<p>Arbitration : in contracts of the Community conferring jurisdiction ; disputes between Partner States; commercial contracts (Article 32)</p> <p>Article 35 A</p> <p>Appeals from the First Instance Division on :</p> <ul style="list-style-type: none"> ▪ Points of law ▪ Lack of jurisdiction ▪ Procedural irregularities <p>Advisory Opinions –(Article 36) (2 so far)</p> <p>Preliminary Rulings from national courts – Case Stated. (Article 34)</p>

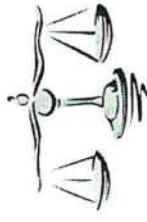


Who can access the Court ?

- ◎ **Partner States** against another Partner State, EAC organ or institution on the legality of any: Act, regulation, directive , decision or action that is *ultra vires* .(Article 28)
- ◎ **EAC Secretary General** – through Council can refer a matter against a Partner State –this has never happened. (Article 29)
- ◎ **Legal & Natural persons resident in EAC** on infringement or violation of Treaty. (Article 30)
- ◎ **Employees of the Community** on the interpretation & application of staff rules , terms & conditions of service (Article 31)
- ◎ **National courts and tribunals** by way of request for Preliminary Ruling concerning interpretation or application of the Treaty



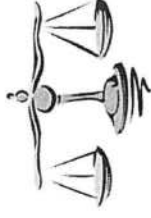
Operations of the Court



- ⦿ The main Registry is in Arusha.
- ⦿ Sub- registries in: Bujumbura, Dar-es- Salaam, Kampala, Kigali and Nairobi
- ⦿ Documents must be filed in English and translated if in French or Kiswahili.
- ⦿ Several EACJ sessions are held in Arusha quarterly
- ⦿ Quorum is 3 Judges or full bench of 5 judges.
- ⦿ Some applications may be heard by a single Judge.
- ⦿ The EACJ Rules of Procedure, 2019 & EACJ Arbitration Rules , 2012 apply - http://eacj.org/?page_id=1271
- ⦿ There is an-easy-to-read court users guide
- ⦿ The Registrar responsible for the business of the court & administrative functions.



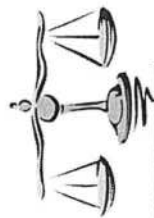
Jurisprudence



- ⊙ No requirement for exhaustion of local remedies required
- ⊙ 2 months limitation from the date of the Act, action, decision, directive
- ⊙ **Katabazi V EAC & AG Uganda** case – held : the Court will not abdicate from exercising its jurisdiction of interpretation under Article 27 (1) merely because the reference includes allegation of human rights violation.
- ⊙ **AG Rwanda V Plaxeda Rugumba** – The failure by Rwandan authorities to charge an arrested person for 5 months was found to have infringed Articles 6 (d), 7 (2) and 8 (1) of the Treaty.
- ⊙ **AG Tanzania V African Network for Animal Welfare** – A permanent injunction was granted prohibiting the construction of a bitumen road across the Serengeti National as this would negatively impact the environment & infringed Treaty provisions.
- ⊙ **Hon. Margaret Zziwa V The SG East African Community** – The Court in awarding damages held that “the legal consequences to be visited upon the Community in consequence of a breach of its international obligation to a person resident in a Partner State may, in appropriate cases, include cessation (usually known as injunction in international law), reparation (which may take the form of restitution or compensation), satisfaction, or similar, or other remedies”.

Jurisprudence

- **British American Tobacco (U) Ltd v The AG Uganda** challenging the legality of Uganda's Excise Duty (Amendment) Act No. 11 of 2017 that created differential treatment between goods "locally manufactured" in Uganda and "imported" goods whereby a higher excise duty was chargeable in respect of the latter category of goods. Held the implementation of the provisions of the Act by misconstruction and wrongful re-classification of the Applicants cigarettes as "imported goods" contravened the Treaty.
- **Kio Limited v The AG Kenya (An Application for injunction)** the subject is an allegation that the imposition of duty on glass imported from EAC Partner States has the effect of discrimination against glass products manufactured from other Partner States. The Applicant sought interim preservatory orders pending the hearing and determination of the Reference. The Court granted the interim orders sought and forestalled the payment by the Applicant of the extra excise duty due to KRA until the determination of the Reference.



STATISTICS

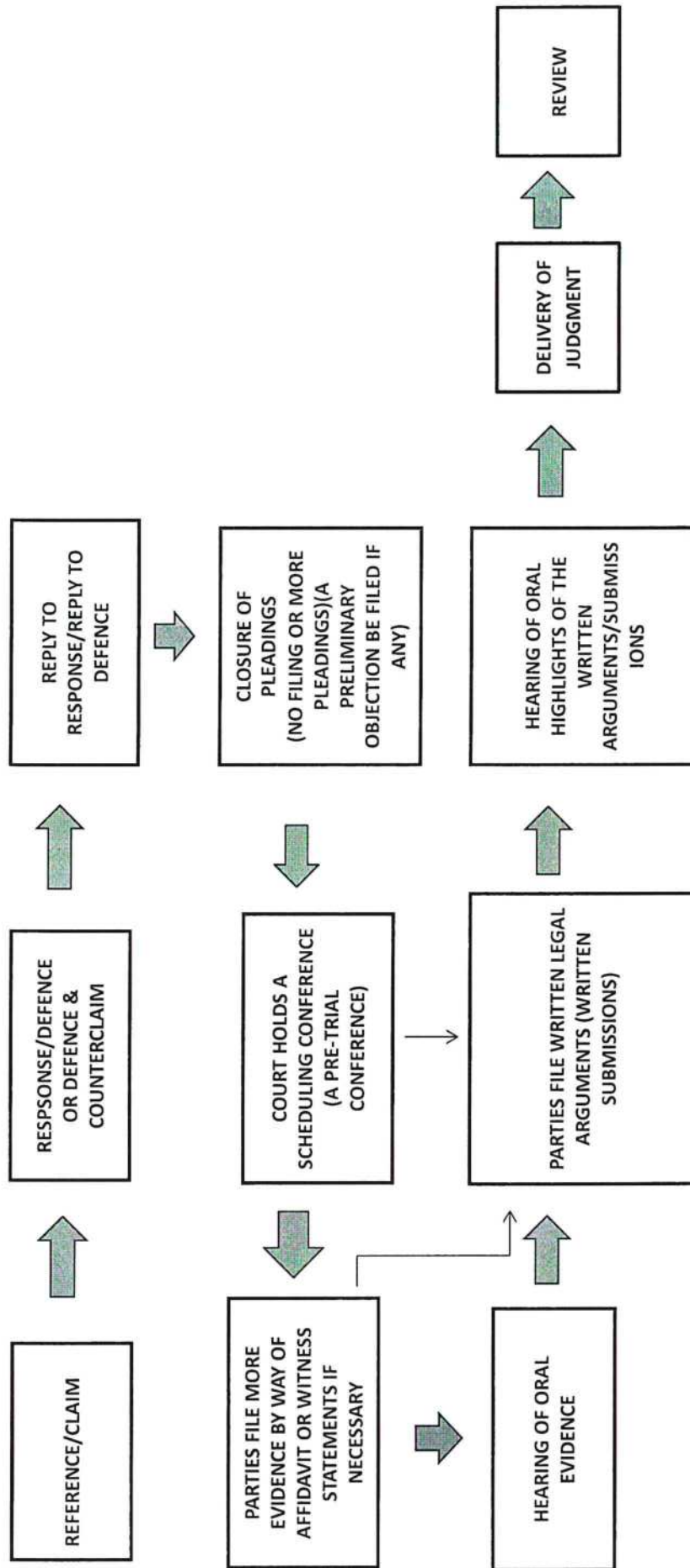
FIRST INSTANCE DIVISION

	FILED	HEARD AND DETERMINED	PENDING
REFERENCES	288	121	167
CLAIMS	13	10	3
INTERLOCUTORY APPLICATIONS	208	126	39
TAXATION CAUSES	28	27	1
TOTAL	537	274	210

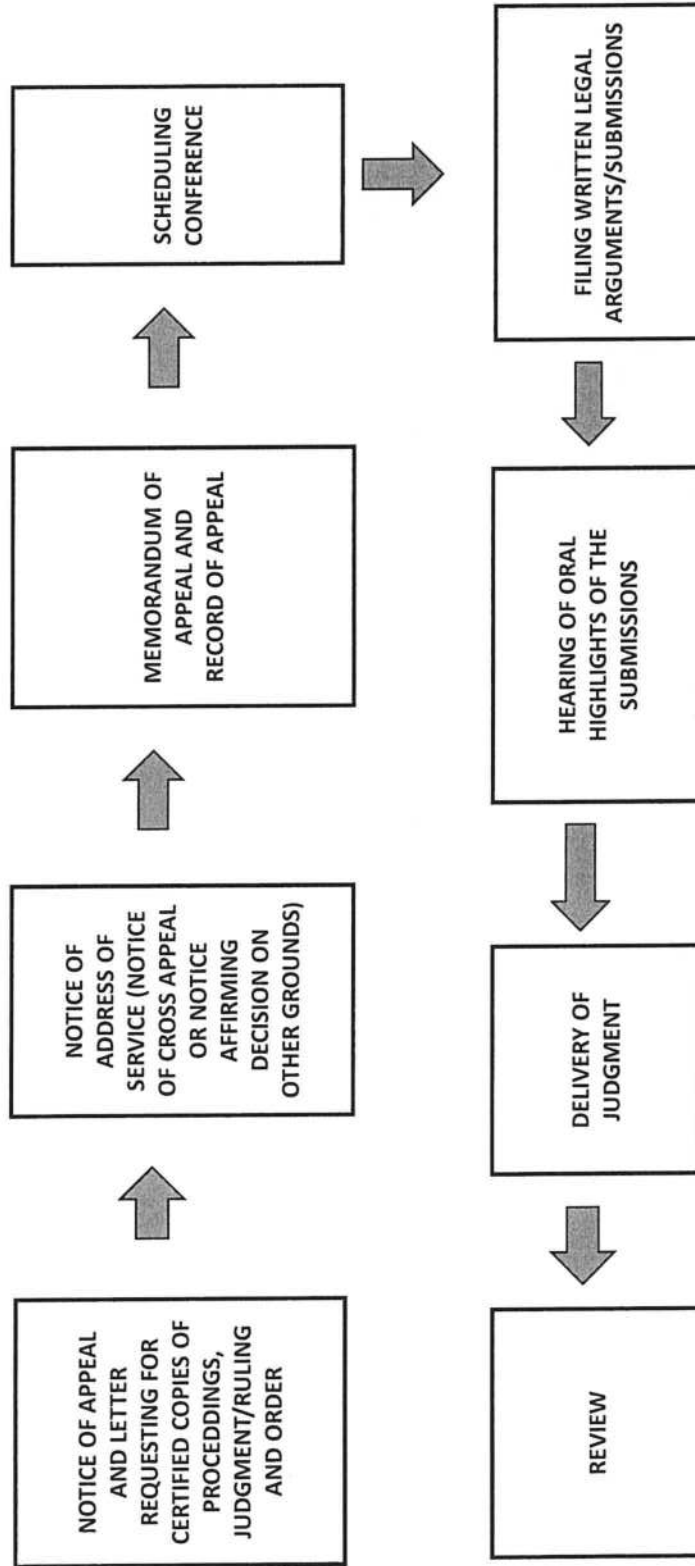
APPELLATE DIVISION

APPEALS	60	47	13
CASE STATED	2	1	1
ADVISORY OPINION	2	2	0
ARBITRATION	4	3	1
REFERENCE ON TAXATION	2	2	0

FIRST INSTANCE DIVISION

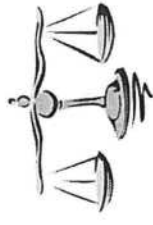


APPELLATE DIVISION



Achievements

- ⊙ EAC jurisprudence has continued to develop.
- ⊙ The Court has promoted regional integration
- ⊙ Fundamental principles of the Community e.g. rule of law, good governance , human & peoples' rights have been upheld.
- ⊙ The Court has highlighted areas where Partner States have failed to comply with Treaty obligations.
- ⊙ Use of case management and recording system
- ⊙ Encouraged settlement out of court and successfully concluded a Court Annexed Mediation

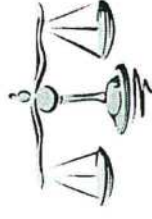


Challenges

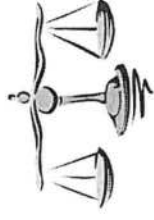
- ⊙ **Lack of enforcement mechanisms** - execution is through national court procedures. Harmonisation of laws to comply with EAC legal regime is on going.
- ⊙ **2 months limitation period** is a short time
- ⊙ **Ad hoc working-** Only the President & the Principal Judge are based in Arusha. So hearing cases outside court sessions requires early planning.
- ⊙ **Non renewable tenure-**Seven (7) year non renewable term
- ⊙ **Visibility** – Limited knowledge of the Court among citizenry, legal practitioners, judicial officers results in limited use of the Court.
- ⊙ **Limited budget**



Conclusion

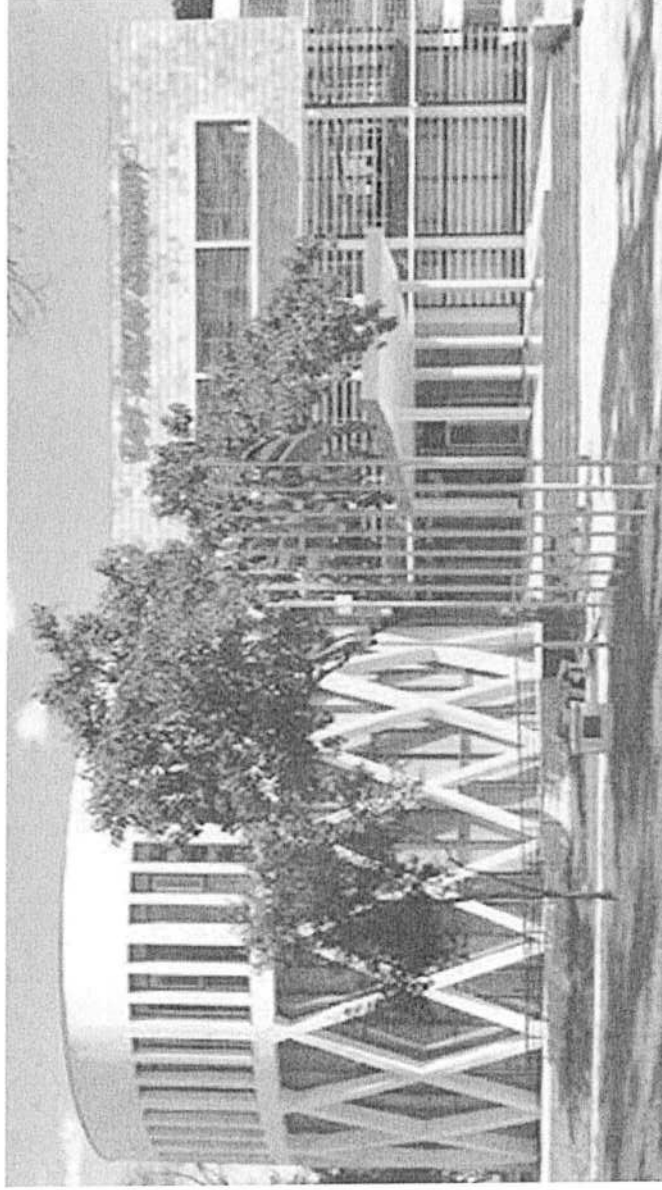


- Need for Partner States to consider allowing full time services of the Judges
- Need for Partner States to consider reviewing the tenure of the Judges
- Need for The Summit to determine the permanent seat of the Court

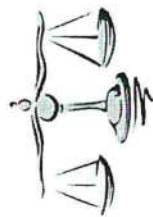


SEAT OF THE COURT

- Headquarters (Arusha, Tanzania)



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Session of the Appellate Division

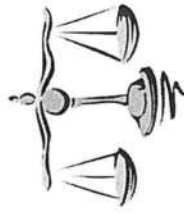
- Judges, Clerks and Counsels



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THANK YOU, ASANTENI



Visit the EACJ website

<http://eacj.org>

Mr. Boniface N. Ogoti
Court Clerk

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EAST AFRICAN COMMUNITY

One People, One Destiny

EAST AFRICAN COMMUNITY COMPETITION AUTHORITY

PRESENTATION ON THE ROLE OF EAC COMPETITION AUTHORITY TO KENYA PARLIAMENTARY COMMITTEE ON REGIONAL INTEGRATION

5th April, 2023

Arusha– Tanzania



Presentation outline

- Introduction
- Establishment of EACCA
- Functions and powers of the EACCA
- EACCA's Stakeholders
- Overview on the level of implementation of EAC competition policy and achievements
- Challenges and opportunities
- Support by National Parliaments
- Way forward



Introduction

WHAT IS COMPETITION?

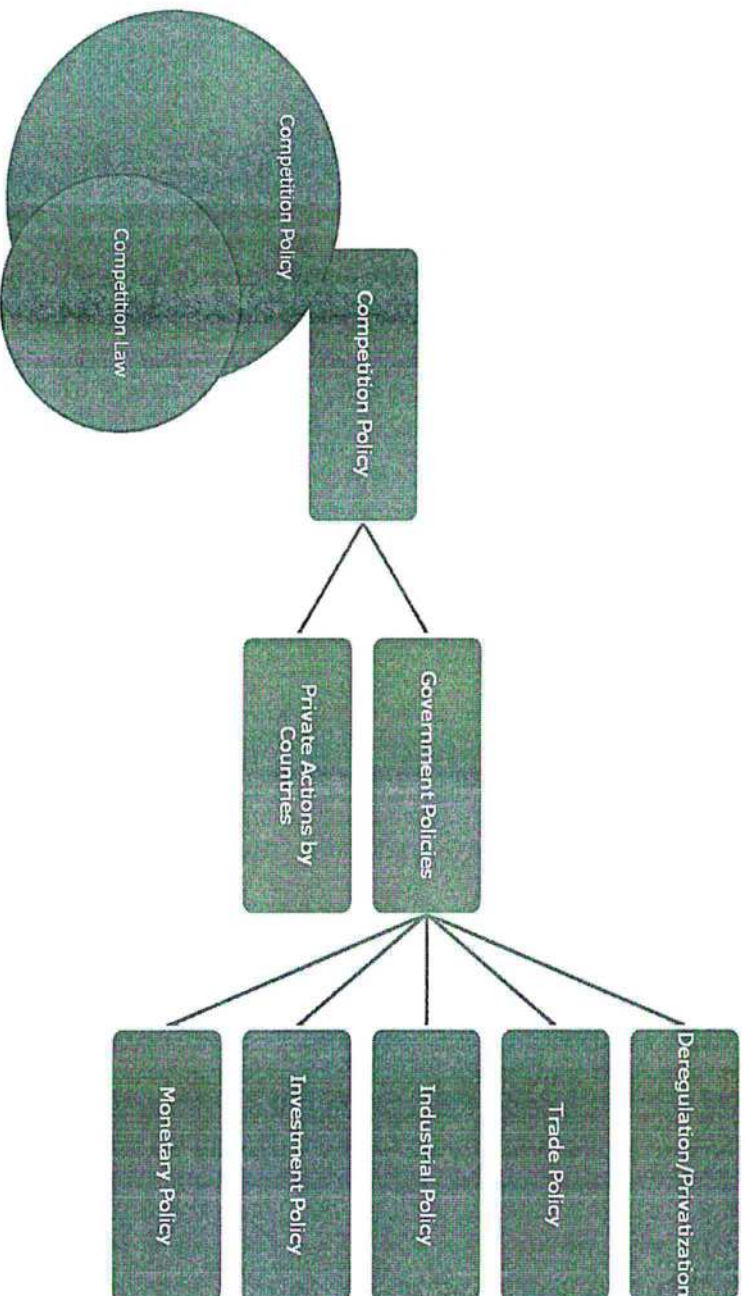


Introduction

- ◆ **Darwinian Struggle:** “Survival of the fittest in the market”
- ◆ **In commercial world:** “a striving for the customers and business of people in the market place”.
- ◆ **Competition Agencies:** “A process in which producers or distributors of goods and services, strive freely and independently to attract customers with a view to achieving specific economic goals, e.g. sales, profits or market shares”.
 - *Often described as rivalry based on prices, quantities, quality and services.*



Introduction



Introduction

Need for Competition policy and law

- ◆ Globalization – faced with reality of borderless markets; world that exerts competition pressure on domestic, regional and international businesses - deepen the gains; - ***cross-border infractions***
- ◆ expansion and growth of firms is important for continued trade and development in the region - can also create conditions for certain anti-competitive/ unfair trade conduct.
- ◆ Essential tool for creating an environment for the success of small private enterprises that provide over 50% of new jobs in EAC economy.



Introduction

Benefits of Competition policy and Law

- ◆ To facilitate competitive markets, so as to promote economic efficiency, thereby generate *lower prices, increase choice, quality goods, innovation and economic growth* and thus enhance the *welfare of consumers and the general community*.
- ◆ A prerequisite for integration - Customs Union and Common Markets can harvest the fruits liberalization of interstate trade
 - ◆ to ensure that the benefits from the establishment of the Common market are not frustrated by anti-competitive business conduct.
- ◆ Strengthens the capacity of EAC to identify and articulate their interests as a block and negotiate in that context – e.g. Tripartite
- ◆ To achieve this goal competition law must be enforced effectively.



Introduction

Adoption of competition laws and establishment of Institutions in the EAC

Jurisdictions	Competition Law	Competition Law Enacted	Year Operationalized	Institution
Burundi	Competition Act, Law N° 1/06	2010	-	
DR Congo	DR Congo Competition Act	2016	2018	DRC Competition Commission
Kenya	Competition Act	2011	2011	Competition Authority of Kenya (CAK)
Rwanda	Law N°36/2012, Competition and Consumer Protection	2012	2020	Rwanda Inspectorate, Competition and Consumer Protection Authority (RICA)
South Sudan	-	-	-	-
Tanzania	Fair Competition Act	2003	2007	Fair Competition Commission (FCC)
Uganda	-	-	-	-



Establishment of EACCA

Legal Framework

- Article 9 (2) of the Treaty for the Establishment of the East African Community (Treaty) provides for establishment of institutions -by the Summit.
- Article 75(1)(i) of the Treaty - Commitment to adoption of competition principles.
- The Council adopted the East African Competition policy at its meeting held on 13th January, 2004



Contd'

- **Article 21 of the of the EAC Customs Union Protocol (2005)** provides for competition - The Partner States shall prohibit any practice that adversely affects free trade including any agreement, undertaking or concerted practice which has as its objective or effect the prevention, restriction or distortion of competition within the Community.
- **Article 33-36 of the EAC Common Market Protocol (2010)** provides for competition and consumer protection - The Partner States shall prohibit any practices that adversely affect free trade; shall promote the interests of the consumers in the Community by ensuring the protection of life, health and safety of consumers; and by encouraging fair and effective competition in order to provide consumers with greater choice among goods and services at the lowest cost.



Contd'

- **Section 37** of the EAC competition Act, 2006 (the Act) establishes the EACCA.
- Competition Regulations, 2010
- The Act came into force in December, 2014
- EACCA as an institution of the East African Community (EAC) operationalized in 2017
- The EAC Competition Authority (Conduct of Meetings), Rules, 2018



Contd'

Institutional Framework

- East African Court of Justice: Receives appeals against the decisions of the Commissioners
- Commissioners: Consisting of five (5) Members appointed by Council from the Partner States (Burundi, Kenya, Rwanda, Uganda and United Republic of Tanzania) – give policy guidance on competition matters and determine cases received and investigated by the Authority (See S. 38)
- EACCA Secretariat: Headed by the Registrar, responsible for the day to day Management of the affairs of the Institution.



Objectives of competition policy and practice

- S.3 of the Act sets out “objects of competition policy and practice in the Community” as follows;
 - to “enhance the welfare of the people of the Community” by “protecting the opening of Partner States’ markets against the creation of barriers to interstate trade and economic transactions by market participants,”.
 - to “enhance the competitiveness of Community enterprises to world markets by exposing them to competition within the Community.”



Contd'

- to “create an environment which is conducive to investment in the Community.”
- Guaranteeing equal opportunities in the community to all market participants especially to SMEs
- to “bring the Community’s competition policy and practice in line with international best practices.”
- to “strengthen Partner States’ role in relevant international organizations.”



Mandate and Functions of EACCA

Mandate – Promote and protect fair competition and to provide for consumer welfare in the Community.

The main **functions**–

- Regulation of market structure
- Regulation of market conduct
- Protecting consumer welfare;
- Advocacy and capacity building
- Matters with cross-border effect



Contd'

Sec 42 of the Act

- Investigating and compelling evidence, including the search and seizure of documents
- Gathering information
- Holding hearings
- Issuing legally binding decisions
- Imposing sanctions and remedies;



Contd'

- referring matters to the Court for adjudication;
- recommending to the Council to make regulations;
- developing appropriate procedures for public sensitization, consultation and participation;
- formulating by-laws for the operation of the Authority;
- collecting data, undertake studies and publish reports;
- co-operating with regional and international organisations and with foreign competition authorities



Other legal instruments

- EAC Competition (Amendment) Bill 2022;
- EAC Competition (Mergers and Acquisitions) Regulations, 2022
- The EAC Competition (Sharing of Merger and Acquisition) Revenue Regulations, 2022
- EAC Competition Merger Notification Thresholds
- EAC Competition Merger Notification Fee Notice.
- EAC Competition Authority (Complaints, Investigations And Hearings) Rules Of Procedure, 2022



THE EAST AFRICAN COMMUNITY COMPETITION AUTHORITY

In Brief

The East African Community Competition Authority (EACCA) as an institution of the EAC, established by Article 9(2) of the Treaty for the Establishment of the East African Community and Section 37 of the EAC Competition Act, 2006

Vision

Competitive markets that enable inclusive economic integration for shared prosperity and consumer welfare in the East African Community.

Mission

To promote fair competition and protect consumers in support of regional economic integration in the EAC, through:
Regulating market structure and conduct by participants, and Building awareness and capacity in support of compliance with the EAC Competition Act

Core values

Integrity
Transparency
Fairness
Responsiveness
Quality
Confidentiality



Priorities

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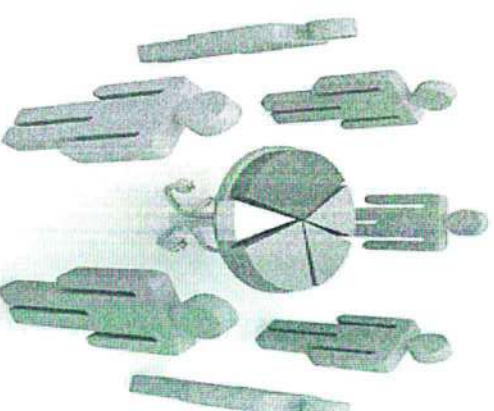
- Setting up the requisite infrastructure of the Authority – regulatory and policy framework strengthened
 - Offices
 - Staff recruited
 - Toolkits developed
- Building and strengthening the EAC Competition Authorities capacities –awareness raising/ advocacy/ sensitization
- Case enforcement



EACCA's Stakeholders

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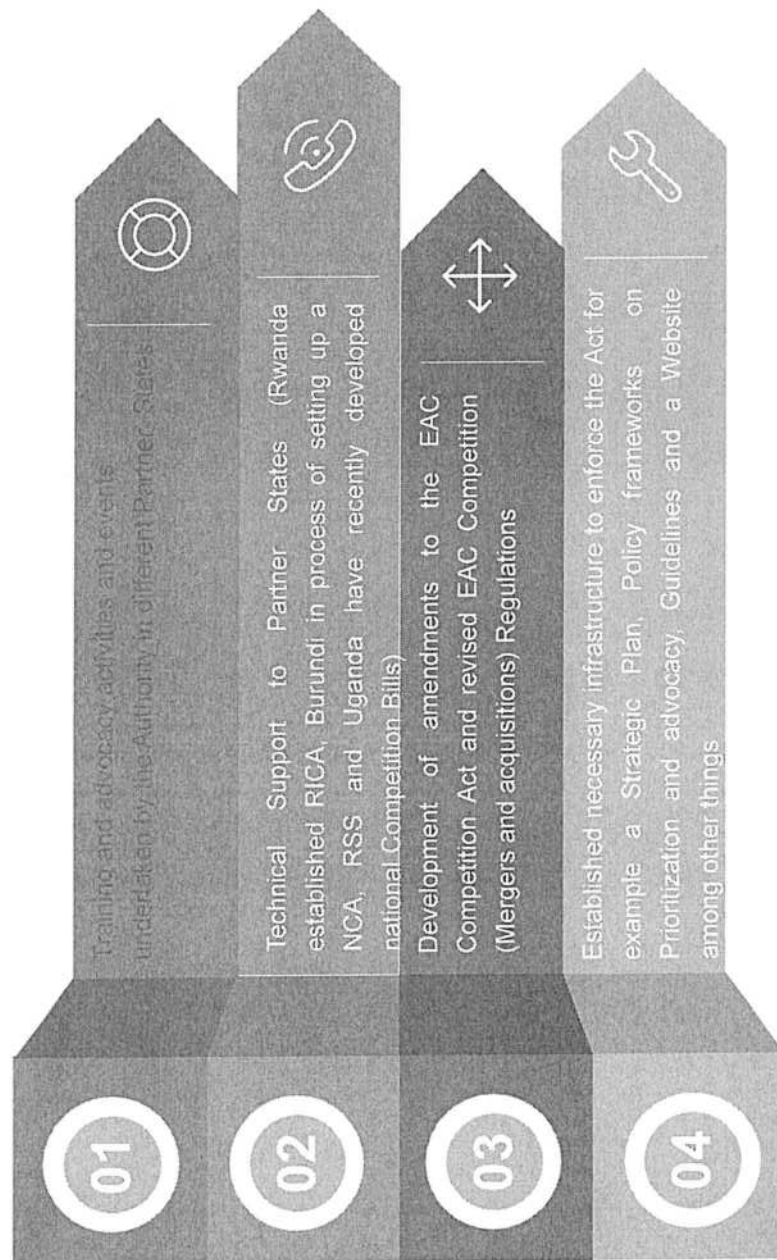
- ✓ Business community - compliance
- ✓ National and regional competition agencies,
- ✓ Ministries and departments responsible for competition
- ✓ Sector regulators
- ✓ Judiciary and legal practitioners;
- ✓ Consumer organizations and consumers;
- ✓ EALA and National Parliaments (relevant Committees)
- ✓ EAC Policy Organs, Directorates
- ✓ Media
- ✓ Consumers
- ✓ SMEs
- ✓ Civil society
- ✓ Academia



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KEY achievements



ANALYSIS

S

The EAC Competition Authority Strategic Plan 2019/20 – 2023/24 provides for EACCA's strategic approach and direction (to include Prioritized implementation, functional independence & mobilize resources among other things). The EACCA commenced enforcement of some provisions of the Act



Challenges

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- Some Partner States have not yet enacted competition and consumer protection laws and others not yet established and operationalized competition Authorities.
- Culture of Competition not entrenched
- Human resource constraints - 5 staff (3 technical and 2 support) – reliance on the EAC Secretariat support staff
- Funding constraints
- VAT tax claims
- Delays in decision making by policy Organs affecting timely enactment of legislations and implementation of activities

■ Overlapping jurisdiction



Opportunities

- Significant potential for trade and integration of economies in the region and potential areas for further investments across borders in the EAC as local exports grow in Partner States
- Expertise and enforcement experience can be 'shared' by more experienced national authorities (Competition Authority of Kenya) through frameworks of collaboration
- Number and increase in merger transactions may be a stream of revenue for the EACCA which can be leveraged to build capacity and bring in technical skills in other areas of enforcement
- Capacity building for the EACCA, with benefits for national competition authorities
- Awareness campaign to sensitize stakeholders on the role of competition enforcement in regional integration and need for compliance with the EAC Competition Act



Support to EACCA by Partner states Parliament

- Sensitization on the importance of competition policy and law in EAC region
- Budget increase
- Implementation of regional activities nationally

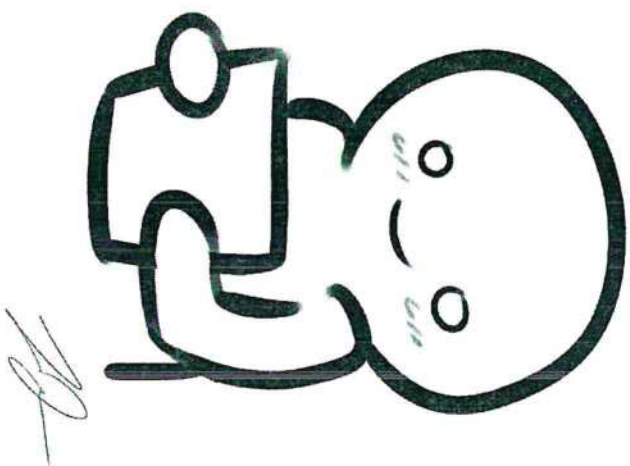


Conclusion

- A prerequisite for integration
- heal market failures
- Nascent stage
 - Need support in terms of human and finance resources
 - Capacity building – EACCA and Partner States
 - Cooperation frameworks



Thank you
for
listening!





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