



EAST AFRICAN LEGISLATIVE ASSEMBLY

PUBLIC HEARING WORKSHOPS ON THE PROPOSED EAC COMMON MARKET

FINDINGS FROM THE WORKSHOPS

**Clerk's Chambers
AICC Complex
5th Floor
Ngorongoro Wing
Arusha
Tanzania**

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the EAC Heads of State directed that negotiations on the EAC Common Market Protocol should commence on 1st July 2006 and set January 2010 as the target date for commencement of the Common Market.

In view of the above indicated Summit timeframe, the East African Legislative Assembly, through its Committee on Communications, Trade and Investment decided to hold Public Hearing Workshops in the three Capital cities of Kampala, Nairobi and Dar-es-Salaam to consult key stakeholders so as to make an informed input on the Protocol on the Common Market, which will form the basis for the EAC Common Market Legislation. It was therefore imperative to consult the people of East Africa on how the Common Market should be structured and how it ought to operate. A list of EALA members of the Committee and support staff from the Community is attached hereto as *Annex I*.

The Public Hearing Workshops were conducted as follows; Nairobi, Kenya from 24th to 28th April 2006; Dar-es-Salaam, Tanzania from 1st to 5th May 2006; and Kampala, Uganda from 8th to 12th May 2006. The key stakeholders that were consulted included the relevant government ministries, capital markets and stock exchanges, labour and employment bureaus, business community, academicians, politicians, professional associations, investment authorities, revenue authorities, journalists, civil society organisations and regulatory authorities, etc. A list of all the individuals and institutions consulted is hereto attached as *Annex II*. A compendium of all the written memoranda submitted to the Committee is hereto attached as *Annex III*.

The Common Market is one of the major steps towards full integration of the people of East Africa

Protocol on a Common Market.” However, the Treaty does not specify the timeframe within which the Partner States have to conclude the Common Market Protocol.

Issues dealing with macro economic harmonisation, coordination and movement of capital are further elaborated in Chapter 14 of the Treaty specifically articles 83, 84 and 86 respectively. Issues to do with free movement of labour are further elaborated in Article 104 (2) of the Treaty which states that *“For purposes of paragraph 1 of this Article, the Partner States agree to conclude a Protocol on the Free Movement of Persons, Labour, Services and Right of Establishment and Residence at a time to be determined by the Council.”*

Instead of negotiating two Protocols as implied above, the 11th Meeting of the Council that was held in Arusha in April 2006, decided to proceed with negotiations on one Common Market Protocol that would encompass labour issues as well within one broad framework. The Community is in the process of commissioning a comprehensive study that would clearly indicate the scope of coverage of the Common Market Protocol. A model common market protocol is to be proposed that would form the basis for negotiations. The consultants to undertake this work will also identify the status of implementation of various aspects of the Protocol and based on this will draw up a Program of Action (with timelines and necessary resources) that would guide negotiations. The study will among others also specify the scope of the protocol, identify key areas for negotiations and indicate the necessary institutions that may have to be set up to support the Common Market. It is within this broad framework that the CTI Committee undertook the public hearings and what follows here below are the key findings from those workshops.

2.3 Certificates of Origin

Certificates of Origin are one of the most important documents as of now that are required to facilitate cross border trade within East Africa. Certificates of Origin will continue to be used until internal tariffs are eliminated. Goods are only considered to originate in the Partner States if they meet the criteria set out in the Rules of Origin that were adopted under Article 14 of the Protocol on the Establishment of the EAC Customs Union otherwise they would be subjected to varying degrees of taxation as specified in the Common External Tariff. However the Certificates of Origin are only issued at the Revenue Authorities headquarters in Uganda and Kenya while in Tanzania at the headquarters of the Chamber of Commerce. As such, traders have to travel to their capital cities to process these certificates before they can export their goods. This was found to be a very cumbersome procedure and yet there were no convincing reasons as to why these certificates could not be issued at either the customs border posts or the regional revenue offices.

2.4 Differences in Domestic Tax Regimes

It was observed that the three countries still have different domestic tax rates and structures especially excise duty and Value Added Tax (VAT). These differences have resulted into market distortions leading to such problems like smuggling and other industry malpractices that have witnessed a rise in some "artificial" exports. The most affected commodities are cigarettes, spirits and petroleum products. Several stakeholders expressed concern that without harmonization of such taxes, the EAC Customs Union cannot operate smoothly.

2.5 Lack of Double Taxation Agreements (DTA)

A number of firms engaged in cross border business operations complained about being subjected to multiple

Common Market should be structured and operated. In the meantime, the necessary operational infrastructure for a Common Market should be developed and articulated to all stakeholders well in time.

2.8 Free Movement of Persons

A number of participants felt that we should first implement the 'small things' such as free movement of persons before going on to the 'bigger issues' like the Common Market. In particular, they expressed frustration at the stringent immigration controls and poor treatment of East Africans at border points and the increasing deportations of 'illegal immigrants' by the all the Partner States of each other's nationals. Whereas free movement of labour can await to be negotiated within the Common Market Protocol, participants were of the view that free movement of people should be implemented immediately. Among others, this will go along way towards making East Africans feel as one.

It is therefore necessary and critical for Uganda and Tanzania to issue national identity cards (as is done in Kenya) – these identity cards could then be used at border post crossings instead of passports. It was also pointed out that the East African passport as of now is just an additional document without any value added not only because the process for its acquisition is cumbersome but it also serves no useful purpose for its holders for they do not receive any special treatment at the immigration controls. It is therefore imperative for the Partner States to put in place special measures that facilitate quicker clearance of East African passport holders at the immigration controls as a means of popularizing the acquisition of the passport.

2.9 Free Movement of Capital

There are still serious inhibitions to the free flow of capital in the region. Participants in particular expressed concern

is need to institutionalize the convergence criteria as we move towards a common market.

2.11 Poor Infrastructure and Cost of Doing Business

It was generally observed that the three governments have not put in serious efforts to improve on the necessary infrastructure and thereby reduce the cost of doing business. The major roads, particularly those from the points of entry and linking the three countries to one another, are in very poor state of disrepair. The railway system, which generally worldwide remains the most efficient and cost effective means of moving cargo on land, has almost collapsed. Handling facilities at ports of entry and exit are so inefficient and fall far below the minimum international standards. Importers, especially in Uganda, complained about the inadequate grace period at Mombasa Port that has resulted into increased demurrage charges.

Provision of utilities in the region is not only unreliable but also very expensive. The problem of electricity has now assumed crisis levels with blackouts (better known as load shedding) over most parts of the region but more acutely in Uganda. Water supply is unreliable and its quality is not up to the required standards for both human and industrial consumption and very little is being done to address these problems. The telecommunications sector may have improved but the costs are still far too high for most people to afford. The lack of inter-connectivity between the service providers across the borders increases the costs of doing business in the region. The East African sub-marine cable network (Essay) that is designed to provide the sector with more efficient technological systems is yet to take off. The aviation industry still remains very expensive yet the costs of air travel would be significantly reduced if East Africa became a single air space.

These problems make East Africa such an expensive location for business. If East Africa is serious about becoming an attractive area for investments, then

2.14 Fear of Domination

A number of participants, more especially in Tanzania, expressed a general fear that their businesses are likely to collapse due to the stiff competition particularly from the "stronger and more aggressive Kenyan companies." As a result, there was a general recommendation that the process needs to be slowed down or at least the principle of asymmetry is built into to ensure that the small and weak do not unduly lose out to the big and strong.

There was also the fear about loss of employment opportunities due to differences in the competitiveness of the labour force. Some participants especially in Tanzania expressed the concern that free movement of labour will result into an influx of qualified Kenyans and Ugandans into Tanzania thus out competing Tanzanians in the labour market. There may be need for affirmative action or phased opening up to allay some of these fears. The competition, the anti-monopoly and mergers and acquisitions acts should be useful this regard.

2.15 Existence of Popular Support

Despite the concerns raised, the Committee noted that in no single Partner State did any stakeholder express opposition to the integration process. Although there existed varying degrees of depth of comprehension and reasons for integration, all stakeholders seemed to agree that unity along the lines specified in the Treaty was the best option for East Africa. Participants appreciated that in this globalised world it is a matter of survival for such weak and poor economies to come together and through pooling resources and economies of scale, may stand a better chance to effectively compete internationally. Several participants pointed out the need to effectively engage the ordinary people of East Africa and avoid the pitfalls that led to the collapse of the former Community.