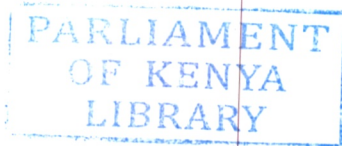


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**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**



Q. M. M.

COMMITTEE ON LEGAL, RULES AND PRIVILEGES

**REPORT OF THE COMMITTEE ON THE ASSESSMENT OF THE STATUS OF THE
RATIFICATION AND IMPLEMENTATION OF EAC PROTOCOLS & EAC LAWS BY
THE PARTNER STATES**

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EAC PARTNER STATES

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1.0 INTRODUCTION

1.1 PROTOCOLS OF THE COMMUNITY

Article 151 of the Treaty for the Establishment of the East African Community, empowers Partner States to conclude Protocols as may be necessary for each area of co-operation. Protocols are approved by the Summit on the recommendation of the Council. Once approved, Protocols are subject to signature and ratification by the Partner States. Protocols enters into force upon ratification and depositary of the ratification instruments with the Secretary General by all Partner States.

The non-ratification of Protocols delays the implementation of the respective Protocols and consequently affects negatively the attainment of the objectives of the Community as specified by the Treaty and the relevant Protocols. The table below shows the list of Protocols that were not fully ratified by the time of undertaking of this activity.

Table 1: Protocols Pending Ratification by Partner States

SN	PROTOCOL	NOT YET RATIFIED BY
1	Protocol on Immunities and Privileges	The Republic of Burundi
2	Protocol on Cooperation in Meteorological Services	All Partner States
3	Protocol on Sanitary and Phytosanitary Measures	The United Republic of Tanzania
4	Protocol on Information, Communications and Technology	The United Republic of Tanzania, the Republic of Kenya and the Republic of Burundi
5	Protocol on Extended Jurisdiction of the East African Court of Justice	The Republic of Burundi, the Republic of Uganda and the United Republic of Tanzania
6	Protocol on Foreign Policy Coordination	The United Republic of Tanzania

- i. To understand the reasons for the delay in the ratification of protocols;
- ii. To assess the readiness of the Partner States to ratify the pending protocols
- iii. To assess the implementation of laws of the Community by the Partner States;
- iv. To understand the challenges which Partner States face in the implementation of the laws of the Community; and
- v. To understand the level of awareness with regards to protocols and laws of the Community.

3.0 METHODOLOGY

The Committee undertook this activity by conducting meetings with government officials and the relevant stakeholders in the Partner States. On the ratification of Protocols, the Committee focused on the Protocols pending ratification in each Partner State.

On the aspect of implementation of the laws of the Community, the Committee assesses the implementation of the East African Community Vehicle Load Control Act, 2016.

The Republic of South Sudan joined the EAC while all the Protocols included in the table above were already concluded, therefore Republic of South Sudan is not required to ratify them. For that reason, in the Republic of South Sudan, this activity focused on their preparedness to implement the protocols.

Table 2: Status of Ratification of Protocols Pending in the Republic of Burundi

SN	PROTOCOL	STATUS
1	Protocol on Immunities and Privileges	The Committee was informed that this Protocol has gone through all the processes of ratification. The instrument of ratification was deposited on 8 th June 2022
2	Protocol on Cooperation in Meteorological Services	The Protocol was transmitted to the Ministry in charge of Environment for consideration
3	Protocol on Information, Communication and Technology	The Protocol was forwarded to the relevant Ministry. There are some areas that need to be improved. Comments on this Protocol will be submitted to the Secretariat for consideration
4	Protocol on the Extended Jurisdiction of the EACJ	All concerned departments have already given their positive feedback on this Protocol. it is now in the President's office for assent and subsequent depositary of the ratification instrument.

4.1.3 CHALLENGES ENCOUNTERED IN THE RATIFICATION OF PROTOCOLS

The biggest challenge is limited communication between government departments. A concern was raised by Members of the National Assembly that whereas the national Assembly is willing to approve the ratification of protocols, the relevant Ministry does not bring them on time.

In June 2021, the Ministry of EAC Affairs conducted a meeting with institutions and stakeholders to identify the pending protocols and the challenges that caused the delay in ratification.

thereafter shall cause the deposit of the signed Instrument of Ratification with the relevant depository office.

4.2.2 STATUS OF RATIFICATION OF EAC PROTOCOLS BY THE REPUBLIC OF KENYA

Whereas Table 1 indicates that the Republic of Kenya has not ratified three Protocols, the Republic of Kenya informed the Committee that it ratified and deposited the instrument of ratification of the follows protocols:

- a) The Protocol on Cooperation in Meteorological Services which was ratified on 31st March, 2019 and the instrument was deposited in July 2019; and
- b) Protocol on Information, Communications and Technology which was ratified on 30th October 2019 and the instrument was deposited in December 2019.

The EAC Secretariat confirmed that the Republic of Kenya ratified the two protocols and deposited the Instruments of Ratification.

The Committee was informed that the Republic of Kenya is yet to ratify the Amendment to Article 24 (2) of the Protocol on the Establishment of the East African Community Customs Union. The amendment was considered by the Committee on Regional Integration, which recommended for the ratification. The delay in the ratification of this amendment was occasioned by the reconstitution of the leadership of the Committee of the Whole House and the Committee on Regional Integration.

4.3 REPUBLIC OF RWANDA

4.3.1 RATIFICATION OF EAC PROTOCOLS IN RWANDA

According to Article 167 of the Constitution of Rwanda, the power to negotiate and sign international treaties and agreements is vested with the President of the Republic or his/her delegate.

The Republic of Rwanda is ready and willing to ratify all the EAC protocols, since these Protocols once ratified become integral part of the Treaty, and Rwanda has a political will on implementing the Treaty to its best.

4.4 REPUBLIC OF UGANDA

4.4.1 RATIFICATION OF PROTOCOLS IN UGANDA

The representatives from the Ministry of Justice informed the Committee, Section 2 of the Ratification of Treaties Act Cap 204 states that all treaties shall be ratified as follows,

- a) By the Cabinet in case of any Treaty other than a Treaty referred to in paragraph (b) of this section; or
- b) By the Parliament:
 - i. Where the Treaty relates to the armistice, neutrality or peace; or
 - ii. in the case of a Treaty in respect of which the Attorney General has certified in writing that its implementation in Uganda would require an amendment of the Constitution.

The law further stipulates that the instrument of ratification of a Treaty shall be signed, sealed, and deposited by the Minister responsible for Foreign Affairs.

4.4.2 STATUS OF RATIFICATION OF EAC PROTOCOLS IN UGANDA

Whereas Table 1 indicates that the Republic of Uganda has not ratified three Protocols, the Government of Uganda informed the Committee that it ratified the following Protocols:

- a) The Protocol on Cooperation in Meteorological Services; and
- b) The Protocol on the Extended Jurisdiction of the East African Court of Justice.

The EAC Secretariat informed the Committee that it received a letter from the Republic of Uganda explaining that it had ratified the protocol to Operationalize the Extended Jurisdiction of the East African Court of Justice. However, the instrument for ratification has not yet been deposited with the Secretary General as per Article 153 of the Treaty.

4.5.2 STATUS OF RATIFICATION OF EAC PROTOCOLS BY THE UNITED REPUBLIC OF TANZANIA

The table below indicate the status of Protocols pending ratification by the United Republic of Tanzania:

Table 3: Status of Ratification of Protocols by United Republic of Tanzania

1	Protocol on Cooperation in Meteorological Services-	the Ministry of Transport in collaboration with the Tanzania Meteorological Agency are still consulting before submitting their report to the Cabinet for consideration
2	Protocol on Extended Jurisdiction of the East African Court of Justice-	the Cabinet will submit its report about the Protocol to the President soon
3	Protocol on Foreign Policy Coordination	stakeholders' views and opinions has been collected; the report is being prepared for submission to the Cabinet
4	Amendment to Article 24 (2) of the Protocol on the Establishment of the East African Community Customs Union	the United Republic of Tanzania has no objection in ratifying this protocol. The protocol will be tabled in Parliament in September 2022.

The Committee was informed that the United Republic of Tanzania ratified and deposited the Instruments of Ratification for the following Protocols:

- i. the Protocol on Information, Communication and Technology (instrument was deposited in January 2020); and
- ii. the Protocol on Sanitary and Phytosanitary Measures (instrument deposited in September 2021).

South Sudan gives the power to the President to ratify Treaties with the approval of the Assembly. The practice show that some treaties automatically become domestically binding once they become internationally binding and some need to be implemented through legislation. The following is the procedure in the ratification of protocols.

- i. Collection of all relevant documents;
- ii. Cost-benefit analysis of becoming Party to the Treaty or Protocol;
- iii. Assessment of whether the legal system established by the Treaty or Protocol will be beneficial to the Country;
- iv. Seek legal opinion from the Ministry of Justice;
- v. The Minister of Justice present it to Council of Ministers;
- vi. Table it before the Assembly;
- vii. The President to sign the instrument of ratification; and
- viii. The Ministry of Foreign Affairs or Ministry of EAC Affairs as the case maybe for deposit the instrument of ratification.

4.6.2 TREATY OF ACCESSION OF THE REPUBLIC OF SOUTH SUDAN INTO THE EAST AFRICAN COMMUNITY

- i. The Committee was informed that the Republic of South Sudan acceded to the EAC Treaty on the 15th April 2016 and ratified the Accession Treaty which means that it becomes party to the Treaty;
- ii. The Republic of South Sudan is bound to implement the Treaty, all legislation and protocols concluded before it joined the EAC;
- iii. In regard to the Accession of the EAC Treaty by the Republic of South Sudan it was automatic that the protocols and agreements where ratified by virtual of Accession.

4.6.3 PREPARATION BY THE REPUBLIC OF SOUTH SUDAN TO IMPLEMENT THE EAC PROTOCOLS

The Committee was informed that the Republic of South Sudan has already laid a program to implement all EAC protocols. The preparations are:

- i. Studying the Instrument of Ratification of the Republic of South Sudan to the EAC;

4.8 GENERAL OBSERVATIONS ON THE RATIFICATION OF EAC PROTOCOLS

The Committee made the following observations with regards to the ratification of EAC protocols:

- i. All Partner States have delays in the ratification of some protocols;
- ii. The following five protocols are pending ratification as of 25 June, 2022:
 - a. Protocol on Cooperation in Meteorological Services;
 - b. Protocol on Information, Communications and Technology;
 - c. Protocol on the Extended Jurisdiction of the East African Court of Justice;
 - d. Protocol on Foreign Policy Coordination; and
 - e. Amendment to Article 24 (2) of the Protocol on the Establishment of the East African Community Customs Union.
- iii. There are different procedures of ratification of protocols in the Partner States which contributes to the delay in the ratification;
- iv. All Partner States indicated their willingness and commitment to ratify all the pending protocols;
- v. There is a delay in depositing the Instruments of Ratification with the Secretary General by the depositing authorities of the Partner States after protocols are ratified;
- vi. There is a need for the Community to assist in the capacity building to the Republic of South Sudan with regards to the implementation of the EAC protocols;
- vii. Protocols concluded should take into consideration the specific needs of people with special needs including people with disabilities, elderly and children;
- viii. Synergy is important amongst the key stakeholders in the process of ratification and implementation of protocols; and
- ix. There is lack of awareness of the EAC Protocols for officials who implement them.

4.9 GENERAL RECOMMENDATIONS ON THE RATIFICATION OF EAC PROTOCOLS

The Committee recommends to the Assembly to urge the Council of Ministers to:

PART II

5.0 IMPLEMENTATION OF THE EAC VEHICLE LOAD CONTROL ACT, 2016

5.1 REPUBLIC OF BURUNDI

Burundi is a land locked country this means that its imports and exports are carried coastwise by road. The country therefore enjoys the benefits of the implementation of the law but equally suffers from the shortcomings in its implementation.

5.1.1 IMPLEMENTATION OF THE EAC VEHICLE LOAD CONTROL ACT, 2016

Burundi assented to the Vehicle load Control Act and fully harmonized it with her national laws. However, the country has faced challenges in the implementation of the law.

- i. Enforcement of the law has increased Non-Tariff Barriers. For example, whereas the United Republic of Tanzania previously reduced the number of weigh bridges to three it has now gone back to seven check points to enforce the vehicle load control. The seven checks points are at Nyagahura, Kahama, Nakawa, Singida, Morogoro, Vigwaza and Dar es Salaam.
- ii. The Association of Drivers in Burundi informed the committee that when a truck is found in breach of the law, it is only the drivers who are punished, leaving out the truck owners and the owners of cargo.
- iii. There was complaint that the weighing of axle load should be substituted with overall tonnage of the vehicle. In transit luggage loaded may move resulting in an axle weighing more than recommended.
- iv. Drivers from Burundi complained of non-tariff barriers in Kenya, Uganda and the United Republic of Tanzania.

5.2 REPUBLIC OF KENYA

5.2.1 INTRODUCTION

The Kenya National Highways Authority (KENHA) is a state corporation established under the Kenya Roads Act, 2007 with the responsibility for Management,

Kenya has positioned herself to handle more transporters with the introduction of virtual weigh stations in its 10 weighbridges along the Northern Corridor. At the stations, trucks are weighed while in motion, meaning that little time is wasted in conducting inspection. The high-speed weigh-in-motion technology provided by Kistler quartz sensors will reduce the time spent in the station and corruption as they would not be manned by human beings.

5.2.2 THE MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN DEVELOPMENT AND PUBLIC WORKS

The Ministry of Transport, Infrastructure, Housing, Urban Development & Public Works, and State Department for Transport is responsible for the implementation of policy and regulations on the road transport operations in the country. A number of key stakeholders presented the following challenges in complying with the EAC Vehicle Load Control Act:

- i. Gross weight free allowance should be increased at least by 1% per way;
- ii. The current fines are heavy. The transporters recommend that fines should be reviewed;
- iii. If a transporter has exceeded the axle load and pays a fine, they should be allowed to pass all set weighbridges for the complete journey. The current allowed load is extra 1 tonne should be increased to 2 tonnes;
- iv. Weighbridge managers should treat the truck owners with respect and not like criminals;
- v. Redistribution of cargo should be allowed across all weighbridges;
- vi. The queues at certain weighbridges are too long. This is caused by officers who are weighing each vehicle manually with special reference to Juja and Isinya;
- vii. There should be recognition of (truck/trailer) manufacturers design weight specifications;

5.4.1 THE INSTITUTIONAL FRAMEWORK FOR THE ENFORCEMENT OF THE EAC VEHICLE LOAD CONTROL ACT, 2016 IN RWANDA

The Ministry of Infrastructure (MININFRA) is the policy organ for Vehicle Load Control Act. The management and operation of the weighing stations are the responsibility of the National Agency in charge of Transport Development (RTDA) as provided by the aforementioned draft law. Rwanda Standards Board (RSB) has responsibility with regard to weighbridge standards and accreditation.

5.4.2 LAWS THAT WERE AFFECTED BY THE IMPLEMENTATION OF THE EAC VEHICLE LOAD CONTROL ACT, 2016

The EAC Vehicle Load Control Act, 2016 slightly affected the Presidential Order Decree N° 85/01 of 02/09/2002 regulating general traffic police and road traffic, especially in its chapter III on maximum weights authorized. The Act also contains new provisions that are not in the Presidential Order Decree, which will require to amend and incorporate all the essential provisions.

5.4.3 THE LEVEL OF AWARENESS OF STAKEHOLDERS CONCERNING THE EAC VEHICLE LOAD CONTROL ACT, 2016

Due to the reason stated above, the Act is not completely enforced and therefore its awareness remains an activity in the portfolio, which will be done as Rwanda puts in place the enforcement tools such as policies and weigh stations.

5.4.4 THE BENEFITS GAINED FROM ENFORCEMENT OF THE EAC VEHICLE LOAD CONTROL ACT, 2016

Though the EAC Vehicle Load Control Act 2016 is not completely enforced in Rwanda, it is certain that having legal limit of the vehicle load prevent roads from deterioration. Harmonization of the vehicle load control has allowed smooth movement of goods in Rwanda and in the region as whole.

5.5.2 SUBMISSION BY A REPRESENTATIVE FROM REGIONAL LORRY DRIVERS AND TRANSPORTERS

In his submission, the representative of the Lorry Drivers emphasized the following;

- a) The need to improve weighbridges at Magamaga and Mubende among others to facilitate the speedy flow of commercial traffic on the corridors and across the borders of all countries in the region while also ensuring that vehicle overloading is minimized efficiently and cost-effectively.
- b) The Non- harmonized laws where it was noted that the Southern Route is not competitive by road
- c) EALA should initiate laws to facilitate trade;
- d) The Need to harmonize trade procedures;
- e) Government Agencies need to work in tandem with other agencies like Uganda Revenue Authority

RECOMMENDATIONS

- 1. Need to sensitize and disseminate information on the existing laws of the Community.
- 2. The Committee urged the other EAC Partner States to enhance the use of water transport on Lake Victoria. This would help to reduce congestion along the roads in the Northern Corridor.

5.6 UNITED REPUBLIC OF TANZANIA

5.6.1 ACTIONS TAKEN BY THE UNITED REPUBLIC OF TANZANIA TO IMPLEMENT THE EAC VEHICLE CONTROL ACT, 2016

The Committee was informed that the United Republic of Tanzania is fully implementing the EAC Vehicle Control Act, 2016 and its Regulations since 1st March 2019. Before commencement of the law, the government through the Ministry of Works and Transport conducted awareness programs to transporters and weighbridge operators.

or reduce an imposed fee. The waiver or reduction of fees should be considered if:

- a. the matters are of national security;
 - b. it is for bilateral agreements between governments; and
 - c. the motor vehicles are used as a result of natural disaster relief or for emergency infrastructure restoration.
- iii. Part III, Section 13(6) of the East African Community Vehicle Load Control (Enforcement Measures) Regulations, 2018 state that *"an overloaded vehicle carrying a hazardous load which cannot comply with special safety and health precautions for offloading and intends to proceed with the journey shall pay in addition to the normal overloading fee, four times the overload fees for the remaining part of its journey within the Partner State."*

The word hazardous is too specific while we have other type of load that cannot be reduced or re-arrange to bump into required legal load limit in terms of weights. It is recommended to be amended to read as *"an overloaded vehicle carrying a SPECIAL load which cannot comply with special safety and health precautions for offloading and intends to proceed with the journey shall pay in addition to the normal overloading fee, four times the overload fees for the remaining part of its journey within the Partner State."*

5.6.3 RECOMMENDATIONS FROM STAKEHOLDERS IN TANZANIA

- i. There is a need to ensure that calibration of weighbridges is done often in order to maintain accuracy;
- ii. Conduct regular sensitization programs to enhance awareness among the users of the EAC Vehicle Load Control Act, 2016;
- iii. There is a need to observe best practices from other EAC Partner States and reduce NTB's, for example allowing the empty trucks and flatbed to proceed with the journey without passing through the weighbridges;

- ii. Limited capacity. Institutional capacity constraints and skills gaps among the staff of the Ministry of Justice and Constitutional Affairs poses a challenge in terms of drafting the EAC legal instruments;
- iii. The judicial system of the Republic of South Sudan is based on the Arabic system which makes it a challenge for the Ministry of Justice and Constitutional Affairs to incorporate the laws and regulations of the East African Community; and
- iv. Limited of information about the EAC laws and Protocols.

5.7.2 OBSERVATIONS

- i. The Committee observed lack of coordination amongst Ministries/Departments on activities and programmes of the East African Community;
- ii. The Committee observed that relevant Ministries were not involved to participate sectoral Meetings of the East African Community;
- iii. The committee observed that the EAC legal documents are not available in the relevant Ministries/Departments and committees of the Transitional National Legislative Assembly;
- iv. The committee observed with pleasure the speed at which the private sectors is moving ahead of the government in matters of the EAC integration within the business aspect. For example, the representative of the private sector informed the Committee that the private sector is already Member of the East African Business Council.

5.7.3 RECOMMENDATIONS FROM THE STAKEHOLDERS IN THE REPUBLIC OF SOUTH SUDAN

- i. Urge the EAC Secretariat to avail all EAC protocols and laws to the Republic of South Sudan. The Ministry responsible for EAC affairs in the Republic of South Sudan should make sure all the EAC laws and protocols are disseminated to the relevant Ministries, Departments and Institutions;
- ii. Urge the EAC Secretariat to collaborate with the Ministry responsible for EAC Affairs in the Republic of South Sudan to layout a well-structured capacity building for the Ministries responsible for Justice and Constitutional Affairs and

- ii. Some Partner States reduced the number of weigh bridges, but later reintroduced them and hence going against the purpose of the law; and
- iii. Long truck queues are still witnessed along the weighbridges.

5.8 GENERAL RECOMMENDATIONS

The Committee recommends to the Assembly to urge the Council of Ministers:

- i. **To direct all Partner States to fully implement the EAC Vehicle Load Control Act, 2016 and its regulations;**
- ii. **To direct the EAC Secretariat to develop standards for road bumps to be applied in the entire EAC;**
- iii. **To initiate the review of the EAC Vehicle Load Control Act, 2016 and its regulations to address among other things:**
 - a. **Review the fees and fines provided by the laws;**
 - b. **To include in the regional road network the roads from the Republic of South Sudan and the Democratic Republic of Congo.**
- iv. **To direct the EAC Secretariat to prepare a sensitization program on the appropriate use of roads which is to be implemented by the EAC Secretariat and the Partner States;**
- v. **To direct Partner States that increased the number of weigh bridges to adhere to what is provided by the law;**
- vi. **To direct the EAC Secretariat and Partner States to disseminate and sensitize the public on the existing laws of the Community.**