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REPORT ON THE INTER-PARLIAMENTARY RELATIONS
SEMINAR

ON THE THEME:
"ENHANCING THE EAC INTEGRATION: APPLICATION AND
IMPLICATIONS (NANYUKI II)"

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KENYA NATIONAL ASSEMBLY

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Inter Parliamentary Relations Seminar- Nanyuki II

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ACRONYMS

AGOA	African Growth Opportunity Act
COM	Council of Ministers
COMESA	Common Market for East and Southern Africa
EA	East Africa
EABC	East African Business Council
EAC	East African Community
EACJ	East African Court of Justice
EACCMA	East Africa Community Customs Management Act
EACCUA	East Africa Community Customs Union Act
EADB	East African Development Bank
EALA	East African Legislative Assembly
EPZ	Export Processing Zone
EU	European Union
GMO	Genetically Modified organisms
IGAD	Intergovernmental Authority on Development
IMF	International Monetary Fund
LDC	Least Developed Countries
MP	Member of Parliament
WTO	World Trade Organisation
SADC	Southern African Development Cooperation

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1.0 INTRODUCTION

1.1 Overview:

The inter parliamentary relations seminar was organised by the East African Legislative Assembly (EALA), the Secretary General of the Community and sponsored by the Finnish Government and the Norwegian Government through AWEPA.

Participants, who were over 120 in number, included Members of the EALA, Members of Parliament from the three East African Parliaments, Ministers from the three Partner States, the Deputy Speaker of the Ugandan Parliament, Members of the Pan African Parliament, His Worship the Mayor of Kampala, former President of Uganda H.E. Godfrey Binaisa, Q.C., the Chairperson of the Uganda National Chamber of Commerce, various delegates from Diplomatic Missions in Uganda, officers from the Parliaments of Uganda, Kenya, and Tanzania; and members of the Private Sector and Civil Society Organisations in Uganda.

The seminar was officially opened by H.E. the Vice President of Uganda, Professor Gilbert Bukenya on behalf of the President of Uganda, H.E President Yoweri Museveni.

During the seminar, reference was made to the Nanyuki I seminar held in Kenya on 25th to 27th June 2004, with a view to assessing the progress made in following up the action plan and resolutions made at that seminar. In addition, emphasis was placed on the integration process, with participants analysing both long term and short term implications and what is required to be done by the various stakeholders to facilitate the process of integration.

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During the seminar, members fundamentally re-echoed the challenges and strategies as identified at Nanyuki 1. It was also noted that a lot of ground had not been covered in respect to the resolution and action plan as adopted at Nanyuki 1. However, tremendous progress was made at the Seminar since there were more participants than before and other key persons were brought on board.

1.2 Theme:

The theme of the seminar was: “Enhancing the E.A.C. Integration: Application and Implication: Nanyuki II”.

1.3 Seminar Objectives:

- (a) To enhance the EAC integration process;
- (b) To assess whether the current institutional framework can deliver the desired results;
- (c) To determine whether and how the different stages of integration as enumerated in the Treaty can be achieved simultaneously; and
- (d) To analyse the implications and applications of the recently enacted East African Community Customs Management Act.

1.4. Resource Persons

- (a) Mr. Peter Allum, IMF Resident Representative Uganda;
- (b) Prof. Elisa Ochieng, Director International Development Consultants;
- (c) H.E. Godfey Binasisa Q.C., Former President of Uganda;
- (d) Hon. Rwamirama Bright, Chairperson of Committee of Finance, Planning and Economic Development in Parliament of Uganda; (on behalf of Dr. Polycarp Musinguzi).
- (e) Prof. Bakibinga David, Professor and Deputy Vice Chancellor Makerere University;

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- (f) Mr. Robert Tumukwasibwe, Rapporteur;
- (g) Ms Catherine Kyokunda, Rapporteur.

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2.0 OFFICIAL OPENING

2.1 Opening Prayer

The Seminar opened with a prayer of thanks for the three East African States, their leaders and for guidance through out the Seminar.

2.2 Opening Remarks

Various persons made remarks during the official opening of the Seminar as follows:

2.2.1 The Clerk of the EALA, Mr. Justin Bundi:

The Clerk welcomed the participants and highlighted the context of the seminar. He observed that the first Inter-Parliamentary Seminar (Nanyuki I) was held between 25 -27 June, 2004 in Nanyuki, Kenya to discuss the functional relationship between the organs of the EAC and the National Assemblies. During the seminar, an action plan was drawn, and among the resolutions was that there should be regular meetings to exchange views on how to enhance the relationships between Members of EALA, Members of Parliaments from the three Partner States and other stakeholders.

The Seminar was a follow up on the implementation of the action plan and resolutions of Nanyuki I, and to devise ways and means on how Parliamentarians can enhance the EAC integration.

He noted that the participation of the Members of Parliament was very crucial since they would be in the best position to know the needs of the common man. As a result they would be instrumental in giving direction to the integration process.

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He further noted that the forum was meaningful for consultation with Parliamentarians and to ascertain what has been done and to determine what needs to be done to fast track the integration process.

2.2.2 Leader of Delegation from Kenya, the Chairman Parliamentary Departmental Committee on Defence and Foreign Relations, Kenyan National Assembly, Hon. G.G. Kariuki.

In his remarks, Hon Kariuki informed the participants that in the spirit of Nanyuki I, the Government of Kenya appointed Hon. John Koech, Minister for East African and Regional Cooperation, becoming the first Government in the region to appoint a cabinet level Minister in charge of EAC. He argued that the Minister should move to Arusha soon for effective operation and follow up of EAC matters.

He noted that the Government of Kenya has already gazetted December 30, 2000 as the effective date on which the Treaty establishing the EAC came into operation. He further noted that the establishment of the Customs Union is a major and significant development for which the Heads of State should be commended. He said it is an indication that the leaders have the political will to push the integration process to its logical conclusion. While some sacrifices will be made, all nations will mutually benefit.

He appreciated the Committee on fast tracking regional reforms towards integration headed by Hon. Amos Wako, Kenya's Attorney General, for effectively carrying out its tasks and handing in their report and recommendations on time.

He commended the Heads of the three Partner States for endorsing the proposals for the establishment of a Political Federation by January 2010.

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He acknowledged the immense contribution by the media and the private sector, particularly the EABC for sensitising people and politicians on the issues and significance of the integration process towards collective survival in a globalising world.

He urged Members of Parliament of Partner States to join hands in making the integration process a reality reminding them that integration is crucial in this competitive world. He assured participants that Kenyans are committed to making EAC integration a reality.

He called for regular consultations, honest and sober dialogue on controversial issues, political will and a vision of future mutual benefit of all Partner States, as key factors for effective integration.

2.2.3 Leader of Delegation from the United Republic of Tanzania, Deputy Speaker, Hon. Juuma Akukweti:

He appreciated the wonderful reception by the Ugandan Parliamentarians since their time of arrival in Uganda. He noted that the Tanzanian Parliament is looking forward to successful integration in all the undertakings.

He observed that EAC is a people's community and the Customs Union is therefore a major step that is highly commended. He commended the formation of the Committee on the Fast Tracking the Federation, and assured participants that Tanzanians are committed to any undertaking to facilitate the reviewing of the Treaty and will support the undertakings towards that end.

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2.2.4 Chairperson of the Presidential and Foreign Affairs Committee of Ugandan Parliament, Hon. Margaret Zziwa:

She started by welcoming participants to Uganda and thanked the EALA for fulfilling its promise to have the next Inter Parliamentary Relations Seminar in Uganda. She noted that while the Ugandan Parliament had not made tremendous progress in respect to Nanyuki I recommendations, it had nevertheless made some efforts.

She informed participants that the Committee on Presidential and Foreign Affairs briefed the Parliament of Uganda on what took place in Nanyuki I and presented a report to the House. The report had not been fully debated because of the need for a full brief as demanded by the House. There' would soon be a seminar for MPs of Uganda to get a detailed brief on the EAC integration process.

She hoped that the Ugandan Parliament would soon pass an amendment at the appropriate time to allow the Members of the EALA to freely interact with the Members of Parliament instead of reporting only through the Committee on Presidential and Foreign Affairs.

2.2.5 Secretary General EAC, Hon. Amanywa Mushega:

Hon Amanywa Mushega started his remarks by thanking His Excellency the Vice President for his presence and acceptance to open the Seminar.

He informed participants that the Heads of State at a Special Summit put in place a process to fast track the political federation of East Africa. Consequently, the activities of the Community have been placed on the fast track mode.

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He said that with unity, within no time the tangible benefits of integration would be seen. He reminded participants that freedom, respect, integrity and development cannot be granted, but must be struggled and sweated for. The world has no comfortable room or respect for the weak or poor.

The integration process comes at an appropriate time with the launched EAC Customs Union. Traders and entrepreneurs should focus on the opportunities and prospects of increased productivity within the created East African market.

He observed that the current challenge was for all organs and institutions of the Community to put in place effective structures and systems to facilitate the smooth operations of the Customs Union. The Customs Union should be a showcase and centrepiece of the East African regional integration process, acting as a test case for the sustainability of the East African regional integration. Its success would give confidence to subsequent stages of regional integration, which are the Common Market, Monetary Union and Political Federation of East Africa.

To strengthen the integration process, the Secretary General observed that there is need to build and strengthen institutions, such as the EALA, EACJ, EADB, the EAC Secretariat and the EABC, that propel the process of integration forward and make East Africans feel, behave or act East African. He said leaders make things happen, while well structured and respected institutions make things last.

He appreciated the importance of the seminars organized by EALA for being resourceful in sharpening and streamlining the roles of various organs and institutions, noting that the outcome of Nanyuki I was a demonstration of improved workings and better coordination among the organs and institutions of the Community. While at Nanyuki I workshop, it was lamented that 11

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protocols had been signed and none had been ratified. Since then all had been ratified by Partner States except one!

He observed that the full participation of the people in the regional integration process would give meaning and purpose to the noble objectives of the East African Community and propel our region to prosperity.

He challenged Members of the EALA and Members of Parliaments of Partner States to realise that they have a critical role to play in focusing on regional integration and marketing the Community, right from the grassroots and constituency levels to the floors of the National Assemblies and the Chambers of the EALA. He called for re-alignment from national focus to regional focus; thereby giving way to the EAC issues, as these will have positive backward and forward linkage to national development.

He urged all organs and institutions of the Community to rededicate themselves to enhancing EAC integration, motivated by a collective sense of mission to promote the development of a united and prosperous East Africa that will enhance the quality of life, confidence and respect of the people and get the nations off the donors' list.

2.2.6 Leader of Ugandan Delegation, Deputy Speaker, Hon. Rebecca Kadaga:

The Deputy Speaker started by welcoming participants to Uganda and thanked the organisers of the seminar for bringing it to Uganda. She said that she was not yet satisfied with the level of involvement by National Parliaments with regard to the issues of the East African Community.

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She recommended that in order to give the EAC integration matters the prominence they deserve in national political debates, the State of the Nation Address should include the East African issues.

She said there was need for the MPs of Partner States to move beyond issues of their own nations and be concerned with issues in Partner States. She said if MPs were not aware of what happens in Partner States, then the local population cannot be expected to be informed about EAC matters.

She noted with concern that, while many legislations were mentioned as passed, by EALA, she had not seen a copy of any of those laws and did not know how they affect national laws. She therefore stressed the need to bring Parliaments on board.

She assured participants of Uganda's commitment, particularly Parliament, to the EAC integration. She said there was enthusiasm about its success, especially because Uganda is a landlocked country.

She assured participants that Parliament of Uganda would look at its rules of procedure with the view of facilitating effective reporting mechanism of members of EALA to the National Parliament.

She hoped that Nanyuki II would make more progress on the engagement of the Parliamentarians.

2.2.7 Assistant Minister, Ministry of East African and Regional Cooperation- Kenya, Hon. Joseph Nyagah:

The Minister informed participants that Kenya had within a week, implemented the recommendations of Nanyuki I, by establishing a Ministry of the EAC whose

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mandate included overseeing the Sudan and Somalia Peace Process. He further informed the meeting that after concluding issues on Sudan and Somali, his Ministry would transfer their management to the Ministry of Foreign Affairs, and therefore concentrate on EAC affairs.

He thanked the Government of Uganda for the offer of troops and support in the Somali peace process, chaired by the President of Uganda, H.E. Yoweri Museveni.

He hoped that the Governments of Uganda and Tanzania would soon be able to establish a Ministry to specifically focus on Arusha so as to create a counterpart to their Ministry and expedite the integration process.

2.2.8 Speaker of the EALA, Hon A. Kinana:

He noted with enthusiasm that the commitment exhibited by participants at the seminar confirms their support to political and economic integration. He thanked Hon. Amanywa Mushega for facilitating the organisation of the Seminar.

He appreciated that while Nanyuki I brought together 60 participants the Seminar had brought over 120 participants.

He said being the First Assembly under the Treaty, the EALA was trying to find the most appropriate way of enhancing the EAC integration. He urged his colleagues to, not only be aware of the integration process, but to also be involved at all stages as much as possible. He said the elected representatives had the mandate and will to present the concerns of the ordinary people as the integration process grows.

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He re-affirmed the resolve of EALA to hold more consultative forums and looked forward for fruitful deliberations during the seminar.

2.2.9 His Excellency the Vice President of Uganda, Professor Gilbert Bukenya:

The Vice president of Uganda commended the calibre of the Members of Parliament of the three Partner States. He apologized for the absence of the President of Uganda, H.E. Yoweri Museveni¹ and presented a speech on his behalf.

He observed that there was great need for sensitisation of people on the benefits of the EAC and ultimately, the political federation.

He suggested that the political federation might require rethinking about the borders of the three Partner States. The boundaries are merely colonial settings, but there is a common resource the three must share. He said while fragmentation into unviable states led to colonization, there is need for one organised political unit, which is more viable both politically and economically. He stressed that this would give bigger bargaining power with countries like the US.

He observed that one major weapon in the fight against poverty is trade. The Customs Union shall definitely improve cross border trade. However, the proper working of the Union will greatly depend on the proper understanding of the people.

¹ The President of Uganda, H.E. Yoweri Museveni hosted the participants to a dinner at Sheraton Kampala Hotel that Evening and it was a meaningful interactive forum.

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He called upon people to take advantage of the opportunities availed in AGOA, the EU and the new Japanese Cooperation.

He hoped that the conference would unveil opportunities to call for new strategies.

He informed participants that the Ugandan Cabinet had been briefed on EAC matters and had agreed to set up a small team to sensitise the population and by March 2005 the people would have understood the process of integration. In addition, the Ugandan Government should have appointed a Permanent Secretariat to monitor what is taking place in the EAC by that time.

2.2.10 Vote of Thanks by Hon. Hamid Alley Mafoudha, Member of EALA:

Hon Hamid in her vote of thanks highlighted the paradox of East African Community. She observed that East Africa is a place endowed with all natural resources and therefore favourable for trade. It has water resources, forests, minerals, mountains, valleys, beaches and rare commodities such as peace, tranquillity, warmth of the heart and generosity. Despite all these resources, the East African population remains among the poorest in the world.

To maximise the benefits of these resources for the population, there is need to unite and trade as a bloc. The East African population needs to use what it has, cherish the blessings rendered on it by the Almighty and preserve them for posterity.

She reminded East Africans that they are rich enough to trade with any country in the world and they only needed to stop thinking as citizens of individual countries and think as East Africans.

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She called upon MPs to be the architects of this integration and argued that they have a big role to play. Issues like finance, ICT, trade and investments together with reliable infrastructure and good governance will be the key to the success of the integration process.

She noted that the EAC population had voiced to Members of the EALA that they want their East African airlines, railways, harbours and a score of other facilities that they enjoyed in the colonial and former EAC days. She said this desire should be granted and there is need to even go further through the establishment of the political federation of East Africa. "It can be done, play your part"².

3.0 SUMMARY OF ISSUES THAT EMERGED DURING PRESENTATIONS AND DISCUSSIONS

The Key presentations were:

- Enhancing the E.A.C. Integration: Application and Implication (Nanyuki I);
- Institutional Arrangements and their role in the EAC integration process. Will the current Institutional Framework deliver the desired integration?
- The different phases of Integration, can they be handled in sequence or simultaneously?
- The EACU Act 2004: Implications and Applications.

3.1 Integration: Application and Implication (NANYUKI II)

3.1.1 Integration should be people driven rather than executive driven so that the population can make and own the decisions in the process of integration.

² Quoting Mwalimu Julius Nyerere when he told the Tanzanians "Inawezekana timiza wajibu wako".

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- 3.1.2 Need extensive stakeholder education and sensitisation about the benefits, process and challenges of EAC integration and to make the citizens think in terms of EAC rather than as individual nations.
- 3.1.3 Need to enhance the information flow in respect of the activities of the EAC to members of National Assemblies to facilitate the participation of the Members of Parliament, who have an important role to play in the integration process.
- 3.1.4 The scope of integration should not be limited to the economic framework (taxation) but should embrace the social and political dimensions as well.
- 3.1.5 The customs union poses new challenges, of both policy and administrative nature, which require enhanced co-operation between the three countries to effectively deal with them. Coordination should therefore loom large on the work plans at all levels, from the day to day implementation of specific customs transactions to the setting up of some broad parameters of a tax system.
- 3.1.6 Need for the East African population to appreciate integration as a mechanism for the three Partner States to share resources and maximise the available opportunities so as to act as a large force in this era of globalisation.
- 3.1.7 Need to enhance free movement of labour, which has an effective mechanism for balancing perceived economic imbalances in the three Partner States. This needs to be complimented with the movement of capital, a common language to facilitate the entry of the people from the different states, an East African I.D and similar entry forms in the partner states.
- 3.1.8 To have a successful economic integration scheme, the three Partner States must forget national borders in respect of economic policies,

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movement of goods and services, movement of labour and the movement of capital.

3.1.9 Need for harmonisation in areas of quality, standards, trade documents, rules of origin, economic incentives, customs classifications, *inter alia*.

3.1.10 Need to have a very clear and shared vision in respect of the EAC.

3.1.11 Need for each Member State to have a Minister specifically dedicated to deal with the affairs of EAC and to reside in Arusha.

3.1.12 Need to re-examine the role of IMF and World Bank in the EAC integration. While they are supportive of creating a free trading bloc, they are apprehensive of the political federation because of the enhanced negotiating power that would result out of it.

3.2 Institutional Arrangements and their Role in the EAC Integration Process. Will the current Institutional Framework deliver the desired integration?

3.2.1 There is need for effective institutions to underpin the integration process for a lasting and self-sustaining integration.

3.2.2 Need to put in place effective structures and systems to facilitate the smooth operation of the Customs Union.

3.2.3 There is need to establish a monitoring and evaluation mechanism to monitor the integration process.

3.2.4 There is need to identify independent sources of funding for the EAC institutions to avoid the dangers of dependence on donors.

3.2.5 Member states need to have a budget line created for the EAC programmes. Partner States need to vote more resources to the organs of the East African Community.

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- 3.2.6 Good will and commitment is required of the political leaders (the Summit and the Council of Ministers) to the EAC cause to give confidence to the other organs and institutions of the Community.
- 3.2.7 Need for better coordination between the EALA and the National Assemblies, the Executive arms and the Legislative arms to make more meaningful progress in integration.
- 3.3 The Different Phases of Integration, can they be handled in sequence or simultaneously.**
- 3.3.1 The borders between the three East African States should be opened for any meaningful integration and this should be done as soon as possible, through the removal of trade barriers.
- 3.3.2 There is need for one East African Electoral Commission, joint security programmes, joint representation in foreign affairs and joint negotiations on trade and political issues.
- 3.3.3 Need to budget for cross border security and sharing of intelligence.
- 3.3.4 There is need for a fully-fledged political federation to oversee economic integration.
- 3.3.5 Need to mobilise Parliaments in the region and marshal forces to ensure that leaders in the region facilitate putting in place a federal Government.
- 3.3.6 While there is need to move fast towards integration, there is need to move strategically and from a properly informed position.
- 3.3.7 Fast tracking the integration is very important to remain afloat in international trade by enhancing negotiating capacity. The best approach to economic and monetary integration; whether to sequence or fast track, should be studied by technocrats and bureaucrats to advise appropriately.

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- 3.3.8 Need to learn from the mistakes of others in the integration processes like the EU. Need to carry out research and analyze the integration process from other groupings in order to create benchmarks that determine the fast tracking process. However, there is need to go beyond looking at institutions like the EU since they borrowed from the failed EAC.
- 3.3.9 Need to strengthen information systems and statistical data in the Partner States.
- 3.3.10 There is need to concentrate on institutions like the East African Development Bank as a more viable commercial institution rather than the use of micro finance institutions.
- 3.3.11 Need to strategize on how to make the stock and capital markets in the region work for the interests of the East Africans rather than foreign investors.
- 3.3.12 Need to address corruption in Partner States, and take into account Partner States external debts and reserve accounts as the economic integration is fast tracked.
- 3.3.13 Need to be cautious about the big bang approach in the EAC quest for a monetary union and benchmark from the sad experiences of German and Argentina. The monetary union should be well timed, well sequenced and well coordinated.
- 3.3.14 Achieving stable and durable monetary arrangements and raising the real economic growth in the EAC are important objectives for the economic and monetary integration program.
- 3.3.15 In the process of economic and monetary integration, there is need for an external anchor currency, defined and agreed rates of conversion between currencies, and a supra national central bank.
- 3.3.16 Partner States will need to stop monetary policies to finance government deficits and instead extend the use of treasury bonds.

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3.4 The E.A.C.U Act 2004: Implications and Applications:

- 3.4.1 Need to sensitise people on the implications of the customs union. Currently it has only affected free movement of goods but not the free movement of the factors of production.
- 3.4.2 Need to facilitate the informal sector and small and medium enterprises in cross border trade, so as to protect them.
- 3.4.3 With Customs Union in place, states should stop taking unilateral decisions on matters that affect the entire Community e.g. on importation of GMOS.
- 3.4.4 Urgent need for Partner States to disengage from other trading blocs like IGAD, SADC and COMESA.
- 3.4.5 Need legal framework to regulate competition and standardise quality assurance to guard against dumping and unfair competition.
- 3.4.6 Need to identify industries and infrastructure to assist in the development of disadvantaged areas in order to address existing imbalances.
- 3.4.7 Need to harmonise tax policies and incentives affecting both direct and indirect taxes to enhance efficient and effective allocation of resources in the Community.
- 3.4.8 Need to harmonise additional standards such as the Standardisation, Quality Assurance, Metrology and Testing (SQMT) and have mutual recognition of Partner State certification, utilisation of existing standard capacities in Partner States to facilitate wider traded products and save on time wasted on double certification at border points.
- 3.4.9 Need to open and strengthen exit and external points to combat smuggling and forestall undermining the benefits of the customs union.
- 3.4.10 Need to concentrate on strengthening the EAC internal regional market rather than focusing on the external markets.

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3.4.11 Need capacity building that includes the use of information technology and to train revenue staff to operate under the new system of the customs union.

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4.0 GROUP WORK

Participants were divided into five groups to discuss the following thematic areas: EAC Institutions, Implementing Integration within the EAC by the EALA, Implementing Integration by National Parliaments, a shared vision for East African Nation, and Integrated Economy by East Africa. Groups came up with the following proposals:

4.1 Group I: EAC Institutions:

While analysing whether the EAC institutions can deliver the desired results, the group discussed and made the following proposals:

- Noted that sensitisation of National Assemblies and local populations was not yet effectively done; that this aspect was also noted in the Fast Track report.
- Communication with National Assemblies should be revisited.
- There were serious gaps on follow up on decisions and other resolutions made by the Summit.
- Urgently need to analyse the organisational chart of the Treaty and expedite revision of the Treaty.
- Need for EA Minister in Partner State to table reports on matters of EAC in National Assemblies for their sensitisation.
- While Uganda and Tanzania have a mechanism of EALA Members reporting to Parliaments, Kenya does not.
- EAC Ministers should be charged with mandate of negotiating EAC budgets in Partner States.
- Emphasis should be on political federation and not just economic integration.

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4.2 Group II: Implementing Integration within EAC by the EALA:

Group II assessed what the EALA is expected to deliver and whether and how it can deliver the expected results. Group II noted and recommended as follows:

- The Executive does not bring Bills for consideration despite protocols passed, yet EALA lacks the power to lobby or sanction the Executive for inaction.
- EALA has no control over its budget or EAC budget.
- Need for creating linkage with National Assemblies to allow EALA and the Committees to deal directly with relevant committees in the National Assemblies. National Assemblies should reflect this in their rules of Procedure.
- The Inter Parliamentary Committee for East Africa should be strengthened and actively involved in regional policy making.
- Protocols ratified should be made into law within this financial year.
- Need improved information flow between the Secretariat and other organs of the Community.
- Need to appoint a Minister specifically for East African Affairs with no other duties in light of the Fast Track process.
- Need to open liaison offices for the EAC affairs in the National Assemblies
- The Regional Governments should be put to task to negotiate as a bloc and this should be started within two months. There is already some work covered by the Secretariat.
- The heads of the relevant institutions and Ministers should take the regional meetings seriously.
- The reporting mechanism should be improved upon so that reports from various meetings of the Inter Parliamentary Committees are debated.

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4.3 Group III: Implementing Integration within EAC by the National Assemblies:

Group III reviewed the Report of the Nanyuki I Seminar in respect of engaging National Assemblies in the EAC integration process. They assessed what National Assemblies are expected to deliver and what processes exist in the three National Assemblies.

The Group noted the following:

- Immigration laws should be reviewed to allow for the free movement of East African nationals within the region.
- Labour laws should be reviewed to increase access to the labour market in the region.
- Laws should be put in place to facilitate easy movement of capital.
- Uganda and Tanzania should be encouraged to issue I.D's to their nationals.
- The Rules of Procedure of the National Assemblies should allow the EALA Members to report directly to the Committee of the whole House in each Partner State.
- National Assemblies should drive the process of making the EAC a Federation taking into account the WAKO Committee Report.
- Partner States should make it their responsibility to publicize the EAC integration process through electronic and print media on a regular basis.
- The National Assemblies should debate and internalise the EACCMA with a view to making it more East African than it is.
- National Parliaments should debate and internalise all protocols and Acts of the East African Community.
- The Committees attending the Seminar should take it as their responsibility to push the agenda of the seminar in their various National Assemblies.

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- The Clerk, EALA should transmit copies of the Mnanka Report, the WAKO Report and the EAC Development Strategy 2001-2005/2006 - 2010 to his counterparts in the National Assemblies.

4.4 Group IV : A shared Vision for an East African Nation:

Group IV had the task of developing a vision statement and a mission statement for politicians and Members of Parliament, and to outline recommendations on action required to expound the vision and share it with the public. It proposed the following:

A. Vision:

- A politically, economically and socially visible East Africa with negotiating power in the global world.
- A federal East Africa that is stable, just and democratic with a strong and integrated economy that is globally competitive.

B. Mission:

- To achieve East African federation through legislation, policy formulation, resource mobilisation, public awareness, and enhancing commitment of all stakeholders.
- To achieve a fully integrated people driven federation whereby all the stakeholders share common values and policies with full commitment to awareness, raising resource mobilisation and sustained development.

C. Follow up Action:

- Draw up a strategic plan for integration incorporating a political federation, economic integration and defence and security aspects.
- Appoint Ministers for the EAC from all the Partner States.

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- Sensitise the public through political parties, civil society, private sector, and information through print and electronic media.

4.5. Group V : An Integrated Economy by East Africa:

Group V addressed the concerns relating particularly to the free movement of persons, the challenges for Members of Parliament and the action that needs to be taken. In their analysis, the following priority sectors were considered: Agriculture, Industrialisation, Incentives, Capital and Labour Markets, Economic Policies covering fiscal and monetary policies, and SADC and COMESA membership with Partner States.

The Group noted the following:

- Need to have an integrated economy with emphasis on development of regional markets;
- Need to harmonise the laws that affect different sectors e.g. laws related to land ownership, labour, standards, incentives in production, monetary and fiscal policies.
- With respect to **agriculture**, they noted that:
 - Need to harmonise laws on land policy and land use in all the three countries;
 - Need to examine land use and ownership structures;
 - Need to clarify the overall picture of land use in East Africa;
 - The land policy should cater for large scale and small scale commercial uses of land for investment so as to optimally use land resources and avoid monopolies;
 - Land policies should be able to develop cooperative systems i.e. communal land development;
 - Policies should be sensitive to sustainable development and environmental protection to avoid degradation;

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□ Action:

In order to strengthen regional markets, the infrastructure, especially road networks and waterways should be done in such a way as to ensure that the productive areas are developed to enable areas with plentiful harvests to supply areas without. This should be included in the national program for Partner States.

- With respect to **Free movement of Labour**, it was noted that it helps address the economic imbalance in the following ways:
 - it allows labour to follow capital and keep the capital/labour ratios between countries more or less similar;
 - it eases pressure on resources in LDCs;
 - it results in labour remittance of earnings back home which improves the capital/labour ratio.
 - **Action:**
 - the protocol on free movement of persons should be expedited and the three Partner States should ratify it by December 2005;
 - strategies being developed as incentives for investment should not compromise the welfare of the indigenous workforce;
- With respect to **Industrialisation**, it was noted that there is:
 - Need to harmonise investment incentives in Partner States;
 - Need to identify the resources endowment in different areas;
 - Need to look at balanced growth;
 - Need to have joint strategies of development of basic industries;
 - Should look at the competition to avoid enclaved development;
 - Need a data bank for the EA region where data is collected and accessible.

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- **Action:**
 - Add value to areas with resource endowment so that the member states stop exporting raw materials.
 - The competition law and the law of mergers and acquisitions should be simultaneously developed and completed before the end of this year.
 - Bills on incentives and standards should be expedited.
 - Investment laws have got to be reviewed and harmonised.
 - The East African Statistical Bureau should be revived.
- With respect to **Economic Policies**, it was observed that there is:
 - Need to set up an institute to study economic policies especially monetary and fiscal policies.
 - Need to expeditiously address the issue of dual membership to regional bodies e.g. COMESA and SADC.
- **Action:**
 - Need to set up an EA economic fiscal and monetary institute.
 - Need to strengthen EADB.
- **Joint Negotiations as a Bloc:**
 - The EALA should complete the debate on the EA Trade Negotiations Bill before May 2005 so as to ensure that at the negotiations on the EPA and the WTO Ministerial Conference in Hongkong, EA negotiates as a bloc.

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5.0 WAY FORWARD/ RECOMMENDATIONS

The following points emerged as the way forward:

- 5.1. Each partner state should create a specific ministerial portfolio dedicated to EAC integration matters, with a Resident Minister in Arusha. The three Ministers should be given specific portfolios such as economic affairs, infrastructure and social affairs.
- 5.2. Each Partner State should establish budget lines in their national budgets for the activities and programmes of EAC. The level of funding by the Partner States should be increased. Partner States should consider dedicating a certain percentage of revenue collected under the customs union to facilitate the activities of the EAC.
- 5.3. The Members of Parliament are urged to lobby their governments for increased funding of EAC programs.
- 5.4. To keep EAC issues on the political agenda, the state of the nation address in each Partner State should include EAC progress issues. Similarly, the Chairperson of the Summit should always open EALA sessions.
- 5.5. The EALA should expeditiously follow up the Bill on Joint Negotiations of East Africa as a bloc and it should be concluded by May 2005.
- 5.6. The EAC Secretariat should establish a monitoring and evaluation mechanism, and a specific office to follow up on the recommendations of Nyanyuki I and Nyanyuki II.

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- 5.7. The Council of Ministers should expedite the enactment of legislation on standards and competition.
- 5.8. The Council of Ministers is urged to ensure that Partner States investment codes are reviewed and harmonized.
- 5.9. The Council of Ministers should prevail on Partner States to disengage from other trading blocs like COMESA and SADC in favour of the EACCU.
- 5.10. The Council of Ministers is urged to immediately put in place a mechanism enabling the free movement of labour across the borders within East Africa and in this regard expedite the production of East African IDs.
- 5.11. National Assemblies should revise immigration laws, labour laws and other laws that affect the free movement of labour.
- 5.12. The Council of Ministers should revive the East African Statistical Bureau and there is need to strengthen ICT to enable information sharing between the Bureaus of the Partner States.
- 5.13. On the remuneration of Members, Article 51(2) of the treaty should be adhered to, by the Council recommending to the Summit instead of the other way round as is currently the case.

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- 5.14. Just as there is an effort to converge on matters of economy there is need to converge on governance issues considering that there seems to be a general agreement that the federation is the desired goal.
- 5.15. National Assemblies are urged to demand for the enhanced political commitment from their Governments for the attainment of the East African Federation. Legislators in East Africa are urged to move with one voice on the need to expedite (fast track) the political federation.
- 5.16. National Assemblies should facilitate extensive stakeholder education and sensitisation about the benefits, process and challenges of EAC integration to the masses of East Africa.
- 5.17. Each Partner State should establish a Committee specifically to follow up and deal with issues agreed at Nanyuki I and Nanyuki II.
- 5.18. Regional and national efforts should be geared towards developing infrastructure (roads, railways, waterways) to link areas of East Africa to maximise production and distribution of goods and services in the Community.
- 5.19. The Council of Ministers should ensure that all the ratified protocols are enacted into law within this financial year.
- 5.20. Reports of workshops should be sent to the relevant Committees of the National Assemblies with a copy to the Speaker of each Parliament. Follow up, and feedback on action should be sent specifically to the stakeholders who should be followed up.

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- 5.21. The Tanzanian Government should be commended for the offer of fifty-acre piece of land to the EAC, and the land should be accepted for future development.

- 5.22. A small Committee be set up to peruse the reports of *Nanyuki I and II* and harmonize the recommendations that should be sent to the Council of Ministers, the Summit and National Assemblies. EALA to coordinate this responsibility.

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6.0 CLOSING CEREMONY:

6.1. Hon. Ddudu, Country Chair, EALA, Uganda Chapter:

Hon Ddudu thanked the participants for their participation with enthusiasm, the long hours put into the Seminar and the support to EALA and the EAC in general. He also thanked the Secretary General, Amanywa Mushega for the tremendous support in organising the seminar.

He also apologised to the Tanzanian delegation for the inconveniences caused to them during their flight to Entebbe.

6.2 Leader of Delegation from Kenya, Hon. Kariuki:

Hon. Kariuki observed that the idea of Members of Parliament and the EALA meeting is commendable, and the person who proposed the idea did a commendable job. While the task was challenging in the beginning, a lot has been achieved, including the signing of the protocols except one.

He congratulated all those involved, including Heads of States, the Secretary General and the Members of Parliament for the many achievements so far.

He urged the participants to come out with well written, convincing resolutions to present to the Heads of States and National Assemblies and convince them that they have done a commendable job, so that more is done to enhance the EAC integration. He further urged that the regional Assembly and the National Assemblies should move in unison.

In addition, he urged that the issue of the admission of Rwanda and Burundi should be resolved quickly, so as to have a meaningful Community. These countries are important for a bigger group and there is need for shared ideas, economically, politically etc.

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He noted that since only Members of Parliament can speak face to face unlike at the ministerial level, they are in a better position to lobby for more money to be voted for EAC programs.

6.3 Leader of Delegation from Tanzania: Hon. William Shellukindo:

Hon. Shellukindo thanked the Speaker of EALA and assured him of the support from the Tanzanian delegation.

He urged that reports from the regional Assembly should be addressed to the proper Committees with copies to the Speaker. The existing problems would be solved with the commitment from Members of Parliament. He further urged that the Members of Parliament should develop into Parliamentarians who rise above party politics and focus on issues and positive ideas.

6.4 Leader of Delegation from Uganda: Hon. Margaret Zziwa:

Hon. Margaret Zziwa stated that while the seminar had done only 20 - 35 percent of Nyanyuki I, she nevertheless congratulated participants for identifying other bottlenecks in the EAC integration process.

She observed that there was need to do a SWOT analysis and come up with what strategies need to be put in place. She made an appeal that Ministers should attend future seminars so as to appreciate the concerns of legislators.

She urged for the use of Committees and the internet in the distribution of documents from the EAC Secretariat and requested to be informed about when and where Nyanyuki III will be held.

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She further urged the EAC Secretariat to send recommendations to National Assemblies before February in order to integrate the budgetary requirements in the national budgets.

6.5 Secretary General, EAC, Hon Amanyu Mushega:

Hon. Amanyu Mushega thanked all the facilitators and the Management of the Hotel.

He informed participants that negotiations with Rwanda and Burundi are on going and the negotiations about the offer of land by the Tanzanian Government for the construction of EAC Headquarters were also ongoing.

He challenged participants to go out and do a good job in the representation of the EAC in their constituencies and in Parliament.

6.6 Hon. Kazoora, Commissioner of Ugandan Parliament, Standing in for the Deputy Speaker:

Hon. Kazoora encouraged participants that while challenges for EAC Integration are there in the short term, they are not insurmountable.

He observed that the Uganda Parliament was going to amend its Rules of Procedure to facilitate effective reporting by EALA.

He thanked the Government of Kenya for the assistance it has always extended to EALA and requested that the Speaker of the Parliament of the Republic of Kenya be asked to pass on Uganda's commendation to the people of Kenya. He also thanked the Secretary General for facilitating the seminar and gracing it with his presence in Uganda.

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6.7 The Speaker of EALA, Hon Kinana:

The Speaker of the EALA, Hon. Kinana, expressed his pleasure with the attendance and outcome of the Seminar. The enthusiastic participation would encourage the EALA to leave no stone unturned to facilitate the integration process.

He thanked the Secretary General for the continuous attendance and hoped to work more closely and harmoniously to achieve the common objective.

He informed the participants that Nanyuki III would be held in Zanzibar hopefully early 2006.

6.8 Guest of Honour: Hon. Nyagah: Assistant Minister for East Africa and Regional Cooperation- Kenya:

The Guest of Honour, Hon Nyagah assured the participants that the three days presentations and discussions, and the Nanyuki I recommendations on the EA integration were very important.

He promised participants that at the next Council Meeting, he would be in a better position to articulate the concerns that were raised during the workshop. With other colleagues from the Partner States they would be able to do a lot in the quest for EAC integration.

He also assured the participants of Kenya's commitment to the integration process and urged legislators to exercise their powers to mobilize people, push and ensure that what needs to be done is done. He assured members that since the Sudan and Somalia problems were likely to end soon, his Ministry would now focus more on EAC matters in Arusha.

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He urged the legislators not to lose courage by reminding them that actually a lot had been done. He also reminded them that there was indeed political good will to enhance the EAC integration as exemplified by the constitution of the Fast Tracking Committee by the Heads of State of the three Partner States.

He informed the participants that before the end of 2005, negotiations with Rwanda and Burundi to become members of EAC would be concluded.

He urged participants to speak a language that people listen to, the language of the politicians and behave like politicians in making noise about the concerns of the EAC. He further urged the legislators to emphasise that the region negotiates as a bloc in international trade negotiations.

He reminded the participants that the Council of Ministers had approved the recruitment of 41 new staff to beef up the capacity of the EAC Secretariat.

He concluded by thanking the resource persons, discussants, facilitators, financiers (especially the Finnish Government and Norwegian Government), and the Government and people of Uganda for the warm reception accorded to the participants. In a special way, he thanked the President of Uganda, H.E. Yoweri Museveni for supporting the Seminar by sending his Vice President to open the Seminar and hosting participants to a dinner. He also thanked Prince Nakibinge for the wonderful lunch given and the Hotel management for good services.

He officially closed the Seminar at 21:36 pm on Friday January 29, 2005.

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EAST AFRICAN COMMUNITY

**STATEMENT BY HON AMANYA MUSHEGA,
SECRETARY GENERAL OF THE EAST AFRICAN
COMMUNITY DURING THE OFFICIAL OPENING
OF THE EALA WORKSHOP**

**IMPERIAL RESORT BEACH HOTEL, ENTEBBE, UGANDA,
27 JANUARY 2005**

**Your Excellency, Prof. Gilbert Bukenya, Vice President
of the Republic of Uganda**

Distinguished Speakers of the National Assemblies

Hon Members of Parliament

**Distinguished Speaker of the East African Legislative
Assembly, Honourable Abdulrahman Kinana**

Hon Members of the East African Legislative Assembly

Distinguished Delegates

Ladies and Gentlemen

Your Excellency, I express our great appreciation to you for gracing this occasion of the Official opening of this Workshop.

The importance, which Your Excellency attaches to regional integration, is well known. You and your brother Presidents, H.E. Benjamin William Mkapa and H.E. Mwai Kibaki have provided foresighted leadership at a critical juncture in our region's quest for unity and development.

We recall, in particular, the historic Special Summit in Nairobi last September when Your Excellencies launched the process to fast track the Political Federation of East Africa.

The decision, stirred up the region into a new reawakening about the integration agenda. Since the Special Summit, not only has the Committee on Fast Tracking East African Federation presented its report in record time, but also all other activities of the Community have been placed on the fast track mode.

If we should all agree as a region to build and maintain our unity, as we get on with the serious business of integration and development, we should, within a very short time indeed be in a position to demonstrate the tangible benefits of our efforts for all to see. We should be fully aware that freedom, respect, integrity and development cannot be granted. They are struggled and sweated for; that the world

has no comfortable room and respect for the weak, the small and poor. At best they give you sympathy and alms.

Your Excellency

This workshop on the theme, "Enhancing the EAC Integration" comes therefore at an appropriate time. With the launching of the EAC Customs Union, there is great enthusiasm and high expectations on the Community among the East African people.

The traders, manufacturers and entrepreneurs all across the region, including small-scale entrepreneurs, are focused on the opportunities and prospects of increased productivity and trade within the expanded East African market which the Customs Union offers.

The present challenge is for all the organs and institutions of the Community to put in place effective structures and systems to facilitate the smooth operations of the Customs Union. The Customs Union should operate in such a way that it becomes a showcase and centerpiece of the East African regional integration process.

As the entry point of the East African regional integration, the Customs Union should be a test case for the sustainability of East African regional integration. Only with the success of the Customs Union can we be confident of the success of the subsequent stages of the regional integration, namely the Common Market, Monetary Union and the Political federation of East Africa.

Your Excellency, one sure way of strengthening the integration process is to build and strengthen institutions that propel the process of integration forward and make East Africans feel, behave or act East African. Such institutions include the EALA, EACJ, EADB, the EAC Secretariat, EABC and others. Leaders make things happen, institutions make things last. Nothing can last or be self-sustaining without well-structured, mandated, strengthened and respected institutions.

Your Excellency

The Treaty for the Establishment of the East African Community assigns very key and central role to the East African Legislative Assembly in the development of the Community.

The Assembly, among other things, approves the Budget of the Community, legislates for the Community, discusses all matters pertaining to the Community, liaises with the National Assemblies of the Partner States on matters pertaining to the Community; and makes recommendations to the Council of Ministers in the implementation of the Treaty.

Indeed, from these provisions of the Treaty, the Assembly is, so to speak, a critical institution. The Assembly, as indeed the other organs of the Community, are still at the formative or evolving stage. The workshops such as this one today are resourceful in sharpening and streamlining the roles of our various organs and institutions.

During the first joint workshop of the East African Legislative Assembly and the National Assemblies of the Partner States, held in Nanyuki, Kenya in June 2004, extensive discussions were held on the functional responsibilities and relations of the existing structures within EAC and the Partner States.

The outcome of the Nanyuki I - as that first workshop of its kind has been billed - is the demonstrated improved working relations and better co-ordination among the organs and institutions of the Community.

As the Community moves into the critical phase in its evolution towards concretization, the streamlining of the structures and systems of the Community should be intensified. Coupled with this, emphasis should continue to be placed on the popularization of the Community. Only the full participation of the people in the regional integration process will give meaning and purpose to the noble objectives of the East African Treaty and propel our region to prosperity.

The Members of the East African Legislative and the Members of Parliaments of the Partner States have critical roles in focusing on regional integration and marketing the Community, right from the grassroots and constituency levels, to the floors of the National Assemblies and the chambers of the East African Legislative Assembly.

Your Excellency

The prevailing preoccupation with immediate national issues should consciously give way to a new realignment towards regional integration perspective. We should be prepared to support and accept that positive resolutions of issues at the regional level inevitably impact on national solutions.

It is my appeal, therefore, to all the organs and institutions of the Community to rededicate themselves to enhancing EAC integration, motivated by a collective sense of mission to promote the development of a united and prosperous East Africa that will enhance our quality of life, confidence and respect and sooner than later, get us off the donors' list.

With these remarks, I thank Your Excellency, and wish the workshop great success.

Thank You!

Your Excellency, Prof. Gilbert Bukenya, the Vice President of the Republic of Uganda,;

The Rt. Hon Deputy Speakers of Uganda and Tanzania;

The Secretary General of the East African Community;

The Hon. Ministers of Foreign Affairs of the Republic of Tanzania , Kenya and Uganda;

The Deputy Secretary General Finance and Administration EAC;

Hon. Members of EALA and the National Assemblies of Partner States;

Your Excellencies Ambassadors and High Commissioners;

Distinguished invited guests;

Ladies and Gentlemen.

I would like to take this opportunity to thank Your Excellency for accepting to be with us this morning.

This seminar is a follow up of an earlier one that was held in Nanyuki, Kenya in June last year. The Nanyuki workshop brought together over sixty Parliamentarians from the three National Assemblies as well as from the East African Legislative Assembly at which the issue of functional relationships and existing structures within the East African Community and the Partner States was discussed. This was because, the East African Legislative Assembly, the Treaty gives us broad mandate to liaise with National Assemblies of Partner States on matters relating to the Community. Being the first Assembly under the Treaty, we are therefore striving to explore the best avenues through which this

mandate can be fulfilled and also establish how best we can serve the people of East Africa.

As the more formal laid down stages of the integration process continue to be achieved, there is little doubt in our mind that our colleagues at the National level must not only be fully aware of what transpires in Arusha, but they should also be fully involved at all stages as much as is possible.

The present institutional arrangements of the East African Community however give little room for input from National Assemblies. Yet as we may all appreciate, it is the elected representatives of the people who have the mandate; the means; the will and the best platform to disseminate to the general public what the integration process is all about and its intended benefits.

This workshop is therefore organized along that premise. The theme of the workshop is "Enhancing the EAC Integration Process". In the next three days, the over one hundred and twenty Members of Parliament from Kenya, Uganda, Tanzania and the East African Legislative Assembly before you here today will be discussing the following issues; how to enhance the EAC integration process; whether the current institutional framework can deliver the desired results; whether and how the different stages of integration as enumerated in the Treaty can be achieved simultaneously; and the implications and applications of the

recently enacted East African Community Customs Management Act.

The Parliaments within East Africa are trying to enhance their knowledge on the integration process in order to fully and meaningfully contribute to the process. We are fully behind their Excellencies the Presidents of the three East African sister states for their continued push towards the total unity of the people of East Africa. We are therefore gathered here for only one intention; to try and find the best ways and means through which we Parliamentarians can realistically participate in the process.

We intend to hold more of these consultative forums as more frequently as possible until the desired outcome is achieved.

I once again thank you Your Excellency for gracing this seminar with your presence.

Thank you very much.

Your Excellency Yoweri Kaguta Museveni
President of the Republic of Uganda;
The Rt. Hon Deputy Speakers of Uganda and Tanzania;
The Hon. Ministers of Foreign Affairs;
The Secretary General of the East African Community;
The Deputy Secretary General Finance and Administration EAC;
Hon. Members of Parliament;
Distinguished invited guests;
Ladies and Gentlemen.

First of all, I would like to take this opportunity to thank Your Excellency for your kind invitation to host us this evening despite your obvious busy schedule. I am told that you have just arrived from Gulu. This is a true reflection of your commitment to support the work of the institution of Parliament as an important pillar in a democratic set up.

Your Excellency, the seminar we are attending in Entebbe is a follow up of an earlier one that was held in Nanyuki, Kenya in June last year. The Nanyuki workshop brought together over sixty Parliamentarians from the three National Assemblies as well as from the East African Legislative Assembly at which the issues of functional relationships and existing structures within the East African Community and the Partner States was discussed. This was because, as the East African Legislative Assembly, the Treaty gives us broad mandate to liaise with National Assemblies of Partner States on matters relating to the Community. Being the

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applications of the recently enacted East African Community Customs Management Act.

Your Excellency, as the common adage goes; knowledge is power. The Parliaments within East Africa are trying to enhance their knowledge on the integration process in order to fully and meaningfully contribute to the process. We as Parliamentarians are fully behind Your Excellencies the Presidents of the three sister East African Republics for your focused leadership you are rendering to the people of East Africa. The prospects for a united people of East Africa are quite bright but will be **determined** mainly by the Summit.

Indeed your recent assent to the East African Customs Management Act is a clear testimony that the East African integration process, for which you have been at the forefront since formal negotiations began in 1993, is this time for real.

Your Excellency, the decision Your Excellencies also took to appoint a team of eminent East Africans to explore possibilities of how the integration process could be fast-tracked was to many of us and I believe to majority of East Africans another clear indication that the process is irreversible and should be in fact attained sooner than later.

I am fully aware that Your Excellencies are yet to pronounce yourselves on the recommendations contained in that Wako

report. But I would to assure Your Excellency that the East African Legislative Assembly and all Members of Parliaments from the three Parliaments fully support you and the recommendations contained in the Wako report. We have every confidence that you will take a firm and clear decision on the road map that will lead to a federation within a reasonable timeframe. At the East African Legislative Assembly, we believe this is probably and possibly the best, most realistic and last chance the people of East Africa have for the attainment of their long awaited re-unification.

Finally I also thank Your Excellency for your commitment and visionary leadership that has enabled this beautiful country to rise and shine again as a nation among nations. Your achievements in the last eighteen years only serve to indicate that when there is focused leadership, Africa can indeed be able to solve its own problems.

I once again thank Your Excellency for hosting us to this sumptuous dinner.

Thank you very much.

VOTE OF THANKS

Enhancing the The E.A.C. Integration: Application and implication

(Nanyuki II) 26th-30th January, 2005

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Member

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I'm honoured to have been accorded the chance to perform the task of delivering a vote of thanks to our honourable esteemed guests. Mine is a simple task of saying the two magic words (thank you), and I will diligently have performed my duty.

Nevertheless, before I utter the magic words with your permission, allow me to say a few words to emphasise on what has been said by His Excellency Honourable Prof. Gilbert Bukenya, the Vice President of the Republic of Uganda, on his own behalf, and on behalf of the President of The Republic of Uganda, His Excellency President Yoweri Kaguta Museveni, and other honourables that have given us their words of wisdom. I am sure that my input will be like water added to the pure milk that we have drunk from them. You will agree with me that sometimes it is good to have water after a good meal in order to accelerate the digestive system.

I can comfortably say that we the people of East Africa are very lucky in the entire world because ours is the only place that has been endowed with everything that one needs to live comfortably. To start with, we have all the natural resources necessary to enable us to be a major trading zone in this region and the whole of Africa. We have all types of these resources like water, which is the source of life, forests, with all types of growth from timber, fruits and crops, to wild growth which is just pleasant to the eye and cooling to the earth and soul.

We have minerals like gold, diamond, ruby, emerald, mica, iron, and a score of others including Tanzanite which is exclusively East African. We have natural gas that is yet to be tapped and exploited to the maximum. I am sure we all know that it is just a matter of time before we

drill oil from the womb of East Africa. We have mountains, valleys, lakes, rivers, and exquisite beaches with miles of un-adulterated shores. Our mountains are the highest, our lakes and valleys are the biggest and the deepest, our rivers the longest, our wild life the most fierce and our beaches the most calm and loveliest.

We have all kinds of weather and climate, from cool and temperate to warm and humid; climate which differs from place to place, giving one a chance to choose where to go at any one time. But most of all we have other abstract commodities that are so rare in the rest of the world that they render East Africa to be a unique and the most beautiful place on earth. These commodities are peace, tranquillity, simplicity, warmth of the heart and generosity. In spite of all these, our people remain among the poorest in the world. This is a challenge to all of us assembled here. With all these assets, ours by birth right, why can't we unite and trade as a block so that we can reap the maximum for the benefit of our people?

We are surrounded by neighbours who envy us because of our riches and stability, and would do anything to achieve the same. It is of vital importance for all of us to appreciate the necessity of preserving them for posterity. Let us cherish these blessings showered upon us by The Almighty God and defend them for safe-keeping.

I am making these references in order to point out that with all these facilities, we are rich enough to trade with any country in the world. It is now time to stop thinking as citizens of our individual countries. At this juncture, individualism has no place amidst us. We must think as East Africans. We were one people before we were cruelly bisected by the colonialists, who did so for the mere reason of dividing and ruling us, as well as for their own selfish economic gains. We in the East African Legislative Assembly know this too well and I would like to take this opportunity to stress its importance to us all. As integrated East Africans, we will have the strength of controlling our own affairs, deciding on our own programmes and plans, and in short being our own masters.

On behalf of my colleagues in the East African Legislative Assembly, I would like to appeal to the Hon. Members of Parliament from our National Assemblies to acknowledge that they have a major role to play in restructuring of our current East Africa. They are the architects who will design the structure, they are the engineers who will oversee to its proper construction, and they are the masons who will do the masonry of laying brick by brick the foundation of the complex building of the New East Africa. We in the East African Community will be the ones to do

the finishing touches in woodwork, painting, and interior decorating, ready to hand over the re-born East Africa to our people.

The world has become a small place. But with us united in all fields of importance, with us taking off the cloak of selfishness and replacing it with one of simplicity and charitable thoughts and deeds, we will be able to conquer all the major issues necessary for our development. Issues like finance, ICT, trade and investments together with reliable infrastructure, and of course good governance, will be the key to the success of our integration.

As Members of the East African Legislative Assembly, we have had the opportunity of touring almost all parts of the three partner states. Everywhere we have been the cry is the same, and the song has the same lyrics and tune, even the people are the same **WANANCHI**. They come from the same country EAST AFRICA. They only differ in the zones they come from. These wananchi who number more than 83 million, come from the north, south, east, and west of East Africa.

They want their East Africa back; they want their Airlines back, they want their Railways back, they want their Harbours back, and a score of other facilities that they enjoyed in the colonial days and in the times of the former East African Community. Who are we to deny them? Let us give it back to them. ME, YOU, and ALL of us. We have already set our entry point into the Customs Union but let us go further for the political federation of East Africa. We have set the stage, let us jump on it and give the East Africans the best performance they have ever had.

Let me end by quoting a great son of East Africa, our late Father Mwalimu Julius Kambarage Nyeirere, when he told Tanzanians **“INAWEZEKANA TIMIZA WAJIBU WAKO”**, simply translated as **“it can be done play your part”**.

Allow me to take this opportunity on behalf of the East African Legislative Assembly, the National Assemblies of our three countries, and those that have participated in organising this workshop, to thank you all our esteemed guests, who have taken your valuable time to come and join us on this occasion. We have sponged on your generosity, taped into the wealth of your knowledge through your speeches, and answers to open and furtively asked questions. We say AHSANTE SANA. This is not the end of our working together but a continuation of a chain of events which will lead us to the goal of having a one East Africa. We are

looking forward to working with you again in future and a near one at that.

Thank you very much.

ENHANCING EAC INTEGRATION: APPLICATION AND IMPLICATIONS

Peter Allum

Prepared for the workshop for the East Africa Legislative Assembly

Entebbe, Uganda

January 27, 2005

I. INTRODUCTION

The commencement of the EAC customs union from January 1 this year has been a significant achievement. But while this marks the end of one process—that of negotiating the agreement itself—it is also the beginning of another: that of implementing the agreement so as to ensure that it yields all participant countries the greatest possible benefit. The Fund and I very much welcome this workshop as a means to the end of ensuring exactly that.

The customs union has implications for a range of policies, relating for example to the development of common trade policies with the rest of the world. There are those, in particular, who see regional trading agreements as a distraction from the more important objective of securing multilateral trade liberalization. Certainly further and deeper trade liberalization should remain a priority for the region, and be factored into future plans.

In these brief remarks, however, I thought it might be helpful to focus on one particular set of issues that we at the Fund see as critical for the EAC coming years: the implications of the customs union for the design and implementation of tax and customs arrangements, and for the continuing process of tax improvement more generally.

II. CHALLENGES FOR TAX DESIGN

Starting first with tax policy, the customs union poses two main sets of challenges:

The first is that of **dealing with the immediate revenue implications of adopting the common external tariff**. In all three countries, however, the prospective revenue loss appears to be moderate—perhaps around 1 percent of total tax revenue. Current research at the Fund is highlighting the difficulty that many low income countries have had in recovering from domestic sources trade tax revenues lost as a result of trade liberalization. This though has been less the case within the EAC countries than elsewhere. Given too the relatively small amounts involved, this should not be a significant difficulty.

The deeper issue is the **potential need to restructure domestic tax systems to cope with the changed economic circumstances created by the customs union**. The purpose of the customs union, after all, is to encourage the freer movement of commodities and investment between the partner countries. But that also means, to some degree, freer movement of tax bases between them. And as the tax base becomes more mobile within the community, so it becomes harder for each country in isolation to tax that base. This means that each has an incentive to protect its own tax base—and perhaps poach others’—by lowering the tax rate it applies. And that means a risk of mutually damaging tax competition—that is, of a ‘race to the bottom’ in which failure to coordinate tax policies leaves rates, and revenues, lower than they should be.

What does all this mean in practice? The **first general principle is that problems are most likely to emerge for taxes whose base will become more mobile as a consequence of the customs union.** And here there are two areas of particular concern:

- **Corporate taxation.** With the elimination of internal tariffs, firms will be able to serve the whole EAC by locating in any of the three countries. As they become more footloose in this way, so the incentive for each country to try to attract such investments by offering tax breaks will become stronger. Corporate tax rates are already quite similar across the three countries, but the systems differ quite significantly in the investment allowances and holiday provisions they offer. Experience around the world indicates that tax provisions are rarely the pivotal determinant of companies' location decisions. They always rank low in surveys of companies' attitudes: far below, for example, good governance, productive labor, a supportive infrastructure. And indeed the strong performance of FDI in Uganda following the elimination of tax holidays in 1997 is strongly suggestive of their relative lack of importance. For these reasons, the Fund has always urged the scaling back of such incentives. All those arguments now become even stronger, however, as a consequence of the customs union, because it is likely to intensify the pressures to offer more a more attractive regime than one's neighbor—all, at the end of the day, to everyone's mutual disadvantage.
- **Excise taxation.** While customs controls will remain in place with the Community, the likelihood—indeed the objective—of freer movement of goods is likely to mean

easier smuggling and cross-border shopping. Tax differentials can be a powerful motive to such trade (both legal and otherwise), and the effect is always strongest for high-value goods that are relatively easy to transport. That means, in effect, those goods subject to special excise taxes: cigarettes, alcohol, petrol are all, to varying degrees, at risk. Experience in other parts of the world—including the European Union—suggests that the constraints that each country faces in its ability to raise excises by the prospect of encouraging such trade can become a powerful limit to the level of the tax that can be imposed.

In other areas of taxation—the taxation of labor income, and the VAT in particular—the prospective difficulties are not trivial, but they are likely to be less marked.

The next question, of course, is; What can be done about this? And here **the second principle to stress is that while some form of tax coordination may be appropriate, especially in the areas highlighted above, this need not take the form of completely uniform tax systems.** The trick is to devise forms of cooperation that do as little as possible to limit each country's sovereign rights of taxation. Specifically:

- For corporate taxation, one could in principle imagine an EAC-corporate tax, with revenue shared amongst the three countries. But that is not only far from political reality—it is probably also unnecessary. What one could conceive of instead is a non-binding **code of conduct**, by which countries would commit to certain standards of good tax behavior, with violations subject not to formal sanctions but to 'naming and

shaming.’ The kind of commitments that might be made could include, for example, to transparency, non-discrimination, and the offering only of less damaging kinds of incentive—refraining, for instance, from tax holidays (beyond honoring those already granted). A code of conduct of this broad kind has been implemented, for example, in the EU. The circumstances there are different, of course, from those of the EAC, so that this idea would need considerable work to flesh out both the substantive content and the institutional context. But we offer it as food for thought. One further lesson that some take away from the EU experience is also worth noting. Much time and effort has been spent in the EU on coordinating VAT structures. Arguably the more important task was dealing with corporate taxation. This was left off the agenda for many years, being so politically difficult. It may have been a mistake not to face the problems earlier on.

- **For excises, the key is likely to be agreement not on common levels of taxation but on minimum levels that all will respect.** This is a device that has also been used with some success in the EU. What it would mean, for example, is agreement that the total amount of excise tax on the most popular price category of cigarette in each country would be at least x percent. No doubt it will be difficult to negotiate what exactly x should be. But agreeing a minimum would serve to at least limit how far the downward spiraling of excise tax rates to protect the domestic tax base can go.

Reaching agreements of this kind will not be easy either technically or politically. But it may be easier to do now than later; and later may be too late.

I should note too that I have only highlighted here the policy issues intensified by the customs union. Even in the absence of the EAC customs union, member countries are likely to face pressure on tax revenues from wider trends of continued trade liberalization and downward pressures on corporate tax revenues from international tax competition. There is a need to improve tax policy design irrespective of the customs union. The potential WTO-inconsistency of profit tax exemptions in the free trade zones is one example. Another, and more general, is the need to strengthen the core features of the tax system: the VAT and income tax.

III. CHALLENGES FOR REVENUE ADMINISTRATION

The customs union also poses very practical and immediate issues for tax and customs administration.

Kenya, Tanzania, and Uganda all have customs and tax modernization programs at various stages of development. Implementation of the EAC will have a major impact on all of these programs.

The IMF has provided considerable technical assistance to EAC members to support these revenue modernization programs—11 missions in the last 5 years, not to mention considerable on-going assistance from our East AFRITAC office in Dar es Salaam.

Based on international best practices, a review of the EAC customs union protocol, and a review of each member state's modernization program, the IMF has highlighted a number of

key administrative measures that **customs administrations** will need to take to support EAC implementation. These include:

- Harmonization of the customs tariff nomenclature and classification decisions.
- Adoption of a standard system of valuation of goods in accordance with the WTO agreement.
- Implementation of the common external tariff and interim internal tariffs based on common rules of goods origin (including co-operative procedures to verify origin in selected cases).
- Harmonization across the three countries of processes and procedures, including:
 - Harmonization of customs and trade formalities and documentation (including the adoption of a harmonized customs declaration).
 - Implementation of a common transit system.
 - Establishment of common terms and conditions for duty suspension and refund procedures—temporary importation, re-exportation, export promotion schemes, free ports, warehouses, and so on.
 - Co-operation in the prevention, investigation and suppression of customs offences—including mutual assistance, exchange of information, special

surveillance of high risk goods, establishment of common border posts, and appropriate internal and external border control.

- Dissemination of harmonized information to facilitate trade; and adoption of common solutions to problems that restrict trade.
 - Establishment of joint customs and trade training programs.
 - Production and exchange of standard foreign trade statistics.
- Stakeholder sensitization and education

Just as there are challenges for tax policy in sustaining and improving performance of the wider tax system, so there are wider challenges for **tax administration** too:

- IMF Assistance to the tax administrations of the EAC has focused on putting in place a modernization strategy that will enhance the effectiveness of the administrations, and reduce the costs of compliance to taxpayers.
- A critical first step in tax administration reform is for the EAC members to recognize the contribution that the largest taxpayers make to government revenues. In EAC countries, a small number of taxpayers—typically less than 500, or even fewer—will contribute at least 50 per cent of revenue and often much more. The EAC members are looking to streamline the interactions that these largest taxpayer must make with the tax administration through the establishment of large taxpayer offices (LTOs).

- LTOs will provide full services for large taxpayers—that is, from registration and taxpayer services through to collection enforcement and audit on all tax types, so that large taxpayers only must deal with one small and efficient office.
- In the past it was common for taxpayers to have to deal with separate tax departments that independently administered tax obligations for VAT and income tax. This leads to duplication and extra costs for business. It was possible for a taxpayer to have tax audits from the two departments without any coordination; the rules governing each type of tax were different; taxpayers had to seek information on a tax and register for the particular tax from separate service areas. These costs of doing business are reduced with integrated tax administration.
- The creation of large taxpayer offices by the EAC members is the first step in ensuring that there is integration across the various taxes. Over time the IMF recommends that each of the EAC members moves to integrate all their domestic tax administration within a single department
- A second aspect of the tax administration reforms that the IMF recommends to EAC members is to introduce self assessment of tax obligations. This means that there is much less pre-assessment verification of information in tax returns. The idea is to remove the need for 100 percent checking of all information. Instead there is more risk assessment of taxpayers, with comprehensive audits of the genuinely highest risk taxpayers. This means more effective reviews of taxpayers affairs as well as streamlined processing of tax returns and payments.

- To accompany self assessment, the EAC members are also looking to expand the taxpayer services needed to ensure that taxpayers fully understand their tax obligations. This includes public information and taxpayer rulings to ensure that the largest taxpayers, with complex tax affairs, can have more certainty concerning the application of tax laws.
- For a self assessment regime to be implemented, the tax administration must also have the authority to gain access to information about taxpayers and to impose strong penalties when audits reveal that tax has been understated.

IV. CONCLUSIONS

What I have described is a full agenda. Let me conclude by summarizing what I see as the two key lessons that I hope will be pursued further in this workshop and beyond:

- **The customs union poses new challenges, of both policy and administration, dealing with which requires enhanced cooperation between the three countries.** Coordination will have to loom larger on work plans at all levels: from the day-to-day implementation of specific customs transactions to the setting of some broad parameters of tax system.
- **At the same time, the customs union intensifies existing challenges** faced in strengthening and modernizing design and institutions. It is important not to lose sight of the importance of strengthening the core VAT system, for example, even if this an area in which policy coordination is not an immediate priority.

The Fund is of course anxious to do all it can to support progress in these areas, both through AFRITAC-EAST, on the administration side, and by mission from headquarters on policy issues. I look forward to learning more about how we can be of most use. This meeting is indeed a timely one if the customs union is to improve the prospects and circumstances of the region as much as we all hope.

ENHANCING THE EAC INTEGRATION: APPLICATION AND IMPLICATION

BY

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1. INTRODUCTION

Economic Integration is a process by which discrimination existing along national borders are progressively removed between two or more countries. National borders introduce discontinuities in trade, flow of factors of production, and in the general economic policy. When countries form a common market, they have free trade in locally produced goods, free movement of factors of production, and they have a common tariff barrier against goods produced outside the common market. In a full economic integration, a single economy is created with unified fiscal, monetary, social-political policies, trade and development policies.

The formation of common markets have certain effects on factor efficiency, availability, mobility, and distribution; consumption; income distribution; and certain problems.

It may widen the market, open up new investment opportunities, encourage specialization, produce economies of scale, attract more foreign investment, improve the group's balance of payments, increase employment opportunities for the group, cause polarization or lead to spread of economic activities, may lead to faster industrialization and increase in national income. However, some partners may attract less economic activities, less industrialization and fail to export to the other partners.

The disparities in growth rates and income levels in member states are likely to bring controversy and conflict among member countries. To have a successful common market, these problems must be addressed.

2. STAGES IN ECONOMIC INTEGRATION

2.1 Preferential Trade Area (PTA)

Countries agree to reduce tariffs on locally made goods of partners members up to "o" tariffs.

2.2 Customs Union (CU)

In addition to PTA, members have a common external tariff against outside countries.

2.3 Common Market (CM)

In addition to CU, members have free movement of factors of production, and harmonization of economic policies.

2.4 Full Economic Integration (EI)

A single economy is created with unified fiscal, monetary socio-political policies, trade and development policies.

3. EAC INTEGRATION: APPLICATION

The Status of EAC Integration is summarized in the table (1) below.

Table 1: EAC Integration – Application

Stage	Arrangement	Program in East Africa
1.	Preferential Trade Area PTA	"O" tariff on locally made goods (not yet achieved)
2.	Customs Units	(i) Common External Tariffs (ratified in January 2005) (ii) Harmonization of economic policies (in progress) (iii) Harmonization of standards (in progress).
3.	Common Market	(i) Free Movement of people (not yet) (ii) Free movement of labour (not yet) (iii) Free movement of capital (the capital accounts have been liberalized) (iv) Free movement of services (certain categories are free) (v) Right of Establishment (not yet) (vi) Right of Residence (not yet) (vii) Common currency (not yet) (viii) Trade and Investment facilitation (no harmonized position) (ix) Harmonized policies (in progress).
4.	Economic Integration	Creating of a single economy (not yet).

4. EAC INTEGRATION: IMPLICATION

4.1 Impacts

The formation of common markets have major impacts on individual countries especially in the following areas:

- Production (competitiveness, anti export bias, etc)
- Trade and balance of payments;
- Government Revenues and Expenditures;
- Investment;
- Consumers (welfare, general price level, availability of goods, etc)

4.2 The "O" Internal Tariffs

This areas is likely to generate the greatest heat and controversy. The degree of success of common markets will greatly depend on how the following issues are handled and solved:

- Trade imbalances;
- Revenue loss;
- Un even playing ground due to:
 - Protection (tariffs, NTBS, Negative lists etc)
 - Economic incentives,
 - Manipulation of Rules of Origin,
 - Tax evation,
 - Different cost structures.
- Trade diversion and trade creation;
- Un equal development;
- Un equal sharing of costs and benefits of integration
- Trade Documentation;
- Rule of origin;
- Economic incentives.

4.3 The Common External Tariffs

The core requirement for a common market is common external tariffs on goods and services coming from countries outside the common market (rest of the world).

The main concerns in this area are:

- The level of the common external tariffs;

- The bands;
- The Non-tariffs barriers;
- Revenue impacts;
- The current potential uncollected revenue due to:
 - Official and un official exemptions,
 - Transit transfers,
 - Smuggling,
 - Administrative weaknesses.

Fortunately, this protocol was ratified in January 2005 although some elements in Uganda are still grumbling.

4.4 Harmonization

Countries forming a common market must surrender powers and enable the harmonization of policies in the following areas:

- Trade laws and regulations;
- Fiscal and monetary policies (especially taxation and payments policies);
- Quality standards;
- Customs classification, codes and procedures;
- Trade Documentation;
- Rule of origin;
- Economic incentives.

4.5 Institutions

For successful operation of the common market and free movement of goods, certain institutions must be in place to deal with the following issues:

- Quality Assurance and Standards,
- Revenue collection,
- Trade Documentation,
- Payment system,
- Un-equal development, trade imbalances, and compensation
- Common market administration.

4.6 Concerns

In Summary, as integration proceeds the following concerns usually arise:

- Imbalance (trade and development);
- Fear of loss (revenue, jobs, markets and investment opportunities);
- Sovereignty (policies, laws, external position)

- Parochial interests;
- Resource mobilization and utilization.

The major obstacles to cooperation are intra-regional imbalance and compensation of losers. When two or more countries form a common market, economic activities may spread or polarize depending on resource endowment and investment environment in each country. In both cases the Capital/Labour ratio will change for all countries and disparity will emerge or get reinforced.

Free movement of labour between countries help to address the problem of economic imbalance through the following ways:

- It allows labour to follow capital and keep the capital/labour ratios between countries more or less similar.
- It eases pressure on resources in the less developed country.
- It results in labour remittance of earning back home which improves the Capital/Labour ratio there.
- It allows for training of labour so that when they return home, they are well trained and capable of attracting economic activities.
- It improves integration of peoples and makes political cooperation easier.

5. ENHANCING THE EAC INTEGRATION

Enhancing integration implies surrender of some sovereign powers by partner states to the Integration Organization. Therefore, the integration organization must become stronger while the states give up some of their roles to it.

Below is a list of actions necessary to enhance the EAC Integration.

- Design of a Roadmap or strategic integration plan;
- Institutional strengthening:
 - Amendment of the EAC Treaty,
 - Strengthening of the EAC Secretariat,
 - Amendment of EAC Organo-gram,
 - Appointment of EAC Ministers,
 - Strengthening the relationship between EAC Secretariat, EALA and National Parliaments,
 - Ratification of Protocols,
 - Domestication of EAC laws,
 - Independent source of EAC budget,
 - Collection of customs,

- Creation of M&E department,
 - Creation of MIS department,
 - Joint negotiations arrangements,
 - Operationalizing the EA Court of Justice.
- Infrastructure Development;
 - Sensitization of the general public;
 - Harmonization of policies and laws;
 - Elimination of parochial interests;
 - Free movement of persons, labour, services, right of establishment and residence;
 - Joint resource mobilization and mobilization.

6. CONCLUSION

In order to have a successful economic integration scheme, the countries concerned must forget national borders in respect to the following issues:

- Economic Policies
- Movement of goods and services
- Movement of labour especially to correct imbalances
- Movement of capital is a *fait complaint* with the liberalization of the capital accounts in the region.

“The Old Order Changeth Yielding Place To New”- Alfred Tennyson

The year is 1931, the place is The Colonial Office in London. His Majesty's Government receives a delegation from the ancient Kingdom of Buganda, who travelled to London to oppose the proposal by the Colonial Office, to form a closer union of the three British colonies of Kenya, Uganda and the then Tanganyika, with the idea to hand them over to be governed by the white British settlers on the pattern of what had happened in Southern Rhodesia in 1923, when Britain granted self-government to Southern Rhodesia whites. In a long memorandum the Kabaka or King of Buganda declared that “he did not want to be a horse in Kenya's stables”, meaning that he opposed the idea of being governed by white settlers of Kenya who were a small minority. Today the clock has turned full circle, we the indigenous people of the entire region of East Africa are saying that East African independence will be meaningless without the unity of our region in the spirit of Pan Africanism which shall lead to the unity of our continent.

Institutional Arrangements and their role in the East African Integration Process.

Will the current institutional framework deliver the desired integration?-If so will the Integration occur within the stipulated time frame?

For the above reasons a committee of wise men was appointed consisting of :

Hon. Wako – Kenya, (chairman)

Hon. Suruman- Uganda, (member)

Hon. Professor Turyamutika –Tanzania (member)

to investigate those arrangements, and their role in integrating East Africa into one Federal State. For the time being our inquiry shall be confined to

the ordinarily well known territories that make up East Africa, namely Kenya , Uganda and Tanzania.

I understand that I am expected to speak for not more than 30 minutes, after which we shall have a general discussion on the exciting subject of an East African Federation.

As we go along, I shall make reference or comment on the report of the committee I have already mentioned, agreeing or disagreeing with the recommendations and stating my reasons for doing so. This may help us to cover more ground and even introduce topics that were not covered by the committee.

A cursory glance at the history of the three territories of Kenya, Uganda and Tanzania during the last two decades of the 19th Century shows, that we East Africans have travelled on an arduous colonial journey that started with the Berlin conference of 1885 presided over by Bismark, the then Chancellor of imperial Germany, and to which no African was invited. The purpose of the conference was to carve up Africa amongst the European powers that had colonies in Africa. The result was that new boundaries between African states were agreed to by reference to the latitude and longitude lines on the map of Africa. These lines bore no relationship whatsoever to ethnic or traditional or historical differences among the African people inhabiting a particular area on the ground. This was the time when white gold and diamond prospectors and ivory poachers passed as respectable empire builders. White buccaneers like Cecil Rhodes gave their personal names to huge chunks of territory like South and Northern Rhodesia after Cecil Rhodes, as if the indigenous African names like Matebele and Shona carried no meaning.

Examples abound that ended up in incongruous boundaries which to this day are a cause of undesirable arguments between states. That is how the European Colonisation of Africa was launched and handled.

Her Majesty Queen Victoria of Britain gave Mount Kilimanjaro the biggest mountain in Africa which is snow capped the year round, to His Imperial Majesty Emperor Kaiser of Germany her cousin, as a birthday present, because he too like Queen Victoria wanted to have a mountain near the Equator that was snow capped. Her Majesty had two other snow-capped mountains; Mount Kenya and Mount Rwenzori in Uganda.

The new borders between states remained inviolate until the peace treaty in 1919 that ended World War I at which Germany lost the war as well as all her African colonies. Britain acquired Tanzania, then known as Tanganyika, Belgium acquired Rwanda and Burundi, all these were territories mandated by the then League of Nations, the precursor of the present United Nations Organisation.

INSTITUTIONS

Parliament.

1. The present E.A Assembly could be turned into a parliament or congress for the Federation.

It is suggested that parliament shall have two chambers:

A senate where every partner state shall have equal seats irrespective of its size or population.

A lower house of representatives based on population.

2. All Federal Laws shall be passed by both the Senate and the House.
3. The Senate shall approve all senior appointments by the President.
4. Each partner state shall have an elected legislature, members shall be elected to hold office for four years at a time.

Executive

A president of the Federation shall hold office for five years, for a maximum of two terms of five years each. The president shall be the Chief Executive of The Federation.

Heads of government ministries shall have the title of Secretary of State and shall be approved by the senate, and shall be approved by the Senate and shall hold office at the pleasure of the president.

There shall be a Vice President who shall be a running mate of the president at the presidential election.

Each partner state shall have a governor as the executive head, with a deputy governor who was his running mate at election.

Federal Government

Federal government shall deal with federal matters as spelt out in the constitution. State government shall deal with state subjects.

Judiciary

There shall be Federal and state courts. Each state shall have its supreme court.

The Supreme Court of the Federation shall be the highest court in the land.

Judges to the Supreme Court of the Federation shall be appointed by the president with the approval of the senate.

Judges of the Supreme court shall be retire when they reach the age of 95 or are impeached by the senate for misconduct.

Internal Security

Armed Forces and Internal Security organs such as the Police shall be a federal subject throughout the Federation subject to police powers that may be handed to states by the Senate.

State Government

The Head of State Government shall have the job title of Governor and shall be the chief executive of a state. He shall be elected by universal adult suffrage by his state's population. The Governor shall have a Deputy Governor who shall be his running mate at the election.

The Governor and his deputy shall hold office for a period of five years. The Governor shall hold office for a period of five years and a maximum of two terms. The governor shall be removable on a vote of no confidence supported by two thirds of all elected members of the state legislature.

The above recommendations leave the door wide open for additional recommendations, to be determined by a constitutional commission, appointed during the transition period by the East African Assembly under the chairmanship of the speaker or in his absence the deputy speaker of the assembly.



Godfrey L. Binaisa Q.C

Former President of The Republic of Uganda

Kampala 27th January 2005

Appendix XIV Page 206

Federal Identity and Locational Issues

Attempted Answers to the List on Page 206

- iv) Open to suggestions
- v) Already discussed
- vi) Open to suggestions

- xi) Covered by O.A.U resolution at Addis Ababa 1964, No change to borders left by former colonial powers at time of independence.

- 3. Agree with paragraph 3
- 4. Agree with paragraph 4

5. Name of The Federation

Samples:

Suggestion- East African Federation

Reason- The name sounds most elegant and short easy to remember

Opposed to 1) Because the world population of Kiswahili speakers is too small

- iv) Blatantly misconceived
- v) No need for the word “states” to describe the word “federation” because it is common knowledge a federation of the kind under discussion is comprised of states and need no further emphasis.
- vi) Not appropriate
- vii) Not appropriate, particularly when it is realized that Africa is still committed to a united Africa to be known as “United States of Africa” or “United Africa”

7. i) and ii) Evidently inappropriate.

5.8.4 East African Song

Inappropriate at this time because the finishing line of achieving our goal is already in full view.

5.8.5 Federal Capital

This is a controversial topic that has to be handled dispassionately. Since Kenya and Tanzania border the Indian Ocean, and Uganda is landlocked with her neighbours Rwanda and Burundi who are both likely partners in the Federation; it would be fair to all partners to have the federal capital either in Uganda, Rwanda or Burundi bearing in mind the state in which the federal capital is located shall cede territory to federation as the states of Maryland and Virginia ceded territory to have Washington D.C in the U.S.A.

In the light of the fact that of the three landlocked states vis. Uganda, Rwanda and Burundi Uganda has borders with Kenya, Tanzania, and Rwanda thus proving to be the most accessible to the largest number of the member states, In the near future Uganda may add Sudan as a neighbour.

Kampala has an easily expandible infrastructure

If not Kampala then let it be at least Jinja

5.8.6 Official Language

Besides agreeing that English remain the official language. I do not see merit in wasting the slender resources if the federation on Kiswahili and French. For better or worse we live in an age of the ascendancy of English, as Greek was in the Hellenistic world about three centuries B.C.

5.8.7 Emblem

Agree to discontinue with the emblem under paragraph 19 and design a new one under paragraph 20.

5.8.8 Prayer

21 Maybe and maybe not. It is best to keep away from the suggestion.

22 Standard “prayer” has no merit and is an unacceptable endeavour to mix religion with politics. It is at the same time a way of encouraging extremism where religion is concerned.

5.8.9 Borders

24, 25, 26, 27 are all reasonable and may lead to very laudable results.

THE EAST AFRICAN COMMUNITY CUSTOMS UNION ACT 2004, APPLICATION AND IMPLICATIONS.

BY

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A. INTRODUCTION.

Following the signing of the Treaty for the East African Community on 30 November, 1999, it took four years to negotiate the customs Union protocol which incorporates a 5-year transitional implementation period.

The Customs Protocol was ratified in November 2004 following the passing by the East African Legislative Assembly of the East African Community Customs Management Act¹ of 2004. The Protocol came into force on 1st January 2005 and is expected to be implemented over a five year period.

This paper reviews the application and implications of the East African Community Customs Management Act, 2004. In so doing it is intended to broadly review the policy behind the East African Community Customs Management Act (herein after referred to as EACCMA), its scope, content and finally the implications of its application.

B. Policy underlying EACCMA

The EACCMA arises out of the resolve by the Partner states of the East African Community to establish an East African Customs Union and a common market in order to strengthen their economic, social, cultural, political, technological and other ties for their fast, balanced and sustainable development². The EACCMA also falls within the *East African Community Development Strategy (2001-2005)* to enhance trade liberalisation and development among other sectors. In that vein, pursuant to Article 75(7) of the Treaty for East African Community, the Partner States negotiated and concluded a *Protocol on the Establishment of an East African Community Customs Union*.

The Protocol stipulates the policy on aspects of trade liberalisation and development as follows:

1. Customs administration (including harmonised commodity description and coding system; harmonised trade information and documentation; and trade facilitations);
2. Trade liberalisation (including the establishment of a common external tariff; elimination of internal tariffs and elimination of non-tariff barriers);
3. Trade-related aspects (including Rules of origin; national treatment; anti-dumping measures; subsidies and countervailing measures; safeguard measures; competition; re-exportation of goods and restrictions and prohibitions to trade);

¹ Paper delivered at the 2nd Seminar for the Foreign Affairs & Trade Committees of National Assemblies of Partner States of EAC and the East African Legislative Assembly, Entebbe, 27-28 January, 2005.

4. Export promotion schemes (including duty drawback schemes; manufacturing under bond schemes; duty and value added tax remission schemes; and export processing zones);
5. Special economic zones such as free ports; and
6. Exemption regimes.

The Protocol also provides for steps to address imbalances arising out of the establishment of the Customs Union, for mechanisms for handling trade arrangements with countries and organisations outside the Customs Union and for a common Customs Law of the Community. With respect to revenue collection, the partner states agreed that in line with the principle of subsidiary (a principle underlying the East African Community), revenue collection can be best be handled at the level of partner states for the time being.

Consequently collection of revenue at the centre would require an agreement between the partner states on how to manage the finance, appropriation and distribution of revenue and costs.

The decision on whether to establish a single Common Customs Administration centrally would be the subject of negotiation during the transition period between 2005 and 2010. In the meantime the community is expected to play the general role, among others, of initiating policies on customs and trade matters and co-ordinate such policies in the partner states. Those responsibilities which can be co-ordinated by the communities are those which can best be performed at the regional level in line with the principle of subsidiary. These include:-

1. Administration of the common external Tariff including the common Tariff Nomenclature;
2. Enforcement of the common customs law;
3. Liberalisation of Internal trade;
4. Rules of Origin;
5. Computation of Trade statistics;
6. Information technology;
7. Finance and Accounts;
8. Training;
9. Trade Remedies/Dispute settlement;
10. Compliance and control , and
11. Negotiations

Other functions such as the compilation of trade statistics and information technology would continue to be handled by the Partners States 'Revenue Authorities'. This is in line with Article 75(2) of the Treaty of the East African Community which envisages a progressive establishment of the Customs Union in the course of a transitional period determined by the Council of Ministers of the Partners States.

C. Scope and Context of EACCMA

1. Scope

The customs protocol provides that the customs law of the community shall consist of:

- (a) Relevant provisions of the Treaty;
- (b) The Protocol and its annexes;
- (c) Regulations and directives mode by the council;
- (d) Applied decisions made by the court;
- (e) Acts of the Community enacted by the Legislative Assembly ; and
- (f) Relevant principles of international law.

It is further provided that the Customs law of the Community shall apply uniformly in the Customs Union except as otherwise provided in the Protocol.

The EACCMA, therefore, aims at translating the East African Customs Management Policy into law.

2. Content of EACCMA

(a) Purpose

The main objective of the EACCMA is to provide for the management and administration of customs and for related matters in the East African Community Customs Union³.

(b) Preliminary Matters

Part 1 of EACCMA contains the short title of the Act, its applicability to the Partner States and the commencement date as well the interpretation of significant terms and expressions used in the Act⁴.

(c) Administration

Part 2 of the Act⁵ deals with the general administration of the Customs Union covering the duties and staffing of the East African Community Directorate of Customs and Trade as established under the Treaty for the East African Community. It further provides for the method of disclosure of duties at border controls, ports, customs areas and other areas of operation. It also caters for the powers of designated staff of the Directorate and describe goods subject to Customs control.

(d) Importation

Part 3 of the Act⁶ regulates the importation of goods into the partners states from a foreign country. Provision is specifically made for prohibited and restricted imports, arrival and report of aircraft and vessels, arrivals overland, clearance by pipeline, unloading and removal of cargo, entry, examination and delivery of cargo, the utility of customs warehouses and management of goods deposited in them and passenger clearance.

1

¹¹. Long Title to the Act ;3.East African Community Customs Management Act, 2004, Ss 1-2;
4. Ibid Ss 3-17; 5.Ibid Ss 18-46; 6.Ibid Ss 47-69;

(e) Warehousing of Goods

Part 4 of the Act⁷ deals with the warehousing of goods. It defines dutiable goods liable to be warehoused, the procedure for warehousing, re-gauging and re-valuation delivery and removal from warehouses, management, licensing and control of warehouses and warehoused goods and transfer of goods from one warehouse to another.

(f) Exportation

Part 5 of the Act⁸ regulates the exportation of goods from the Partners States to a foreign country. The part in particular deals with the handling of prohibited and restricted goods, entries of cargo for export, loading of exportable goods on aircraft and vessels, departure overland and the handling of goods in transit or transshipment.

(g) Departure and clearance of aircraft and Vessels

Part 6 of the Act⁹ regulates the departure and clearance of aircraft and vessels used in the delivery of cargo from any port or place in a Partner State to any foreign port.

(h) Importation and Exportation by post

Part 7 of the Act¹⁰ applies the Act to postal articles by providing for their method of carriage through the post office or registered courier services.

(i) Carriage Coastwise and Transfers of goods

Part 8 of the Act¹¹ empowers the council to gazette goods which are prohibited or restricted from carriage Coastwise and transport thereof (by land, sea and air) from any part of a partner state to another part. The handling of such goods is regulated by the Commissioners through issue of relevant permits, examination and variation of procedure and conditions for their handling.

(j) Securities

Part 9 of the Act¹² deals with instances when the Commissioners may require security from a person in order to protect revenue. The part includes the use of approved and enforceable bonds and securities and the status of sureties.

(k) Duties

Part 10 of the Act¹³ provides for liability for import duty. This includes imposition of import duty on goods; exemption of certain goods such as re-imports and temporary imports from duty computation of duty, mode of payment of duty. There is also provision for exemption regimes, anti-dumping and countervailing duties, drawbacks, remission, rebate and refund of duty. The part also provides for the application of the preferential treatment to goods imported under COMESA and SADC arrangements pursuant to Partners State legislation¹⁴.

(l) Customs Agents

Part 11 of the Act¹⁵ regulates the licensing and authority of customs agents, their role, powers and liability for the payment of customs duties.

7. *Ibid* Ss 70-87; 8 *bid* Ss 88-92; 9. *Ibid* Ss 93-95; 10. *Ibid* Ss 96-105; 11. *Ibid* Ss 106-109
12. *Ibid* Ss 110-144; 13. *Ibid* S. 112; 14. *Ibid* Ss 145-8; 15. *Ibid* Ss 149-59;

(m) Control of Smuggling

Part 12 of the Act¹⁶ stipulates measures to prevent smuggling including powers of arrest, search and impound offending vessels, persons and search of premises and production of books, documents and electronic data.

(n) Manufacturing under Bond

Part 13 of the Act¹⁷ empowers the Commissioner, upon request, to license persons to manufacture under bond on specified premises subject to stipulated conditions relating to provision of facilities importation of equipment, machinery and materials and entry of the manufactured goods or home consumption.

(o) Export Processing Zones & Free Ports

Part 14 of the Act¹⁸ regulates the handling of goods in export processing zones and free ports and the management of the zones and ports.

(p) Inward and outward Processing

Part¹⁹ provides for inward processing by which goods can be brought into a partner state conditionally exempted from duty where such goods are intended for Manufacturing, processing or repair and subsequent exportation. Provision is also made for outward processing by which goods which are in free circulation in a partner state may be temporarily exported for manufacturing, processing or repair outside the partner state and thereafter be re-imported.

(q) Application of information Technology

Part 16 of the Act²⁰ provides for the application of information appropriate situations when handling technology in customs formalities.

(r) Offenses, Penalties, Forfeitures and seizures

Part 17 of the Act²¹ creates specific offences in customs matters and also provides for the respective penalties for such offences including sentences of imprisonment, forfeitures, seizures and fines in appropriate cases. It also regulates the procedure and powers of seizure as well as restoration of seized goods.

(s) Settlement of cases by the Commissioner

Part 18 of the Act²² empowers the Commissioners of Customs in each partner state to settle certain cases without recourse to court.

(t) Legal Proceedings

Part 19 of the Act²³ provides for the institution and conduct of legal proceedings including the courts with appropriate jurisdiction the evidential requirements and power to prosecute customs offenders as well as the period of limitation for such proceedings to be brought.

16. Ibid., Ss 160-7; 17. Ibid., Ss 167-169 19 .Ibid.,ss 171-86; 20 .Ibid.,ss 187-92; 21. Ibid.,ss 193-218; 22. Ibid.,s 219; 23. Ibid., ss 220-28

(u) Appeals

Part 20 of the Act ²⁴ provides for the judicial review of administrative actions made by customs officers and appeal before tax tribunals established in the Partner States.

(v) Miscellaneous Provisions

Part 21 of the Act ²⁵ regulates several general matters including the making of regulations, savings and transitional matters, precedence of the Act over Partner States corresponding legislation and applications of special law such as air legislation.

(w) Schedules

The schedules to the Act provide for a declaration of a customize officer (Schd. 1) prohibited and restricted imports (sched.2) prohibited and restricted goods (sched .3) valuation of imported goods liable to import duty (Sched. 4) exemption regime (sched. 5), form of warrant of distress (shced. 6)

D Implications of the Application of EACCMA

The EACCMA is basically a reproduction of the East African Customs Management and Transfer Act 1970 (EACMA) of the defunct East African Community a part from significant difference to cater for new circumstances. These include reference to the COMESA and SADC and the use of information technology to facilitate customs administration. The EACMTA has hitherto been the applicable customs law in the three partner states of Kenya, Uganda and Tanzania. Its provisions in a resurrected EACCMA would not, therefore, technically be difficult to implement by trained customs staff in the Revenue Authorities of the three partner states.

1) Dual Membership of Common Market Blocs

There are, nevetherless, challenges which the application of the EACCMA will face. First is what has generally been described ²⁶ as the need for joint trade negotiations and policy formulations in the context of COMESA, SADC, EU, WTO, AGOA, among others. In graphic terms it has been asserted thus ²⁷

*External threats to the customs Union Abound, with Kenya and Uganda's membership of the Common Market for Eastern and Southern Africa (COMESA) and Tanzania's membership of the Southern Africa Development Co-operation (SADC) seem as Potential conduits for dumping of products into the EAC Customs Union.
In that context it is noticeable that the World Trade Union (WTO).*

3

27 ³³ ³ 24 .Ibid., ss 229-31; 25 .Ibid., ss 232-54; 26) EAC, *Report of the Committee on Fast Tracking East African Federation (2004) pp 73-4, paragraph 340(v), xi*; 27. EACCMA S. 112(A)

(27 The East Africa, Newspaper 17-23 January 2005, pp 13) It is notable that the World Trade Union (WTO) prohibits Membership of two Customs Unions but the restriction will only come into force in 2008 a year before the East Africa fully becomes a free market with trade between the partner states being freed from tariff and non-tariff barriers. During the transitional period, Kenyan goods to Uganda and Tanzania will be subject to import duty which will be reduced to Zero between 2006 and 2008. The dual membership of COMESA and SADC effectively means that products such as beer from Egypt (a COMESA Member) and Sugar and dairy products from South Africa (a SADC member) could enter the EAC at preferential rates^{27a}.

A recent notice²⁸ issued to ports of entry by the Kenya Revenue Authority (KRA) indicated that sugar should be charged a duty of 100 percent (way above the external tariff of 25 per cent), while milk will attract 35 percent import duty. Both products will also be levied value added tax at 16 percent. This move is justified by KRA on the grounds that the higher duties would mitigate against dumping of goods from outside the EAC and would protect materials facing unfair competition from subsidised or cheaply produced imports. It is argued²⁹ that the higher duties are covered by the anti-dumping legislation which is not regarded a restrictive trade practice within the WTO and which should be used to protect locally sourced raw materials.

Barley
Barley, a key ingredient in the East African Breweries production process would also benefit from anti dumping legislation since it's competes with the zero rated variety obtained from the European Union³⁰

It is because of the above problems that the 3 Partner states have agreed to examine the distortions arising from the dual membership of other trading blocs in order to resolve the problem by the end of the transitional period (2008) during which goods exported from Kenya to its Partner states will be charged duty while those exported to Kenya will enter duty free. The review will definitely delay the functionality of the new system. It has indeed be reported³¹ that exports worth US\$750,000 from Mukwano Industries in Uganda had been denied entry into Kenya following a demand by the Company to export the goods duty free. KRA has countered that the affected goods are intermediate or finished goods rather than raw materials qualifying for zero duty³²

The EAC Council of Ministers has ruled that the competitions goods will only be eligible for export after paying prevailing national tariffs. The council has also given a two months window to Uganda to prove how and which industries are threatened by the 10 percent (Intermediate goods) and 25 percent (final product) common External tariff given suspension that the exemption would be a conduit for the dumping of goods which would suffocate industries in Kenya and Tanzania and lead to the loss of jobs in the cement plants and edible oil factories.

28 *The East African Newspaper (17-23 January 2005)*, p3;

29 *Ibid*; *EAC Report of the Committee on Fast Tracking East African Federation*

30 *Ibid*; 32. *Ibid*

The above problems point to the enforceability of the customs Union and problems of dumping and unfair competition.

2) Most Favoured Nation Rules (MFN)

There is need to apply and enforce MFN rules for products meeting standards and rules of origin from the Partner states³³

3) Harmonization of Additional Standards

A third area of challenge is the need to harmonize additional standards such as the Standardisation, Quality Assurance, Metrology and Testing (SQMT) in addition to the mutual recognition of Partner state certifications, utilisation of existing standard capacities in Partner States to facilitate wider traded products and save on time wasted on double certification at border points³⁴. In this respect the use of information Technology will be essential³⁵

4) Small and Medium Enterprises (SMES) Facilitation

Simplified mechanisms should be put in place to facilitate Informal sector and SME's cross border trade which in most cases is dominated by Women³⁶ This is significant given the elaborate provisions of EACCMA on the handling of goods and imports subject to customs control and duty³⁷

5) Redressing Developmental Imbalance

The Smooth operation of the Customs Union generally and the EACCMA would benefit from macro and micro-economic strategies to identify industries and infrastructure for support to assist in the development of the disadvantaged areas aimed at addressing existing imbalance³⁸ This may call for review of the privatisation policies of some of the Partner States.

6) Harmonisation of Tax Policies

In line with Article 83(2) (e) of the Treaty for the East African Community , 1999, the Partner States should work towards harmonising their tax policies and tax incentives affecting both direct and indirect taxes in order to remove predatory tendencies and tax distortions aimed at realising a more effective and efficient allocation of resources within the community.³⁹ In this regard, Tanzania should suspend the recently introduced US \$50 Business Visa

7) Additional External /Exit Points

To effectively combat smuggling, it is necessary to open and / or strengthen additional East African Exit/ Entry points along Somali/ Sudan / Mozambique / Zambia /Rwanda / Burundi / Ethiopia border points. This is essential in order to forestall undermining of the benefits of the Customs Union⁴⁰

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31 ⁴ *Ibid* ;EACCMA, s . 187;EAC Report , *Supra n. 33 Paragraph 340 (iv)*

38 *EAC Report, Supra, Para 340 (vii);42 Ibid 39. Ibid . para 340 (viii)*

40. *Ibid. para 340 (x)*

8) Other Implications

There are unforeseen or negative implications arising from the implementation of the EACCMA. One of these which has emerged recently arises from the imposition of the Common External Tariff (CEF) of 0 percent for raw materials and capital goods, 10 percent for intermediate goods and 25 percent for finished goods. Before the Customs Union drugs imported into Kenya and Uganda were Zero-rated. Following the Customs Union inception all imported medicines (following the Tanzania model) will attract a 10 percent tax. Effectively this will raise the cost of essential medicines for the treatment of malaria, HIV/AIDS, Tuberculosis and Diabetes by 10 percent. This will raise the cost of healthcare and may require review given the inconsistent treatment of medical items such as surgical stitching threads, cotton wool and gauze which are exempted from taxation in contrast to anaesthesia, Pain Killers and muscle relaxers used in surgical procedures, which are not⁴²

Secondly, there is likely to be a fall in revenue for partner states such as Uganda which had previously relied heavily on indirect taxes which will be lowered and, updating gradually phased out. Thirdly, is the challenge of information technology to capture information on revenue based on the Customs Union Arrangements.

Fourth, is the need to train Revenue staff to operate under the Customs Union both in the transitional period and when the Custom Service is fully implemented during the fiscal year 2007/2008.

Conclusion

An attempt has been made to assess the application and Implications of the EACCMA by reviewing the Policy underlying the law, its scope, content and the challenge, for its implementation. The challenge revolves basically around the dual membership of the Partner states of similar regional markets, the need to address issues of dumping and unfair competition, the application of MFN rules, harmonisation of certification standards, the protection of SMEs, redressing regional development imbalance, harmonisation of tax policies, introduction and strengthening of External / Exit Points, reviewing the CET for certain goods, dealing with shortfalls in revenue arising from the implementation of the Customs Union, capacity building including the use of information technology and training revenue staff to operate under the new system.

⁵ 41. *East African Newspaper* 24-30 January 2005, pp.3-4