



# Trade Notes

## INSIDE

The East African Community	1	The Free Movement of Services	4
Objectives of the EAC	2	Other Areas of Co-Operation in the Common Market	4
The EAC Customs Union	2	What are some of the opportunities for the EAC	
The EAC Common Market	3	Common Market?	4
Principles of the EAC Common Market	3	Benefits of Regional Integration	5
Scope of Co-operation in the EAC Common Market	3	What are some of the Challenges to Regional	
Annex on Free Movement of Goods	3	Integration?	6
Annex on the Free Movement of Persons and Labour	3	Regional Integration and Poverty Linkages	6
Annex on the Rights of Establishment and Residence	4	Conclusion	6

The Institute of Economic Affairs (IEA), Kenya, held a public forum on 27th May 2010 to discuss the progress made so far on the East African Community (EAC) Customs Union, as well as the challenges and opportunities surrounding the EAC Common Market. The topics under discussion were: an overview and the implications for development and poverty reduction; the progress and challenges of the EAC Customs Union; and the EAC Common Market - opportunities and challenges. Mr David Ochieng', representing Trade Bac Limited; Mr Dickson Poloji, representing the Kenya Association of Manufacturers and Mr Barrack Ndegwa, representing the Ministry of East African Community made presentations during the forum. This bulletin gives an overview of the issues that were debated.

## Towards an East African Community Common Market: Challenges and Opportunities

By Mary Odongo

### The East African Community

The EAC is a regional intergovernmental organisation of the Republics of Kenya, Uganda, Tanzania, Rwanda and Burundi, with its headquarters in Arusha, Tanzania. It is among a rising number of regional trade organisations in Africa, whose partner states conduct business activities at the bilateral and multilateral levels.

The importance of regional cooperation and integration is reflected in its potential to promote the economic, social and political development of the partner states. In addition to being a member state of the EAC, Kenya is a member of the Common Market for Eastern

and Southern Africa (COMESA), and the Intergovernmental Authority on Development (IGAD).

The original EAC was founded in 1967 but collapsed in 1977 as a result of weak organisational structures as well as political differences between the then founding partner states of Kenya, Uganda and Tanzania. It was officially revived in 2000, following the signing of the Treaty for the Establishment of the East African Community (hereafter referred to as the Treaty) in 1999 by the 3 partner states. The Republics of Rwanda and Burundi became full members of the EAC after acceding to the Treaty in 2007.

The aim of the EAC is to widen and deepen co-operation among partner states in political, economic and social fields for their mutual benefit. The EAC

covers a total surface area of 1.82 square kilometres and has a total population of approximately 133.5 million. Further, it has a Gross Domestic Product (GDP) of 74.5 billion US dollars<sup>1</sup>.

## Objectives of the EAC

The specific objectives of the EAC, as outlined in the Treaty<sup>2</sup> include:

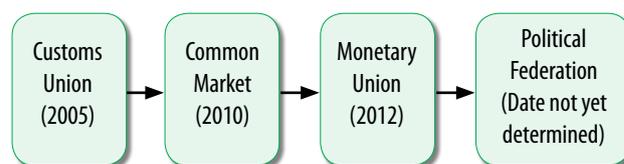
1. The attainment of sustainable growth and development of the partner states by the promotion of a more balanced and harmonious development of the partner states
2. The strengthening and consolidation of co-operation in agreed fields that would lead to equitable economic development within the partner states and which in turn, raise the standard of living and improve the quality of life of their populations
3. The promotion of sustainable utilisation of the natural resources of the partner states and the taking of measures that would effectively protect the natural environment of the partner states
4. The strengthening and consolidation of the long standing political, economic, social, cultural and traditional ties and associations between the peoples of the partner states so as to promote a people-centred mutual development of these ties and associations
5. The mainstreaming of gender in all its endeavors and the enhancement of the role of women in cultural, social, political, economic and technological development
6. The promotion of peace, security, and stability within, and good neighbourliness among the partner states
7. The enhancement and strengthening of partnerships with the private sector and civil society in order to achieve sustainable socio-economic and political development, and
8. The undertaking of such other activities calculated to further the objectives of the community, as the partner states may from time to time decide to undertake in common.

## The EAC Regional Integration Process

Following the signing of the Treaty, the EAC regional

integration process took a progressive nature and commenced with a customs union, followed by a common market. It is planned that a monetary union and finally a political federation will be established in the coming years. This process aims to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of the partner states.

This integration process has been represented in the figure below.



**The EAC Integration Process**

## The EAC Customs Union

The Protocol on the Establishment of the EAC Customs Union (the Customs Union Protocol) was signed by the 3 East African Heads of State on 2nd March 2004 and came into effect on 1st January 2005. The customs union had a five-year transitional period, which came to an end on 1st July 2010.

With a view to liberalise trade within the region, the Customs Union Protocol had the following provisions:

1. The formation of a single customs territory within the EAC
2. Shifting of inter-partner states customs border control to outer borders of the EAC region
3. Collection of revenue at the first point of entry into the EAC
4. The free circulation of goods
5. None application of rules of origin
6. A harmonized domestic tax regime
7. A uniform application of EAC Common External Tariff by partner states

The Customs Union provides for the free movement of goods between partner states with zero internal tariffs. The EAC Customs Union seeks to liberalize trade in goods within the region that seeks to benefit all member states and this has been achieved through bringing all five member states under the umbrella of a single customs union and later a single market.

<sup>1</sup> <http://www.eac.int/about-eac/quick-facts.html> (accessed on 24th January 2011)

<sup>2</sup> Article 5 of the Treaty for the Establishment of the East African Community (as amended on 14th December, 2006 and 20th August 2007)

## The EAC Common Market

A common market, as stated in the Treaty, is defined as “partner states markets integrated into a single market in which there is free movement of capital, labour, good and services”. In the EAC integration process, the common market comes after the customs union stage.

A common market is made up of partner states of a regional bloc which operates a single market for goods, services, labour and capital, common taxes, and common trade laws. The common market supplements and integrates the customs union, and is a process in itself as the implementation goes on.

The Protocol on the Establishment of the East African Community Common Market (the Common Market Protocol) was signed on 20th November 2009 by the 5 EAC Heads of State, and came into force on 1st July 2010.

## Principles of the EAC Common Market

The Common Market Protocol spells out that partner states must undertake to:

1. Observe the principle of non-discrimination of nationals of other partner states on grounds of nationality
2. Accord treatment to nationals of other partner states, not less favourable than the treatment accorded to third parties
3. Ensure transparency in matters concerning the other partner states
4. Share information for the implementation of the protocol.

Non-discrimination in this sense means that a partner state must treat nationals of other partner states as it would treat its own. “Not less favourable” means that a partner state must treat its fellow EAC nationals as well as it would treat non-EAC nationals.

## Scope of Co-operation in the EAC Common Market

Article 5 of the Common Market Protocol outlines the undertakings of partner states in the common market.

These are to:

1. Eliminate tariff, non-tariff and technical barriers to trade; harmonise and mutually recognise standards and implement a common trade policy for the EAC
2. Ease cross-border movement of persons and eventually adopt an integrated border management system.
3. Remove restrictions on movement of labour, harmonise labour policies, programmes, legislation, social services, provide for social security benefits and establish common standards and measures for association of workers and employers, establish employment promotion centres and eventually adopt a common employment policy
4. Remove restrictions on the right of establishment and residence of nationals of other partner states in their territory in accordance with the provisions of the Common Market Protocol
5. Remove measures that restrict movement of services and service suppliers; harmonise standards to ensure acceptability of services traded, and
6. Eliminate restrictions on free movement of capital; ensure convertibility of currencies; promote investments in capital markets (the stock exchange), eventually leading to an integrated financial system.

## Annex on Free Movement of Goods

Article 6 of the Common Market Protocol provides that there shall be free movement of goods between the partner states and this shall be governed by the customs laws of the EAC. This allows for the intra-trade of goods that are produced in the partner states. The EAC Customs Union already allows for the free movement of goods within the region and this protocol mainly adds more legal instruments to oversee the movement of these goods.

## Annex on the Free Movement of Persons and Labour

Article 7 of the Common Market Protocol guarantees the free movement of citizens of other partner states, within other partner states. Individual partner states should not discriminate against citizens of other partner states based on their nationalities.

Further, Article 10 of this protocol guarantees the



free movement of workers who are citizens of other partner states, within other partner states. The non-discrimination of workers shall be ensured by all partner states in relation to employment, remuneration and other conditions of work and employment.

The scope of this covers workers, their spouses and children. This means that, a partner state cannot discriminate against citizens of other partner states, as well as against its own nationals, concerning the movement of people in and out of the respective country. Visa requirements are also to be done away with.

## Annex on the Rights of Establishment and Residence

Article 13 of the Common Market Protocol entitles a citizen of a partner state to take up and pursue economic activities as a self-employed person, and set up and manage economic undertakings in the territory of another partner state.

This Article grants self-employed nationals the right to join the social security scheme of the partner state in question. A citizen of a partner state can, for example, set up a business in any other partner state and generally undertake economic activities. Companies should be able to transfer employees to other branches in the partner states without hitches.

Further, Article 14 guarantees citizens the right of residence in the other partner states.

## The Free Movement of Services

Article 16 of the Common Market Protocol guarantees the free movement of services supplied by nationals of partner states, and the free movement of services and suppliers who are nationals of the partner states within the EAC. This means that persons supplying services should be able to supply the services to consumers in other partner states and must be treated equally to domestic suppliers.

## Other Areas of Co-Operation in the Common Market

Article 29 of the Common Market Protocol gives protection to the cross-border investments of other partner states, as well as providing for non-discrimination of investors of other partner states. Articles 33 to 36 detail other issues affecting trade, such as economic and monetary policy co-ordination, financial sector policy co-ordination, harmonisation of tax laws, handling of trade subsidies, procurement and consumer protection.

## What are some of the opportunities for the EAC Common Market?

The coming into effect of the EAC Common Market in July 2010, as well as the fully-fledged customs union now in place presents a number of opportunities for the region and for Kenya.

1. The EAC Common Market provides a single market size of approximately 133.5 million people.
2. The 5 partner states realise a combined GDP of about 74.5 billion US dollars.
3. The common market offers more employment opportunities for professionals, technicians and artisans, who benefit from greater accessibility to markets in the region.
4. With the common market in place, it is easier for people to trade within the region. There exists the potential for increased trade volumes between the partner states.
5. The common market increases trade in services in the region. Such services include professional services, communication, distribution services, education services, financial services, tourism and travel-related services as well as transport services.
6. There is greater mobilisation of capital, including equity and portfolio investments, bonds, money market instruments, collective investment schemes and bank loans.
7. There is increased competition among firms within the partner states, which may spur them to produce better quality goods and services.

**Table 1: Total value of Kenya's exports to the EAC (Kshs '000)**

State	2004	2005	2006	2007	2008	2009
Tanzania	17,920,984	19,953,695	18,288,422	22,325,810	29,223,947	30,086,582
Uganda	37,059,413	42,679,280	27,812,308	33,570,946	42,285,352	46,239,885
Rwanda	6,189,939	7,282,450	4,765,033	5,801,234	8,953,198	9,535,976
Burundi	2,971,904	3,714,366	2,184,269	2,423,978	3,479,476	4,597,172
Total EAC	64,142,240	73,629,791	53,050,032	64,121,968	83,941,973	90,459,615

Source: Kenya National Bureau of Statistics Economic Survey 2010

## Benefits of Regional Integration

Regional integration increases the level of regional trade, which prepares partner states to be globally competitive. The statistics below illustrate Kenya's value of trade within the EAC region as well with the rest of Africa, between 2004 and 2009.

From Table 1 above, we can observe that there has been an increase in the value of Kenya's exports to the EAC from the year 2007.

In 2004, the value of Kenya's exports to other members

of the EAC was approximately KShs.64 billion, while in 2009, it was approximately KShs.90.5 billion. In 2004, Kenya's total value of imports from other countries of the EAC was approximately KShs.3 billion, while in 2009, it increased to approximately KShs.12.5 billion. This is shown in Table 2 below.

From Table 3, we can observe that the value of Kenya's exports is generally greater within the EAC than to the rest of COMESA and the rest of Africa, combined. In 2009, the value of Kenya's exports to the EAC was 55.7% of the total exports to the rest of COMESA and Africa.

**Table 2: Total Value of Kenya's Imports from the EAC (KShs. '000)**

State	2004	2005	2006	2007	2008	2009
Tanzania	2,009,133	3,099,493	4,514,229	6,677,909	7,265,089	7,809,234
Uganda	1,008,619	1,395,853	1,001,829	5,978,919	5,221,189	4,426,263
Rwanda	16,342	115,489	210,230	88,696	25,327	240,070
Burundi	2,877	19,859	338,764	152,770	78,159	92,653
Total EAC	3,036,971	4,630,694	6,065,052	12,898,294	12,589,764	12,568,220

Source: Kenya National Bureau of Statistics Economic Survey 2010

**Table 3: Total Value of Kenya's Exports to EAC, COMESA and the Rest of Africa**

Country	2005	2006	2007	2008	2009
EAC	73,629,791	53,050,032	64,122,968	83,941,972	90,459,615
Rest of COMESA	35,755,100	40,353,943	44,720,658	56,413,275	52,520,912
Rest of Africa	11,405,109	14,581,666	14,864,688	21,921,482	19,551,906
Total Africa	120,790,000	107,985,641	124,028,632	162,540,840	162,732,409
% EAC	61	49.1	51.8	51.7	55.7
% COMESA	29.6	37.4	36.2	34.8	32.3
% Africa	9.4	13.5	12	13.5	12

Source: Kenya National Bureau of Statistics Economic Survey 2010

**Table 4: Kenya Value of Imports from the EAC, COMESA and the Rest of Africa**

Country	2005	2006	2007	2008	2009
EAC	4,630,694	6,065,052	12,898,294	12,898,294	12,568,221
Rest of COMESA	13,897,758	16,002,839	22,356,070	22,927,944	20,200,586
Rest of Africa	44,169,564	41,433,647	36,784,223	50,473,299	71,568,502
Total Africa	62,698,016	63,613,281	72,038,587	85,991,007	104,672,235
% EAC	7.4	9.6	17.9	14.6	12.1
% COMESA	22	25.2	31	26.7	19.4
% Africa	70.4	51.1	51.1	41.3	68.5

Source: Kenya National Bureau of Statistics Economic Survey 2010

From Table 4, we can observe that Kenya imports more goods from the rest of Africa than from the EAC or COMESA. In 2009, 68.5% of Kenya's imports from Africa came from the rest of Africa.

## What are some of the Challenges to Regional Integration?

From the figures above, it is clear that there is significant trade activity within the EAC. However, regional integration comes at a cost, and challenges abound in the EAC integration process. The following are some of hurdles that the partner states continue to go through.

1. The implementation of the Treaty and the Protocols, as well as decision-making between the partner states could present problems.
2. The fear of loss of sovereignty among partner countries in the process of regional integration.
3. Challenges related to the availability of resources to make the Treaty fully operational, as well as challenges of resource mobilisation.
4. Overlapping membership by partner states in other regional blocs such as COMESA and the Southern African Development Community (SADC), among others.
5. The harmonisation of laws and policies across the partner states versus the different national laws.

## Regional Integration and Poverty Linkages

Regional integration has economic as well as trade underpinnings, and one of the main objectives of

integration is to bring economies together in terms of co-operation and co-ordination of economic interests.

An important element of the regional integration process involves the likely positive impact of increased trade opportunities on the welfare of Kenyan citizens (customers and traders).

However, of concern is whether this will lead to poverty reduction and pro-poor growth. The common market is in the implementation stage and should eventually lead to the free movement of goods, services, people, labour and capital, leading to developmental benefits.

## Conclusion

The EAC Common Market provides an opportunity for partner states to take advantage of the opportunities presented by social, political and economic provisions in the treaty regional integration. For Kenyans to fully take advantage of these opportunities, awareness must be created by stakeholders; including the government, the private sector and partner states; so that citizens can participate in the process.

Among issues to consider in the integration process include the need to enhance trade facilitation and harmonise national and regional laws, such as those governing taxes. The EAC Common Market is still in the implementation stage and more benefits are likely to be realised as this process continues.



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## Trade Notes

The Institute of Economic Affairs is a civic forum which seeks to promote pluralism of ideas through open, active and informed debate on public policy issues. It is independent of political parties, pressure groups and lobbies, or any other partisan interests

The Trade Information Programme aims to be an influential actor in Kenya's trade negotiations, policy formulation, reforms and impact assessment

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