EAST AFRICAN COMMUNITY

THE EAST AFRICAN POLITICAL FEDERATION:

ADDRESSING EAST AFRICANS' FEARS, CONCERNS AND CHALLENGES AND CONSOLIDATING ITS PILLARS

ONE PEOPLE ONE DESTINY

ARUSHA AUGUST 2010

EAST AFRICAN COMMUNITY

EXPERTS REPORT ON

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ACKNOWLEGMENT

The Team of Experts (whose names are listed at the back of this report) recognizes the confidence bestowed upon them by the appointing authority to undertake this decisive study and unanimously feels privileged to have been part of this enlightening experience. The exercise in general benefitted from the assistance and support of many individuals and institutions, the list of which we cannot enumerate - we thank them all.

The Team cherishes the friendship and the spirit of *eastafricanness* that *permeated* the entire assignment dealing with differences of opinion in a decent and friendly manner. The Team thanks the stakeholders at the border posts of Namanga, Kobero/Kabanga, Gatuna/Katuna who shared their invaluable experiences unreservedly.

Lastly, the dedication and facilitation by the Secretariat Teams, clarifying issues, supplying information whenever needed was needed was appreciated.

EXECUTIVE SUMMARY

Since independence, African nationalist leaders pursued the idea of forming an EAC Federation as a step towards the United States of Africa. Prior to this, the idea of establishing the East African Community (EAC) Federation had been started as a proposal of the British colonial government. Despite the failures and challenges of the past, the quest has persisted. The current EAC Treaty, unlike the 1967 Treaty, provides for a Political Federation as the final stage of EAC integration.

At a special Summit of Heads of State of the EAC in 2004, it was decided that a committee be established to examine ways and means of expediting the process of integration to achieve a Political Federation through a fast tracking mechanism. This culminated in the Committee on Fast Tracking East African Federation (the Wako Committee) which released its Report to the Summit in November 2004.

On the basis of the report, the Summit resolved that comprehensive national consultations be undertaken to enhance ownership of processes by the people of East Africa. National Consultative Committees were established, held national consultations and presented their reports to the Summit in July 2007 (Kenya, Uganda and Tanzania) and November 2008 (Rwanda and Burundi). The reports revealed that East Africans had some fears, concerns, and challenges (FCCs) towards Political Federation, among other findings.

The Summit at its meeting in November 20th, 2009 considered the recommendations of Council and directed that an in-depth study be undertaken on the fears, concerns, and challenges identified on the EAC Political Federation with a view to determining the extent to which some have been addressed and those not yet addressed and proposing ways and means of addressing. A team of 15 experts from all the Partner States was constituted to undertake the assignment.

In undertaking the assignment, the Team of Experts held working sessions, reviewed the literature, visited some border areas and held consultations with individuals and selected organisations at national level.

The Report contains findings and analysis of fears, concerns and challenges, enumerates those that have been addressed and makes recommendations on how to address others. Chapter one provides the background information, the Terms of Reference and the methodology of work. Chapter two reviews concepts, theories and guiding principles of political integration aimed at providing a contextual framework for understanding dynamics and challenges of political integration processes. Chapter three contains lessons learnt from other integration processes which may inform the EAC political integration process. Chapter four analyzes the fears, concerns and challenges about EAC political Federation, including emerging ones, and examines the extent to which they have been addressed. Chapter five examines the pillars of political federation and analyzes the importance of consolidating each pillar as a basis to achieve East African political federation, to build confidence about it and to attain the overall goal of integration, which is social, economic and political development.
Recommendations are contained in Chapter six.

The study found that the process of political integration is complex, engaging and requires clarity of purpose, direction and a pragmatic approach. This is particularly so, given that the imperatives that drive regional integration for the East African Community is the urge to achieve faster development of the peoples and countries in the region in the face of intense global competitition. The challenge in integrating a region and building a political federation is not unique to the EAC; what distinguishes successful integration is not the absence of challenges but rather the ability to find realistic solutions to them.

One of the most manifest challenges is the issue of sovereignty and the attendant notions of loss of national identity, political power, decision-making and loss of flexibility in exercising powers. The collapse of the former EAC and the resultant bitter experience still influences some peoples' attitude and raises apprehension about political integration.

The divergent governance and democratic practices have generated concerns on how the federation will bridge the gap in governance and democratic deficits, rule of law, transparency, accountability human rights and access to justice, constitutionalism, prevention of conflicts, equitable distribution of resources, political reform and social justice between the member states. The urgency to expedite finalization and adoption of the protocol on good governance including other instruments that operationalise its pillars cannot be overemphasized.

The economies of the Partner States are growing at different speeds, and have reached varied levels of progress. The fear among the faster growing economies is that poor performers will slow them down whereas the slower growing economies fear marginalization. No formula has been developed to address issues of equitability in sharing the benefits accruing from integration without compromising the momentum of achievers.

The cardinal principle of people-centered integration is not been seen to have been fully operationalised, nor its relationship and possible contradiction with the principle of market driven integration analyzed. In addition, the level of public awareness about the integration process remains low and this has constrained East Africans from accessing the opportunities and benefits accruing from integration or appreciating gains so far made.

Although EAC countries have social and cultural ties emanating from pre-colonial times, the social and cultural life in the region is not homogeneous. Differences in post-colonial experience and varied national experiences have generated cross-border cultural stereotyping and sometimes negative sentiments.

It is notable that the majority of fears, concerns and challenges expressed by East Africans about political federation appear to be fears related to stages of integration preceding federation, and partly caused by misinformation and inadequate information and implementation or concerns about the implications. It is incumbent upon the Partner States to enhance the mandates and capacities of the EAC regional institutions including the Secretariat, East African Legislative Assembly and East African Court of Justice.

An examination of the activities of the EAC shows that many measures aimed at strengthening economic integration have to some extent mitigated the fears, concerns and challenges. The primary strategy to address them lies in successful implementation of the stages of integration and effective marketing of the Community.

Though there is significant contribution to building a spirit of '*East-African-ness'* by non-state actors, EAC Secretariat, and Ministries of EAC through region-wide awareness programmes, though, more needs to be done to achieve regional social cohesion. A deliberate effort to bring on board other ministries, government departments and agencies in popularizing and sensitizing East Africans on the goals and opportunities of integration will be apt. other activities may include sports, cultural activities, informal sector interaction, and involve professional groups, private sector, CSO groups, researchers, and media, among others.

The report recognizes the pillars of political federation as common foreign policy, peace, security and defence, and good governance. It emphasizes that achieving political integration, a qualitatively deeper form of integration than economic integration, requires these pillars to be strengthened to lay a firm foundation for the envisaged political federation. This calls for stronger policy platforms that go beyond *cooperation* in the conduct of security and foreign policy matters and a transformation of regional policies, institutional arrangements and capacities to support the deeper goal. It also recognizes that integration is ultimately intended to achieve social, economic and political development for East Africans.

The report, on the basis of the literature, findings from consultations and lessons from elsewhere makes the following recommendations:

  i.   A decision on the type of political integration for East Africa;

  ii. Effective Implementation of fundamental stages of integration;

  iii. Addressing geostrategic imperatives of the East African Community including the resources of the Nile, L. Victoria and other water bodies, regional common foreign and security policy including the shared security interests in the western basin of the Indian Ocean;

  iv. Fostering Good Governance and Human Rights Standards in East Africa;

  v.   Rationalization of a timeframe for achieving political federation and sequencing different stages of integration;

  vi. Enhanced sensitization of the E.A region's people, and promulgation of popular regional programs;

  vii. Institutionalisation of East African socio-cultural activities to promote East African unity, turn the region's diversity into an asset, and develop social cohesion as an imperative for integration;

viii.   Strengthening the East African Community organs and institutions to enhance their capacity for effective management of the integration process; this requires periodic review and re-alignment of their mandates to support deeper and wider integration of the EAC. align;

ix.   Establishing an East African Advisory Body to promote regional cohesion;

x.   Strengthening of the institutions that support convergence of political systems and therefore political integration;

xi.   Establishment of a regional mechanism to drive regional equitable development including infrastructure; and

xii.   Strengthening East African Development Bank (EADB) in order to make it a lead investment financing institution in the Community.

xiii.   Aligning the timeframe for political federation with the commitments under the preceding phases of integration.

This report should be read in tandem with other relevant literature and some of the recommendations may require detailed studies for operationalisation.

CHAPTER I: INTRODUCTION

I.1. Background

The quest for the establishment of the East African Federation is not only a colonial legacy but, more significantly, a post-independence venture driven by nationalist and a Pan-Africanist vision.

The following are the notable landmarks:

- The idea of an East African Federation uniting Kenya Colony and Uganda Protectorate was originally mooted by the British in 1899, and then was expanded in 1919 to include Tanganyika Territory after it ceased to be a German colony and passed into British administration;
- On 5th June 1963, the three East African leaders (of Kenya, Uganda and Tanganyika) committed themselves to form a Federation within one year [1];
- the three countries established the East African Community through the Treaty for East African Co-operation, signed on 6th June 1967; though this community unfortunately collapsed in 1977 the possibility of future cooperation was left open[2];
- East African Heads of State signed an Agreement to revive cooperation on the 30th November 1993;
- the Treaty for the Establishment of the East African Community was signed on the 30th of November 1999 by the Heads of States of Kenya, Uganda and the United Republic of Tanzania,
- the Community was expanded by the admission of Burundi and Rwanda on the 1st of July 2007;
- at a special summit held in Nairobi in May 2004, the heads of state expressed concern about the slow pace of the integration process, and agreed to explore ways of expediting the process towards an EA Political federation;
- a committee (Wako Committee) was established on 28th August 2004 to examine ways and means to expedite and compress the process of integration, so that the ultimate goal of a Political Federation is achieved through a fast tracking mechanism[3];
- The report of the Wako Committee presented in November 2004 led to a decision by the Extra-Ordinary Summit of the Heads of Partner States in Dar es Salaam in May 2005, to carry out comprehensive national sensitization/consultations to inform the people about the integration process and seek their views about fast tracking the political federation;
- The national consultative committees on fast tracking East African Political Federation presented their reports in 2007 (Kenya, Uganda and The United Republic of Tanzania) and in 2008 (Burundi and Rwanda). These reports contained sections enumerating and analyzing fears, concerns, and challenges towards Political Federation of East Africa;

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[1] Under the Nairobi Declaration of 1963. See also Friedrich, G., Gemeisamer Markt in OstafriKa und Zentralamerika: Ein Vergleich, Hague/Hamburg, Martinus Nijhoff, 1975, pp. 8 – 13.
[2] Article 14.02 of 'the 1984 East African Mediation Agreement for the Division of Assets and Liabilities of the Defunct East Africa Community left the door open to 'exploring areas of future cooperation
[3] See Letter of Transmittal, Committee on Fast Tracking East African Federation.

- The 11th Summit of EAC Heads of State that took place on November 20th, 2009, after considering the reports, directed the Council of Ministers (hereinafter "the Council") to constitute a Team of Experts (herein after "the team") to undertake an in-depth study on the fears/concerns raised and challenges identified on the EAC Political Federation, with a view to proposing ways and means of addressing them; and report within 6 months.

- In implementing the Summit Directive, the Council at its 20th ordinary meeting, appointed a 15 member team from the Five Partner States, approved its Terms of Reference (ToRs) and tasked the team to produce a report within six months.

The Terms of Reference (ToRs) for the team are as follow:

- Undertake a detailed review and analysis of the fears, concerns and challenges towards Political Federation raised by the citizens of East Africa based on existing documents;

- Examine the progress in addressing those fears, concerns and challenges, and propose ways of addressing those that have not been addressed;

- Identify any other emerging fears, concerns and challenges and propose how to deal with them; and propose ways of strengthening the pillars of Political Federation by locking in the gain attained in the other stages of integration;

- Identify appropriate regional policies, institutional arrangements and capacities which can address those fears, concerns and challenges for the political Federation; and

- Carry out such other activities that are relevant to the above Terms of Reference

1.2 Methodology

Pursuant to the Terms of Reference (ToRs), the challenge for the Team was to contribute, by critical, objective, and comparative analysis to a better understanding of how fears, concerns and challenges towards the ultimate goal of political federation [4] have been dealt with, and can be further addressed.

1.2.1. Organisation of Work

The team organised its work in three ways:

1) Working sessions, which were held by the three experts at the Partner State level, to review and analyse the existing literature that contained FCCs;

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[4] Article 5(2) of the Treaty for the Establishment of the East African Community stipulates that: *Partner States undertake to establish a Customs Union as the first stage of integration, followed by a Common Market, subsequently a Monetary Union and Ultimately a Political Federation.*

2) Consultations with stakeholders such as border communities, Civil Society, Private Sector, Political class, Academia, Law enforcement and Good Governance Agencies to establish any emerging fears, challenges and concerns on integration process in general and Political Federation in particular;

3) Three retreats were held following the inaugural meeting in Arusha, Tanzania at the EAC headquarters. The First Retreat was held in Kigali, Rwanda. The second and third Retreats were held in Mombasa, Kenya and Dar es Salaam in Tanzania respectively. During the Dar es Salaam Retreat the team also discussed the progress of their work with the Permanent Secretaries for EAC Affairs Ministries. The final meeting was held in Nairobi, Kenya.

1.2.2. Literature Review

The team was presented with relevant documents by the East African Community Secretariat and the Ministries of East African Community Affairs in the partner states to facilitate its task [5].

It undertook forensic literature review and desegregated its findings into three thematic areas of study namely Political and Legal, Economic, and Socio-cultural.

1.2.3. Primary Data

- **Border Visits:**

The team undertook visits to three sample border crossings covering at least one border of each Partner State. The selected border points, were:

      i) Namanga, between Kenya and The United Republic Tanzania;

      ii) Kobero/Kabanga, between Burundi and The United Republic of Tanzania; and

      iii) Gatuna/Katuna , between Rwanda and Uganda

These visits were organised in order to interact with different stakeholders including members of border communities, travellers, and service providers operating at borders such as clearing agents, and operators of food and accommodation facilities. The border visits were intended to identify potential emerging fears and concerns following the coming into force of the Customs Union and the-then imminent common market.

The team also had meetings with Government officials responsible for customs and immigration at the borders.

- **Consultations:**

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[5] See full list under annex ...

The team organized consultations in their respective Partner States in order to find out any fears, challenges and concerns that may have emerged since the national consultations were undertaken, and the perceptions on efforts so far made to reduce the fears and concerns. These consultations were carried out through workshops, public meetings, discussions with individuals and organisations from the Civil Society, Private and Public sectors.

CHAPTER II: THEORIES OF INTEGRATION

2.1 Introduction

In the recent past, there has been a flurry of activities in the area of regional integration in various parts of the World. The upsurge of interest in regionalism is both a response to and the result of fundamental transformation of the international order including increased economic globalization and competition, and geo-political challenge. There have been attempts to revive dormant regional integration schemes, resurrect failed ones, reorganize and strengthen existing ones and initiate new schemes where none existed.

The promulgation of the North American Free Trade Agreement (NAFTA), the transformation of the European Economic Community (EEC) into EU, and the re-energization of the Associati on of South East Asian Nations (ASEAN) testify to this increased interest in regional integration. Other regions of the World also boast of at least one regional scheme, including the Caribbean Community (CARICOM), the Latin American Free Trade Area (LAFTA), the Arab-Maghreb Union (UMA) in North Africa, the Common Market for Eastern and Southern Africa (COMESA), the Southern African Development Community (SADC) and the Economic Community of Central African States (ECCAS).

Throughout the contemporary world, modern developments in transportation, social communications, technology and industrial organization have produced pressures not only for larger states but also for smaller ones. Thus, two powerful, thoroughly independent, yet distinct and often actually opposed motives have developed: the desire for integration to build an efficient and dynamic modern state, and the disintegrating impulse arising from the search for community identity and self-determination of distinct regional and local groups.

Given these dual pressures throughout the world, for larger political units capable of fostering economic development and improved security on the one hand, and for smaller political units more sensitive to their electorates and capable of expressing local distinctiveness on the other hand, it is not surprising that the political integration solution should currently have considerable political appeal.

2.2 The Concept of Integration

A common definition of regional integration states that it is a shifting of certain national activities toward a new center.[6] Integration therefore is a form of collective action among countries in order to obtain a certain goal. This goal can be as grand as political unification (in the case of the EU) or a free trade area, (in the case of NAFTA).

More simply, it is "a series of voluntary decisions by previously sovereign States to remove barriers to the mutual exchange of goods, services, capital or persons."[7] This definition captures the economic aspect of integration which is informed by two theories, namely, functionalism and neo-functionalism.

The Functionalist approach viewed the twentieth century as characterized by growing numbers of technical issues that could be resolved only by cooperative actions across state boundaries[8] carried out by technical experts whose approaches were essentially based on apolitical considerations[9].

The theory suggests that emphasizing cooperation in order to find solutions according to a specific need or function creates the basis for a thickening web of structures and procedures in the form of institutions. Successful cooperation in one functional setting would enhance the incentive for collaboration in other fields. To the extent that tasks in specific functional areas could be successfully completed, attitudes favorable to cooperation in other sectors would be developed.

The goal of functionalism was not to create a new "super state" above the member states, but instead to blur the lines dividing public and private. This was to be achieved through the creation of a "web of international activities" that would overlay national and political divisions. Links were to be developed along pragmatic lines, at the logical level for each functional goal, regardless of national or political boundaries. These interlocking institutions would create mutual dependencies and make war unfeasible regardless of ideological differences that divide States [10]. Functionalism is primarily concerned with economic integration and not directly political integration.

Neo-functionalism theory on the other hand posits that integration results from the need to shift specific functions away from exclusively nation-state control toward supranational institutions.[11] These new units would hold the decision making power once enjoyed by the nation-state. [12] Therefore, unlike functionalism, neo-functionalism accords a role to politics.

[6] Haas, E.B., 1958, *The Uniting of Europe*, Stanford: Stanford University Press.

[7] Bobrow, D., *et al.* , 2003, Regional Integration and Domestic Institutional Homogeneity: A Comparative Analysis of Regional Integration in the Americas, Pacific Asia, and Western Europe Smith 1993: 4

[8] Mitrany, D., 1975, *The Functional Theory of Politics*, London: Martin Robertson.

[9] Mitrany 1966.

[10] This is the basis on which the Coal and Steel Association between Germany and France developed before being transformed into the European Economic Community.

[11] Mitrany, D., 1975, *The Functional Theory of Politics*, London: Martin Robertson.

[12] O'Brien, R., 1995, "North American Integration and International Relations Theory", *Canadian Journal of Political Science* 28: 693-7xx.

Neo-Functionalism places major emphasis on the role of non-state actors – especially, the "secretariat" of the regional organization involved and those interested associations and social movements that form at the level of the region – in providing the dynamics for further integration.

Member states remain important actors in the process. They set the terms of the initial agreement, but they do not exclusively determine the direction and extent of subsequent change. Rather, regional bureaucrats in league with a shifting set of self-organized interests and passions seek to exploit the inevitable "spillovers" and "unintended consequences" that occur when states agree to assign some degree of supra-national responsibility for accomplishing a limited task and then discover that satisfying that function has external effects upon other interdependent activities.

This is the theory that informed the evolution of the European Union and the defunct East African Community. It is also currently informing the preceding stages of the current EAC, namely the coming into operation of the Customs Union, the Common Market and the envisaged Monetary Union.

2.3 Political Integration.

Political integration is a process by which a supra-national state is created out of smaller states. The individual states share a common government and the supra-national state is recognized internatio nally as a single political entity.

2.3.1 Guiding Principles on Political Integration.

There are four key principles that should guide a political integration process.

a) The Subsidiarity Principle

This principle entails Partner States of a Union or Federation ceding only those matters that are better done through common institutions than by member states acting separately. The subsidiarity principle is enshrined in the Treaty for the Establishment of the EAC as one of the operational principles of the Community.

b) Principles of Gradualism and Pragmatism

The principle of gradualism and pragmatism is derived from the realisation that integration means fundamentally credible integration built on pragmatic, gradual steps that reinforce trust and commitment and make the process self-perpetuating. Experience of regional integration in Europe and the Caribbean as well as Africa strongly indicate that it is wise to move forward in a pragmatic, gradual fashion by building blocs with timelines and targets that are credible and realistic. Timelines and targets that are not realistic lead to missed targets, self induced frustrations and self-inflicted disappointments and in the end reversals. Gradualism is also articulated in

the principle of variable geometry that provides low risk opportunities to progressively build experience and mutual trust, which are essential for integration to move forward and deeper over time [13].

c) Principles of Democracy, Human rights and Rule of Law

A viable and credible regional integration arrangement should be based on a democratic culture and practice. This means that it should not only be governed by a democratic Treaty or Constitution, but should be a development that takes into account the highest democratic standards achieved by its member states. In the case of the East African Community they are enshrined in the Treaty and form one of the pillars of the political integration process.

d) The right to self-determination and the right to Secession

This means a nation as a national group (and sometimes several nations or national groups at the same time) has the right to take independent decision on the question of its political status; to remain within the framework of a given state as an autonomous unit, join as a federal member, join another state or form its own independent state.

2.3.2 Types of Political Integration.

Political integration can be broadly categorized into six types.

a) Incorporating Union

Here a new state is created with the former states being entirely dissolved into a new state, historically, voluntarily or forcefully. However, a full incorporating union may preserve laws and institutions of the former States as in creation of the United Kingdom. The end result is a unitary state. In a unitary form of state there is centralisation of power and arrogation of power to the central authority or institutions.

b) Incorporating Annexation.

Under this category a state(s) is united to and dissolved in an existing state whose legal existence continues. Annexation may be voluntary as with Montenegro's union into Serbia in 1918 or it may be by conquest.

c) Federation.

In a federal union, the states continue in existence but place themselves under a new federal authority. The federal state becomes the subject in international law though the federal states retain an existence in domestic law. Federalism is a theory or

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[13] The use of this principle may be supported by the principle of variable geometry which allows for differentiated speeds of integration for different parts of a regional bloc, and is provided for within the EAC Treaty.

advocacy of federal political orders, where final authority is divided between sub-units and a center.

Unlike a unitary state, sovereignty is constitutionally split between at least two territorial levels so that units at each level have final authority and can act independently of the others in some areas [14]. The population thus have dual citizenship with rights and duties from two authorities.

A federalist system of inter- governmental relations conjoins a national government with semi-autonomous sub-national governments but allows each to retain to some degree its own identity and distinctiveness. Although maintaining separate and autonomous powers, each layer of government is responsible for providing the social and economic welfare of the populations living within its jurisdiction.

Three processes of federalism are identifiable.

First, '*Coming together'* federation. Here, independent states voluntary come together by ceding or pooling sovereign powers in certain domains for the sake of goods otherwise individually unattainable, such as security, economic prosperity or governmental efficiency. Examples are the United States of America (U.S.A), Switzerland and Australia.

Second, '*Holding together'* federations. These are usually occasioned by outgrowth of a consensual decision to preserve a unitary state by creating a multi-ethnic federal system. This is most often done to manage divisive ethnic, regional or other types of groups' conflict within the polity. This type of federation therefore develops from unitary states, as a government's response to alleviate threats of secession by territorially clustered minorities. Such federations often grant some sub-units particular domains of sovereignty over issues such as language and cultural rights in an asymmetric federation while maintaining broad scope of action for the central government and majorities. Belgium, Canada, Spain, India and Nigeria are some cases.

Third is a '*Putting together'* federation which is imposed from the center without a broad consensus as in the past experience of Ethiopia.

d) Confederation

A confederacy is a system of governance whereby the national government is subject to the control of sub-national autonomous governments. Several pre-existing polities join together to form a common government for strictly limited purposes, usually Foreign Affairs, Defense and Economics. Thus, in a confederacy, constituent sub-national governments enter into a covenant with one another and derive the bulk of their sovereign powers not from a central government but from their own constitutions.

The con-federal governments possess only such powers as are delegated to them by and at the discretion of the constituent units making up the confederation. Hence, the flow of power in a confederation is unidirectional from the constituent units to the

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[14] The Oxford Guide to the U.S. Government.

confederal authority. Whereas in a federation the federal government has direct authority over the people in its assigned areas of responsibility, in a confederation the con-federal government only act through its individual member states [15].

e) Union of States

A good example of a Union of States is the European Union where each Member State remains a Sovereign State. However, despite each country remaining sovereign, there is strong coordination of political relationship among the member states and establishment of supra-national in stitutions. In a Union of States there is coordination of Foreign policy and Defence at the Union level while each country retains its Foreign affairs and Defence portfolios.

f) Union *sui generis*

Political Union or Federation *sui generis* does not conform to any existing types of political integration. It means it is not a unitary, confederation or federation. Its form and structure is unique to itself responding to realities and challenges on the ground that require an innovative fo rm of political integration.

In conclusion, examination of the theories and types of integration shows that the East African Community states have options in so far as political integration is concerned. However, a detailed study should be undertaken to highlight the advantages and disadvantages of each. This study will then advise on the way forward having weighted the appropriateness of each type of political integration.

An elaborate analysis of options and their implications is a necessary condition for the East African Community to agree on the most viable option to inform its proposed political federation. The East African Community would also benefit from an informed analysis of other attempts elsewh ere towards Political federation.

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[15] The USA and Canada were confederations before opting for federal systems because the central confederal authority was found to be too weak to address collective challenges effectively.

CHAPTER III: LESSONS AND EXPERIENCES FROM OTHER FEDERATIONS AND INTEGRATION PROCESSES

The experiences of other integration processes and political federations are instructive about appropriate regional policies, institutional arrangements and capacities. It is important that East African Community learns from such experiences on how to address the fears, concerns and challenges raised by its people concerning Political Federation.

3.1   All Political Integration Processes Experience Challenges

The first clear lesson is that experiencing challenges in integrating a region or building a political federation is not unique to the EAC but is in fact common. In all comparative experiences examined, fears about coming together with other political entities, fear of the unknown, existed. What distinguishes successful integration processes and sustainable federations from those that have failed is not the absence of challenges but rather the ability to find solutions to challenges.

There are some policies, institutional arrangements and mandates successfully used by other regional entities and federations to address similar challenges that the EAC can adopt or adapt. Further study of these should inform the EAC on which appropriate steps, would be critical as drivers to the integration process, policies and institutional arrangements to manage the challenges.

3.2   The Importance of a Process-Driven Approach

Regional integration and federation are very much process-driven activities that require extensive preparation and periodic, systematic review of strategy (as in USA, India, S. Africa, the EEC/ EU). Contribution of important social, political and economic groups is important and ensures decisions and models taken are reality driven and sustainable, even though this may generate conflicting debate and opinion. Participation of stakeholders that are broadly representative of the society in processes of formation strengthen legitimacy [16]. Above all there is need for clarity on the development model and the issues integration or federation is aimed at creating [17].

Policies used to increase participation in governance and facilitate accountability to citizens have included distribution of powers between levels of government to give a role to lower levels. This has included use of decentralization and multi-layered Federalism as in India through introduction of *Panchayats* (local government structures) which has created space for non-state actors and civil society to participate in and influence governance. The European Grouping for Territorial Cooperation (EGTC) facilitates cross-border links among regional and local authorities and other public bodies from different member states by enabling them to set up cooperation groupings with a legal personality.

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[16] As in the US experience of forming a federation.
[17] As with the EEC focus on preventing another European war for example.

3.3 The Need to Consciously Manage Power Relations, Diversity and Equity

Fears of loss of sovereignty, identity, power, space, and other advantages by states, or specific communities or stakeholder groups such as political parties, women and genocide survivors are quite common in integration and federation processes. The fear of loss of sovereignty and power is expressed in terms of power relations between the centre and the periphery in many federations: Nigeria with the north/south divide, USA with the states' rights issue, Canada with an ethnic and linguistic minority, and USSR on ethnic nationalism. The issue also arises on inter-state relations where member states or regions within them are not at the same level of development (India, EEC/ EU, Canada).

This issue has influenced power distribution in constitutive instruments such as federal constitutions.

Federations have evolved over time, partly due to developments in their political economies and changes such as- discovery of oil in Nigeria, establishment of NAFTA and consequent new trade ties in USA and Canada – generation of new and changing dynamics with implications for federal-state relations. In some cases, the evolution of federalism has been geared towards centralizing power, particularly in economic or security crises such as the recent global financial crisis or in war time. In other cases, internal and external political and economic factors including shrinking policy space under global neo-liberal policies have generated decentralization of power to states.

These issues have been addressed by:
- managing the diversities and inequalities arising from social, economic or political difference;
- mediating and resolving conflict and tensions caused by competing powers;
- establishing a balance in the relationship between different power centers or levels of government – this often requires review and re-alignment in tandem with specific developments.

A variety of instruments have been used to manage diversities, including, affirmative action through legal, fiscal or social measures and manage the balance of power between the levels of government. These have ranged from:

- recognizing special status for some regions,(states/ provinces) or communities in constitutions (India, Canada); entrenching protections such as equal representation of states (USA, EEC/ EU); weighted voting (EEC/EU)
- entrenching certain principles like equity and equality in treatment of constituent parts (states/ provinces) for example treating states equally in representation within federal legislative structures as opposed to simple representation by population [18] (USA, Germany, USSR, EEC). Most federations usually balance this with a second chamber with representation based on population;
- Enabling sub-national participation in decision-making thus, in some regional blocs there is provision for institutions or representation of regional views. The

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[18] Choudry; Common Features of Federations.

EU Committee of the Regions (CoR) is an assembly of local and regional representatives that aims at increasing the participation of sub-national authorities in EU integration by providing them with a direct voice within the EU's institutional framework.
- fiscal instruments involving federal financial disbursements or programs to weaker economic units viz., using fiscal federalism;

3.4   Social Cohesion Has To Be Built As A Foundation For Political Unity

A common regional identity has to be consciously built. Some federations have attempted to resolve identity and sovereignty issues through political processes and institutions (India, Canada). This is effect ive where the political institutions have authority and legitimacy. The success of interventions has depended on their legitimacy. Failure to ensure legitimacy and use of force often undercuts sustainability. [19] In states affected by ethnic or religious conflicts, there is need to have specific measures to create sustainable political entities to achieve viability and risk of disintegration and conflict if it is not done (USSR, Yugoslavia). Where there is significant diversity, positive dynamics in the political economy can pull the federation together (USA, Canada). In the USA a strong industrial economy and significant social mobility have been the base of the American identity that has been built on through mass media, film, sports and civic education especially in schools. The fast development of the service sector in Canada post-NAFTA has emerged as a catalyst of common identity as it has generated relative economic homogeneity leading to commonalities of interest, and contribu   ting to reduced separatist pull..

Many integrating blocks and federations have prioritized policy convergence at state level, use of fiscal instruments and regional policies to reduce disparities and foster organic links among citizens to promote a common identity (EU, Canada, India). EU Regional policies, funds (like the European Social Fund and European Regional Development Fund) and programs have been used to achieve the objective of building social cohesion and reducing regional economic disparities[20].

In CARICOM, Nigeria and the EU organic linkages are promoted through popular music, sports, culture and other 'soft' mediums; other examples are the West Indies Cricket Team in the Caribbean, Nigerian film industry, Europa Cup and European Pop music competition. These organic linkages in the EU are facilitated by free movement of persons and other factors of production.

3.5.   The Need for a Conflict Prevention, Management and Resolution Mechanism

Conflict is a normal feature of any community or state, including federations and regional blocs. It may be at inter-state level, in the relationship between state and citizens/ communities or a mix of both. Deficits in common identity, democracy and

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[19] Socialist Federal Republic of Yugoslavia, the-then Kingdom of Ethiopia (which included Eritrea), the Socialist Federal Republic of Czechoslovakia.

[20] The EU Regional funds include the Cohesion Fund, European Regional Development Fund (ERDF), European Social Fund (ESF), and the Solidarity Fund. Other instruments are the European Grouping of Territorial Cooperation (EGTC), the Instrument for Pre-Accession Assistance (IPA), and financial engineering (see official European website).

economic development are key drivers of conflict in federations. In all cases, mediating tensions has been most effective when carried out by credible federal institutions (USA, India). The absence of strong federal institutions has crippled successful interventions in federations where such a gap exists – for example, Canada's absence of strong federal legislature and regional political parties has constrained political solutions to fundamental federal questions and ultimately weakened the federation; whereas the credibility of its supreme court has made it an effective arbiter of federal disputes. The capacity for a both government and opposition political parties to act and organize across state boundaries is a critical factor in entrenching federalism or supranationality (India, USA, Germany).

Two features that have been identified as playing an important role in diffusing tensions in federations (or supranational entities like the EU) are having:
- Umpire or procedure (involving courts or referendums or an upper house) to rule on constitutional disputes between governments; and
- Processes and institutions for facilitating or conducting relations between governments [21].

Ultimately conflict has been best addressed through consolidation of good governance and democracy (Germany, USA), mandating federal institutions to resolve disputes (India) and to address the development needs of citizens, communities and states (USA) and developments in the political-economy supportive of social cohesion (Canada, USA, EEC/ EU).

3.6 The Importance of Building and Mandating Legitimate Regional Institutions

The ability of federal governments to make interventions depends on capacities - financial and otherwise. This is one of the implications of subsidiarity which requires decisions and action to be done at the most optimal level – each level (regional and state) therefore should be capacitated for its functional area. The sustainability and acceptability of supranational institutions depends on their legitimacy to the population, including key interest groups and relevance (*To what extent can they handle critical or topical concerns and developments? Are their decisions observed?*). Those countries that successfully managed challenges have done so due to existence of relevant federal institutions with legitimacy, requisite authority and sufficient power such as judicial review over issues of a federal nature (India, USA, Canada supreme or federal courts). The Indian judiciary's independence is a major pillar of federal democracy [22] and the Supreme Court has played a key role in mediating and balancing federal-state relations through judicial interpretation of the Constitution, [23] highlighting the critical contribution of judicial federalism in building the legitimacy of political federation.

Supranational and federal institutions broadly follow the contours of government, that is, executive, legislative and judicial with provision for separation of powers. The policy making and implementing organs require executive power relevant to the given

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[21] 21 Choudry, op. cit.

[22] Arora, Balveer: India's Experience With Federalism: Lessons Learnt and Unlearnt.

[23] For example in S.R. Bomai v. Union of India the court held "Democracy and federalism are essential features of our constitution and are part of its basic structure" .

goal or stage of development. Both India and Canada use structures involving periodic, regular meetings of the political heads of states/ provinces to achieve consensus, coordination, and convergence on policy issues. In India's experience, the limited authority of this forum has been linked to its lack of authority and centralization tendencies of the federal executive [24]. Many Federations also have unified federal services with responsibility for implementation of federal mandates, such as the All-India federal service in India, or the Directorates of the EU Commission.

Since evolution, change and competition in regional integration and federations are constants, an overarching lesson is on the need for periodic review to inform institution-building and ensure institution have sufficient authority and institutionalized capacities to meet new objectives and challenges. The EEC/ EU experience is instructive in demonstrating the need for transformation of mandates of institutions to give them the requisite capacities to manage the shift from one level of integration to another. As the EC has expanded or deepened its integration, systematic review and transformation of its institutions has been required. This has to be balanced with measures to ensure accountability to the public, in order to build legitimacy and relevance to the citizenry.

In conclusion, it is imperative to note that the experiences from other federations have limitations. The East African states have for close to half a century been subjects of International Law, unlike the USA, Canada and India, which emerged into federations from entities that lacked sovereignty. The trio did not face the challenges that are usually associated with countries which have been sovereign for many years and have charted diverse political avenues. Despite that limitation, the experiences of the three countries and others cited offer pertinent lessons on how to approach some of the sensitive issues associated with the integration process in East Africa.

Additionally, lessons learnt from the EAC's own experience of the failure of the defunct Community including the need for inclusive and participatory processes, should be a primary guide. For the EAC in particular, the integration process has been subjected to sensitization and consultations among the citizens, although this needs to be escalated. While the integration process is widely embraced, some fears and concerns have been raised and possible challenges identified.

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[24] Arora Baveer, *op. cit.*

CHAPTER IV: FEARS, CONCERNS AND CHALLENGES

4.1.   Analysis of Fears, Concerns and Challenges

Recent surveys have indicated that there is varied opinion between states and within Partner States regarding federation. While sizable majorities in some Partner States seem optimistic, in others there is more widespread apprehension. This study has not ranked any of the fears, concerns and challenges in terms of prevalence. The survey of literature shows variation in degree but similarity of views on most of the fears, concerns and challenges across the Community.

4.1.1 Fears, Concerns and Challenges identified from National Consultations Committees (NCCs) and earlier consultations

Fears, Concerns and Challenges identified during this study have been broadly categorized into political and legal, economic, and socio-cultural.

a) Political and Legal

One of the very first challenges against federation is the question of sovereignty and nationalism. The fear is manifested in a number of ways including; notions of loss of political power, loss of decision-making, and loss of flexibility in exercising powers at the national level. Questions were raised about how the federation would affect the foreign relations of partner states.

The fear that federation will further deprive them their sovereignty was already apparent in Zanzibar over its experience in the Tanzanian Union government. However, fears related to loss of sovereignty emerged as a factor in all country surveys. The fear is stated as one of losing their identity, status or privilege, and marginalization in decision-making with a larger state. Alternatively, it is stated in terms of the fear of losing security and defense force autonomy and identity. Yet other respondents raised the question of what obligations member states would have towards each other in the event of an invasion from another country.

In the final analysis, as evident from all federations there can be no federation without surrender of some sovereignty. This reality has neither been fully stated, internalized, nor adequately addressed.

A similarly recurrent concern made by East Africans is that no country should embark upon a journey without a clear understanding of the destination. It was frequently highlighted that no attempt has been made to set out clearly the type or model of federation for East Africa. Many raised the fear of abandoning what has been put together painfully over the decades (that is, the existing sovereign states) to an uncertain experiment.

The amount of power to be ceded to a new authority and what kind of entity will be the locus of such transferred power was also raised as a source of concern. While there is recognition of the need for a central decision making authority, there is no

unanimity on the idea of expanding the mandate and role of the Secretariat and other organs of the community.

It is observed by many respondents that East African Legislative Assembly members are not universally or democratically elected, and the relationship between EALA and National Parliaments is still unclear. Inaddition, some respondents feel that EAC is not adequately accountable to the citizens of EA. This is seen as alienating the people and therefore making them lose ownership of the integration and eventual federation process.

The experience of the collapse of the earlier EAC is still fresh in the minds of some people. Many respondents sought assurance that the pains of failure experienced with that collapse will not recur. Similarly, concerns were raised that no formulae exists for dividing assets and obligations in the event of failure. A desire has been expressed that we may need a kind of truth and reconciliation exercise on the first integration effort as a way of avoiding past pitfalls to regional unity.

In addition, divergent democracy and governance practices in Partner States have generated some concerns about how the federation will bridge the democratic deficit in some countries and uphold democratic principles. Some political parties within the member countries complain of limitations of participation at national level and fear becoming irrelevant in an expanded arena.

Although there is enthusiasm among some political parties about the opportunities the political federation may open up, others fear that a political federation would even constrain them further at the regional level. This fear is further augmented by the prospect that larger existing parties may enter alliances across the region and lock out prospects for the emergence of smaller parties from the partner states.

There is a discernible concern about the absence of shared political values. Our short political histories since independence have drifted us apart. Our countries have had very different experiences and obstacles to deal with. Some members are only now starting to recover from the disruptive politics of military dictatorships and the painful experience of ethnic conflicts. Each country in dealing with such challenges has created elements of a unique political culture. This diminishes collective identity across the borders, and could make it difficult to share a vision of long term political solidarity that is crucial to the creation of a political federation. There is a view that political federation will militate against such disruptions in the future.

There is the fear among the numerically smaller communities within the partner states of domination and marginalization by larger communities in the federation. If the leadership of the federated authority is going to be elected democratically, smaller communities see themselves as perpetual losers who can never marshal the numbers to win power in the face of competition from the larger communities.

Another fear is that negative practices prevalent in some countries may spread across the region. Nepotism, favoritism and corruption and abuse of power are vices that are feared may spread quickly. Some respondents consider themselves to have dealt with questions of impunity and ethnic hatred systematically over the recent past

in their countries or to have broadly won the war against corruption. They fear that the federation may expose their countries such vices, thus, reversing their gains.

Paradoxically, though East Africans have a long shared history, the Partner States not only have constitutional arrangements that are different from each other, but also, have in recent years, been engaged in reviews of their constitutions based on their separate and sometimes divergent internal concerns and aspirations. The possibility that a Political Federation might be established in the near future has not been part of the discourses recognized in those processes. Cases in point are the recent Constitutional review processes in Uganda and Kenya. Movement towards political federation requires reforms aimed at institutional and capacity convergence, yet it is clear that no country in the EAC is incorporating this principle in the political and legal reforms they have undertaken.

The different infrastructure for justice and the difference in the court systems in the partner states poses a challenge to integration. The level of development of the judiciary across the region being at different levels of could bring in questions of credibility and independence. The nature of jurisprudence, the caliber of judicial officers, the quality of litigation particularly in matters of commercial disputes is seen as very varied. Besides this, there are some concerns about the Rwandan and Burundian jurisprudence, based on the civil law system, which are perceived to be fundamentally different from the common law based system in the other EAC Partner States.

Concern was expressed about the poor implementation of regional decisions and policies already existing and also that actions continue to be taken in Partner States which are contrary to the provisions and spirit of integration. Examples are reports of Ugandan and Tanzanian authorities demanding that Barundi continue to pay for travel visas or by local defense personnel in Rwanda impeding travelers near the border. Also reports of Tanzanian expulsion of some people from partner states.[25].

b. Economic

The future of an integrated economy is at the heart of the debate on federation in East Africa. Concerns range from unequal access to opportunities, unequal development of entrepreneurship; the nature of access to resources spatially concentrated in some countries and implications of the right of establishment and residence. Form the foregoing; the economic field remains the core around which both hope and fear coalesce.

Questions about economic commitment to the community have been raised, low financial contributions being viewed as evidence of inadequate preparedness for deeper integration. It is pointed out that Partner States do not have a clear sustainable formula for funding community affairs. Reliance on donors for the most basic operations of the EAC is seen to threaten steps towards further integration with implications for long term sustainability and ownership of integration.

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[25] Since 1 st of April 2010 the Visa requirement has ceased.

The question of how the federation will be funded remains one of the key identified challenges. As the debate to move from equal contributions to proportionality goes on, the relatively bigger economies feel an imminent over-taxation. There were fears of federation diverting resources from domestic priority programmes and projects. Some people in countries with increasing budgetary allocation through devolved mechanisms raised concerns about the effect that the cost of financing federation may take funds away from such popular programmes. Similarly, fears have been expressed over the possibility that popular social programs like disease control and poverty reduction interventions, and development initiatives like *Ubudehe* in Rwanda may fall victim to new funding priorities that will come with federation.

The removal of customs duty on regional products was seen as a major threat to public revenue in countries which are net importers from their neighbors. Even the issue of how customs duties on imports from other parts of the world would be shared was stated as a source of future friction.

Fear was expressed that some countries carry heavy domestic and external debt portfolios which may be passed on to other countries in the community when federation comes. The absence of clear fiscal and monetary policy guidelines for the community may regionalize bad practices from some countries and fuel inflationary vulnerability, reduce competitiveness and reverse the confidence of investors.

Some countries are more lax than others in dealing with the proliferation of small arms, drug cartels and criminal elements in general. Federation, with its attendant ease of movement of persons, is seen as likely to spread cross-border crime and the weakening of security gains made in some of the countries. Such countries fear losing the basis of their attractiveness to investors and tourists.

Land rights and the right of establishment have raised fears among member countries. Land is an emotive factor that inspires fear of additional competition for land resources from citizens of other Partner States. The Common Market and eventual federation, particularly provisions relating to free movement of the factors of production cause substantial concerns particularly in Tanzania. To a lesser extent, the fear of others invading economic space could be discerned in a number of other countries in the community as well. The sense that more entrepreneurial experience, greater access to capital and a developed aggressiveness will advantage Ugandans and Kenyans over Tanzanians in the region was widespread in Tanzania.

The absence of shared benchmarks in natural resource conservation and/or sustainable use raises fears of abuse if the community integrates more without agreement on environmental management practices. Indeed, the fear that people from other countries will exploit natural resources without being sensitive to environmental needs like the locals was heightened.

A federated East Africa is felt to be only viable if there exist a transport and communications network that links it together. The poor infrastructure designed and anchored upon the colonial extractive economy cannot service closer integration. We cannot trade with each other when we cannot easily or cheaply reach each other.

The concern is that beyond rhetoric, inadequate performance has been shown in rolling out an integrative infrastructure as well as communication network.

The economies of the partner states are growing at different speeds. The fear among the faster growing economies is that poor performers will slow them down; defeating the very economic reason for federation. No formula has been presented to demonstrate ability to hasten the momentum of the slower performers.

The level of public awareness about the integration process remains low in much of East Africa. This has hindered East Africans from accessing information on the opportunities and enjoying the benefits accruing from integration. Related to this is a sense of contradiction in the declared pursuit of a people-centered integration yet one that is driven by market forces, which are mutually contradictory.

c) Socio- Cultural

Although East African countries have social and cultural ties emanating from pre-colonial times, the social and cultural life in the region is not homogeneous. Differences in post-colonial experience and varied national experiences have generated cross-border cultural stereotyping. Negative sentiments used loosely against others have negatively impacted on the environment for integration. Tanzanians, for instance, are concerned with what they see as the aggressive nature of their neighbors, especially Kenyans. Barundi have complained that Tanzanians pay only lip service to the promise of liberalizing the movement of people across their shared border. Kenyans of Cushitic (Somali) origin reported cold reception in virtually all the other community Partner States. Fear was expressed that integration into a larger federation would threaten cultural, traditional norms values and practices that are a key heritage for communities in the EAC countries.

Lack of harmony and of a common standard in the education systems in the region is seen as predisposing citizens of some countries to more successful exploitation of the regional employment opportunities than their neighbors. The fear is particularly of Kenyans and Ugandans over-running the regional labour market. Similarly, the more attractive working conditions and remuneration in some countries are feared to potentially cause a massive brain drain in the weaker economies.

In a debate via internet involving Tanzanians about the EAC and political federation has been reported that, "*most Tanzanians are afraid that their country risks being infected with ethnicity problems that characterize politics in Kenya, Uganda, Rwanda and Burundi* ."[26] Although the numbers of people involved in the debate is not big, it is nevertheless instructive to note that these sentiments exist.

There are also concerns that citizens of some partner states now dominate the labor market partly because of an advantage of speaking English.

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[26] The Sunday Standard, 5 November 2006, p. 25.

There are concerns among some Tanzanians that political federation will affect their close relationship with the former frontline states that are in the SADC especially Mozambique, Zambia, Namibia and Angola.

Some marginalized groups in partner states have been making some important progress in redressing historical injustices against them. There is fear that some of the gains made may be lost by federating with countries which are not as advanced in such affirmative action. Fear was expressed that the absence of gender-sensitive legislation and practices for the community may worsen the condition of women or other marginalized groups like persons with disability once the federation comes. There is fear that gains made in some countries may be reversed by the integration into an East Africa federation dominated by other countries which have not made similar progress on gender equity. In similar vein, the gains made by survivors of genocide in terms of understanding its gravity, are seen to be at risk of being lost when federating with those who have not shared such a traumatic experience.

The disparity in presence and strength of health and social security programmes within partner states raises fears among the countries most advanced that their gains may be compromised by federation.

4.1.2 Emerging Fears, Concerns and Challenges identified by the Team of Experts' Consultations

As far as Monetary Union is concerned, the creation of a single currency in the region is raising concerns among some partner states. Experts from Kenya and Uganda have already raised the alert over rushing to a single currency, urging EAC to delay the process. The two countries argued that the legal requirements of a full transfer of monetary sovereignty to the regional level carry the danger of exposing their countries' financial sectors to external shocks. [27] This came after preliminary findings of the International Monetary Fund: Rwandan and Ugandan banks are the weakest in the region registering low profits in 2009, warning that greater integration of the banking sector in East Africa will make the region vulnerable to crises if the more active regional banks are not supervised. [28]

The fears about monetary union have particularly been brought into sharp focus in the wake of the deficit crises in Greece, Spain and Portugal and how they are impacting on the economies of the Euro zone. Although this does not necessarily mean that a Monetary Union will disadvantage the region, it is important to be cautious about how Partner States can adjust their monetary policies to pave way for the single currency.

The tracking of mechanisms for monitoring, coordinating and implementing obligations under the Customs Union Protocol has been weak. This is seen as evidence of inadequate commitment at this primary level. Early experience with the 24 hour border opening programme has raised fears about contradictory implementation. While vehicles crossing from Uganda into Rwanda are now cleared in about 45 minutes for cargo and 30 minutes for buses, the gains are diminished

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[27] Kazooba, C. "Kenya, Uganda now want Monetary Union delayed," The East African, 24 January 2010
[28] Kazooba, C.,Ibid.

when the same vehicles reach the Burundi border which is still operating a daytime crossing regime.

The fear is that with such a deficit of goodwill and capacity at the customs union level, there may not be sufficient will and capacity to honor and manage obligations under the more demanding political federation.

Border communities interviewed expressed varied concerns about the implementation of programs already agreed. The communities around the Kenya-Tanzania, and Tanzania-Burundi borders felt that their freedom of movement and trade rights under the customs union is curtailed by Partner State officers manning the borders. People are skeptical about the rights promised under the Common Market as the precursor to the political federation.

During team visits to borders it was also established that there might be implementation challenges with liberalization of movement of goods and persons. Red tape still persists in the administration of paperwork. For example, while customs officers at the border crossings allow goods with proper paperwork to cross, relevant documents for Rwandan traders are available at the common border with Uganda, while traders from the Uganda side have to go to Kampala to get the same forms.

One of the areas of increased concern in recent times has been the security challenge. The massive arrival into, and transit through East Africa by nationals of Somalia and Ethiopia has raised new alarms over the security management and monitoring capacity. There is rise in small arms-related crimes in the region associated with the porous borders with neighboring countries with serious security challenges such as Somalia, DRC and South Sudan. Fears abound that greater integration may spread the problems originating from these countries to other countries in the EAC.

Poor management of electoral competitions in the recent past has dampened the optimism about regional stability and democratic consolidation that had started to gain root. The impasse among political parties in the run up to the 2010 elections in Burundi, and worse, the post-election violence following the disputed 2007 Kenya election caused some doubt as whether management of internal electoral competition has reached the level of maturity to allow for region-wide competition.

The emergence of politically-connected gangs as a social force also worries people from the region about the direction of change being experienced. The gangs reported to be active in Kenya such as Mungiki and Baghdad boys if not addressed pose a threat to a federation which is projected to be founded on the rule of law.

In addition to the general emerging concerns captured in the Main Report there were specific concerns expressed by Tanzanians during the recent country consultations are annexed hereto (Annex xx).

4.2. Extent to Which the FCC have been addressed

This section analyses the extent to which actions has been taken by the EAC and Partner states to address the FCCs about the political federation. It is notable that the majority of fears concerns and challenges upon examination are related to inadequate information and misinformation and to the process of implementation of the stages of integration preceding federation.

There are concerns about incoherence and inconsistency between Partner States' policies and practices on one hand and the regional integration agenda on the other hand, as well as FCCs about country-specific challenges which give rise to skepticism and mistrust. Some concerns also emanate from the historical experience of failure of the defunct Community and the fact that some factors that could have contributed to the collapse have been addressed.

Broadly, the set of fears that have been identified fall into institutional incoherence, varied levels of commitment to implement regional decisions and different levels of development of the Partner States, especially in matters of human resources and industrial productivity. Other fears derive from uncertainty about the unknown about regional integration generally or political federation in particular. With respect to EA Political Federation, the FCCs revolve around fear of the unknown and about the implications of a political federation as well as the anticipated challenges in implementation.

An examination of the activities of the EAC since the completion of the NCCs shows deliberate actions specifically targeting some FCCs expressed by East Africans. Various integration activities and measures dealing with earlier stages of integration have substantially   mitigated some of the FCCs.

Achieving a sustainable EAC political federation will largely depend on how successfully the preceding stages of integration, viz., the Customs Union, the Common Market and the Monetary Union, are implemented and harnessed.

The Team of experts also examined the concerns relating to progress made in other stages of integration.

EAC Customs Union

The implementation of the Customs Union has so far registered a number of benefits thereby reducing some fears. These include:
   a) Removing some Non-Tariff Barriers (NTBs)
   b) Gradual and asymmetrical removal of tariffs on goods originating from within Partner States thereby promoting intra-EAC trade;
   c) adoption and application of a uniform common external tariff (CET) facilitating tax collection;
   d) enactment of EAC Customs and Trade Act, EAC Competition Act and Establishment of a Directorate of Customs and Trade increasing coordination and monitoring of implementation of integration instruments and programs;
   e) Establishing one stop border post program thereby expediting clearing processes for goods and persons at the borders;
   f) Operationalising the regional and national NTB commities

g) Awareness creation and sharing of information among stakeholders on the opportunities that exist within the integration process. The EAC publicity programme targeting policy makers, professional associations, political parties, ordinary citizens through outreach programmes, media programmes.

The EACCU has benefited the EAC Partner States. In addition, specific beneficiaries within the EAC partner states have included consumers, traders, some manufacturers, service providers related to trade (such as clearing and forwarding), some border communities and tax authorities, resulting in increased confidence in the integration agenda in these sectors.

EAC Common Market
A number of the economic Fears, Concerns and Challenges raised during the various surveys have broadly been related to the progression to a common market. Some measures have been taken by the Partner States and the EAC Secretariat in streamlining the progress to and the launch of the Common Market Protocol.

Even before the conclusion of the Common Market Protocol, the Partner States had taken action to ease movement of persons, services and capital in the Community. Such include:
   a) Use of the EAC Passport and the temporary travel document;
   b) The six month visa-free entry for East Africans to Partner States;
   c) Establishment of counters for EAC citizens in the airports;
   d) Nurturing a more positive attitude among immigration authorities towards East African travelers;
   e) Waiver of student visa fees in all partner states for East Africans, thereby easing access to educational opportunities in the region.
   f) Rwanda and Kenya have lifted and Uganda has reduced restrictions on work permits for EAC citizens.

Where fears have remained, the operationalisation and effective implementation of (the promises and obligations under) the Common Market Protocol will go a long way in alleviating those fears.

It is noteworthy that the negotiations of the Common Market Protocol:
   a) promoted confidence and as a result, the negotiations took the shortest time compared to experiences in other regions that have undertaken similar exercises;
   b) many contentious issues were resolved by application of the principal of pragmatism and gradualism which is provided for in the Treaty by allowing some aspects of the Customs Union and the Common Market Protocols to be implemented progressively;
   c) the management of FCCs related to rights and freedoms such as the right of residence, access to land and employment opportunities, have been dealt with by applying the principles in (b) above.

The implementation of the Common Market Protocol will further lead to:
   a) increased freedom in movement of goods, persons, labor, services and capital and Rights of Establishment and Residence; and

b) Removal of undue bureaucracy on the issuance of work permits, including setting time limits within which such permits should be approved;

The social mobility and access to opportunities of market integration should facilitate organic linkages and thus, social cohesion among East Africans and contribute to increased confidence and stake in the Community.

EAC Monetary Union

Progress has been made in initiatives towards harmonization of fiscal and monetary affairs. There is improved macro-economic policy synchronization and coordination, especially the fiscal regimes through initiatives like the close cooperation by Governors of the Partner States' Central Banks, institutionalization of the pre-Budget meetings and the regular consultations on tariff and taxation measures in the Budgets, the reading of the national Budgets on the same day, cross-listing of shares at the stock exchange market and currency convertibility. However, most of the activities and initiatives are not known to the public and other stakeholders outside the relevant sector. In addition, the extending of the Uganda list of sensitive products by the Ministers of Finance and subsequent approval by the Council of the Uganda list, therebyreversing the commitments in the run up to the Monetary Union.

Other Activities

There are also other programs of EAC not necessarily under the Customs Union, Common Market and Market Union. For example, joint management and utilization of Lake Victoria as a common resource through the Lake Victoria Basin Commission and the Lake Victoria Fisheries Organization are among measures adopted to ensure sustainable natural resource use.

Other undertakings include:

- Activities aimed at implementing the Regional Strategy on Peace and Security. For example, cooperation and common initiatives to curb criminality and movement of criminal gangs within the region by security agencies through common patrols, operations, surveillance and sharing of intelligence. In addition confidence has been built among the armed forces, enabling consultation on security threats within the region.

- An instrument to provide for legal mutual assistance in cases of needs for extradition of criminals is under development.

- There is demonstrated commitment to adherence to the fundamental principles of good governance, democracy and protection of human rights as prerequisites to successful integration and development.The process is underway to harmonize and develop common regional benchmarks, standards and institutional frameworks to fight corruption, protect human rights,enhance ethics and integrity, and promote the rule of law and constitutionalism.

- There is a deliberate effort to involve and consult with a wide range of stakeholders including political parties, civil society, media, legislators and oversight institutions to improve accountability, responsibility and promote the EAC principles of people centredness. The regional forum for good

governance institutions has created space for sharing, challenging, learning and supporting each other to promote good governance.

- Joint articulation of common positions at international fora, joint fronting of EAC candidatures and joint approach to negotiations with third parties (such as on the EU Economic Partnership Agreements (EPAs) and in the World Trade Organization (WTO));

- Marketing the Community as a single tourist and investment destination and;

- Development and/or implementation of EAC infrastructure Master Plans and mapping key transport corridors; Power Master Plans, EAC Railways Master Plan, roll out of the fibre-optic cable linking all the EAC countries and hooking them into the international broadband infrastructure, easing electronic and telephone communication in the common market.

Activities aimed at providing a platform for institutions and professional associations to effectively participate in the integration process continued to be undertaken. Such interventions have the   effect of reducing fears among East Africans. These measures have contributed to the significant increase in region-wide activities by non-state actors that are building a sense of ' *East Africanness'* in some circles, with some initiatives taking place independently of the EAC. The examples of such actors include universities, local governments associations, and political parties, private sector bodies like the East African Business Council, non-governmental organizations and professional bodies like the East African Law Society. Activities include formation of regional associations, establishment of regional platforms to lobby for improved contribution to policy formulation and access to benefits of integration, establishment of regional standards, and so on. The EAC has played a role in creating an enabling environment by sensitization, facilitating linkages and recognizing observer status for some groups.

Additional measures, however, need to be employed to further address the fears, concerns and challenges more effectively. Such measures will go a long way to build on the efforts being deployed in the various areas of cooperation, with a view to locking in the gains already attained in the integration process as discussed in Chapter 5.

The success of the stages preceding political federation and of any additional measures to address fears, concerns and challenges about political federation is dependant on consolidation of the pillars of each stage and creation of an appropriate regional economic and social infrastructure. Ultimately, the success of regional integration, and the confidence of East Africans in it is premised on its ability to deliver development and meaningful change in quality of life for East Africans in the social, economic and political spheres.

CHAPTER 5: STRENGTHENING THE PILLARS OF POLITICAL

FEDERATION

This section highlights the pillars of political federation and analyzes the importance of consolidating each pillar as a basis to achieve East African political federation, to build confidence about it and to attain the overall goal of integration, which is social, economic and political development.

5.1 Pillars of Political Federation

The pillars of political federation are informed by the objectives of the Community as enshrined in Article 5 and also the provisions of Chapter 23 (Article 123, 124, 125) of the Treaty. ***Article*** *5* of the EAC Treaty stipulates that the objectives of the Community shall be to develop policies and programmes aimed at widening and deepening co-operation among the Partner States in political, economic, social and cultural fields, research and technology, defence, security as well as legal and judicial affairs for their mutual benefit. Chapter 23 provides for the development and pursuit of good governance, foreign, security and defence policies.

In order to realize the goals set out in Chapter 23 of the Treaty, the EAC, in the development strategy outlined the key pillars of EAC integration as follows [29]:

- Cooperation in political matters;

- Safeguarding the common values, fundamental interests and independence of the Community;

- Development and consolidation of democracy, the rule of law, human rights and fundamental freedoms;

- Peaceful resolution of disputes and conflicts between and within Partner States;

- Establishment of common foreign policy;

- Promotion of good neighborliness as a basis for promoting peace, security and stability within the Community; and

- Development of policies to promote cooperation in matters of common defence.

The EAC Development Strategy 2006-2010 has also outlined key pillars of EAC integration as follows [30]:

- Cooperation in political matters, defense and security;

- Completion of implementation of the Customs Union Protocol;

- Establishment of the East African Common Market;

EAC Development Strategy, 2006-2010, p.32-36
EAC Development Strategy, 2006-2010, p.32-36

- Laying foundation of the East African Monetary Union;

- Laying foundation for establishing East African Federation.

The same policy document outlines institutional capacity development of organs and institutions of the Community. [31] It is therefore rightly noted that the fundamental strategy to achieve political integration will be first and foremost to succeed in the implementation of the fundamental stages of integration. Each requires establishment of an appropriate policy and institutional framework including measures to facilitate the requisite social, economic and political basis of each fundamental stage. Most particularly, the successful implementation and development of the Common market will have an accelerating effect as it will strengthen the pillars of political federation by building a strong foundation for integration.

The specific pillars that will strengthen the process towards East African Political Federation are as follows: -

5.1.1 Good Governance

The broad areas covered by the EAC programme on good governance include combating corruption and enhancing ethics and integrity, protection and promotion of human rights and access to justice, democracy and democratisation processes, constitutionalism and rule of law, and conflict prevention.

Good governance and democracy have cause and effect implications for peace, stability and development of the region. With in the context of Article 6 of the Treaty and pursuant to the Council Decision, the Protocol on Combating Corruption has been negotiated and is in the final stages of its conclusion. Equally, the development of the Protocol on Good Governance, intended to entrench democracy, the rule of law, accountability, transparency, social justice, equal opportunities, and gender equality is undergoing stakeholders' consultations.

Some of the milestones under this area include the following:

a) Democratisation and electoral processes

Noting that elections are a key factor in democratisation, the Council established the EAC Forum of Electoral Commissions within the structures of the Community. The main purpose of this forum is to enable national Electoral Commissions have a platform for sharing experiences, challenges and best practices in conducting democratic, free, fair and credible elections in the Partner States. EAC has developed an Elections Observation, Monitoring and Evaluation Manual and is developing a mechanism for sharing of electoral materials as well as discussing issues related to financing and the cost of elections.

The Partner States are engaged in activities to promote political convergence. To this end, the EAC Secretariat has facilitated meetings of all political parties at the Partner States level with a view of culminating into a regional Forum that will promote exchange of ideas among political parties to allow for the gradual creation of parties

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Idem, p. 48-52

with ideological convergence and regional agenda. It is expected that political parties will sustain consultation at regional level as a way of enhancing their participation in EAC affairs and dispel the fears that some may be sidelined in the integration process.

b) Promotion of Human Rights, rule of law and access to justice

In order to enhance harmonisation of protection and promotion of human rights, the EAC has developed a draft EAC Bill of Rights. Once enacted, it will ensure that the Partner States advance in the recognition, promotion and protection of human and people's rights in accordance with the provisions of the African Charter on Human and Peoples' Rights. It also examines national constitutions and other international instruments with the ultimate aim of standardising and adopting of best practices.

The stakeholders under the sector of rule of law and access to justice have been meeting regularly and among other key recommendations to the Council, they recommended that alternative dispute resolution mechanisms be recognized in the EAC judicial systems.

5 .2 PROGRESS IN LAYING THE FOUNDATION FOR POLITICAL FEDERATION

All EAC Partner States have embraced democracy through the holding of regular elections and it is encouraging to note the increasing participation of political players in the electoral processes. However, this is not fully matched by expected standards and quality of electoral processes and climate, evidenced by the low rate of acceptance of electoral results. There is need to nurture the culture of democracy, and embracing electoral competition in a mature, consensual and non-adversarial spirit. There is need to expedite the conclusion of the EAC Elections Monitoring, Observation, and Evaluation Manual.

The Partner States have made progress towards providing the basic human needs to their people. However, the full enjoyment of human rights requires that the citizens have socio-economic. There is need for the EAC to invest more in people's welfare. The promotion and quest for observing human rights by governments should also go hand in hand with the mobilization of the people to meet their responsibilities. Enhancing the protection of human rights will strengthen peoples' commitment and interest in the Community.

While all Partner States espouse prevention of corruption and have made progress in establishing anti-corruption institutions, policies and laws, the follow-through on enforcement of legislation is sometimes held back by internal and external challenges, thereby making corruption a significant threat to the good governance in most of the Partner States in the region. Partner States should therefore widen the multi-stakeholder involvement and political commitment to effectively combat corruption.

Implementation of certain key regional decisions on the good governance pillars will require policy changes or law reform in Partner States. It is worth noting that in some cases, Partner States have caused delays in policy formulation and enactment of

laws. There is need for the Community, and particularly theSummit and Council to adopt mechanisms for benchmaking implementation of agreed upon policies. Delayed implementation of decisions impacts negatively on the pace of integration and undermines confidence in improved political standards in the political federation. Positive national - level changes in this pillar will create new driversand stakeholders among political actors and citizens and will demonstrate further thebenefits of political integration.

Common Foreign and Security Policies

The Partner States have taken steps towards convergence of foreign and security policies. The Treaty requires the conclusion of common foreign and security policies. However, the Partner States have chosen to coordinate rather than integrate their foreign policies contrary to the Treaty provision.

The upgrading of the Memorandum of Understanding on Foreign Policy Coordination into a Protocol is in its final stages. The Draft Protocol still provides for cooperation in diplomatic activities, multilateral cooperation and capacity building for the pursuit of the Partner States' foreign policy objectives. There is need to move fast towards fulfilling the commitments under the Treaty.

Providing a peaceful, secure and stable environment is an imperative for EAC integration given the Eastern Africa region is conflict-prone. A number of regional policies and instruments have so far been undertaken to implement coordination of security matters[32]. However, these fall short of the commitment to have common security policies and may not effectively position the EAC to collectively and strategically address the significant conflict challenges as a region.

Partner States should develop a common strategy on the management of natural and water resources, such as River Nile and Lake Victoria, securing the western Indian Ocean and developing a common defense for the Great Lakes Region and the Horn of Africa. The strategy should take cognizance of the porous border and instability in the countries bordering East African countries. Developing a common security policy would enable the region to define its collective, strategic security threats and interests as well as institutionalize its responsive security strategy.

5.3 *Consolidating Existing Gains*

Regional integration has multiple dimensions that are interlinked. Consolidating the existing gains of EAC integration must put into consideration its holistic nature covering the economic, social, cultural, political and legal aspects and examine how they influence or affect each other is desirable. Economic integration cannot

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[32] These include the Regional Strategy on Peace and Security and the Protocol on combating illicit drugs which have been adopted. The Draft Protocol on Peace and Security is under consideration. A framework on Conflict Prevention, Management and Resolution is being developed. Within the framework of the MOU on Cooperation in Defence, the defence forces have carried out several joint military exercises and training sessions. The process for upgrading the MOU on Cooperation in Defense into a Protocol to provide for wider common defense mechanisms is ongoing.

generate the gains if the political aspects remain unaddressed. Key aspects that need to be focused on have been identified and categorized.

5.3.1 Economic

The process of integration can only be nurtured by tangible economic benefits accruing to the people and all the Partner States of the EAC. Having in mind the reasons for the collapse of the former Community, there is need for a mechanism to guide equitable distribution of benefits accruing from the integration stages.

Though benefits exist, they are not evident to people because of lack of information, and sometimes inaccessible due to lack of skills and capacity to exploit the opportunities. It is imperative upon the Partner States to guide their citizens and build their competencies to access opportunities and benefits of market integration.

There is need to address obstacles that undermine the Customs Union, such as intractability of non-tariff barriers (NTBs). Programs on border management to facilitate movement of people, goods and services, for example, one-stop-border post, should be prioritized, funded and fully rolled out. Decisions made in relation thereto should be timely communicated to implementers and stakeholders.

In addition, there is need for measures to increase competitiveness of Partner States' economies for regional trade either through individual Partner State initiative, or preferably, as regional policy (as in other Regional Economic Communities like the EU[33]). The Customs Union basis being trade in goods, there is need to systematically develop Partner States comparative productivity through Public-Private partnership in sectors in which each state has competitive advantage, targeting and positioning a range of economic actors to access the benefits of the Community.

A functional common market requires five key fundamentals, namely energy, infrastructure, telecommunication, highly trained and skilled human resources, and industry. The existing huge potential of the region in these areas is significantly underdeveloped and requires massive investment to harness. Funding of the development plans must become a priority with more funds allocated to develop these five key areas.

Though preparations for implementation of the Common Market Protocol are ongoing, there is need to expedite policy formulation and law reform at national level to conform to the identified regional priorities. Partner states should re-focus their national development plans and budgets to areas in which their citizens will need to be competitive to take advantage of the EACCM.

Sustainable integration is premised on a sound funding mechanism. As a way of owning the integration process, Partner States should explore alternative methods of financing the integration activities, to reduce and eventually remove dependence on donor funding.

5.3.2 Socio-cultural

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[33] Through funds and programs like the ESF and ERDF, referred to in Chapter 3.

Though some measures are being undertaken, there is need for deliberate initiatives to promote social cohesion. The objective should be to build a common East African identity and engender the spirit of ' *East African-ness'* while harnessing the cultural diversity of the region. This will promote ownership of the Community by the people, important for sustainability.

Secondly, deliberate efforts aimed at creating a competitive human resource base for East Africa on the global arena should be undertaken by investing in human resources and adapting the workforce through training, skills development and education in strategic fields and sectors.

5.3.3 Political

Political integration is a much deeper form of integration which will require deliberate policies and instruments as well as substantive transformation of institutions and mandates. This has to happen at regional and Partner State levels; it involves a substantial entrenchment of the supranationality principle. In essence, the Partner States will need to understand that for political integration to succeed, they should be prepared to cede some of their powers to the Community.It is essential that the EAC harnesses the existing political will at the highest level to support this transformation.

While each country continues to have their own national priorities, the reality is that as integration deepens Partner States will have to re-align some of their national interests to the regional agenda so as to avoid constraining progress. There is need to continue with efforts around convergence in the various sectors and building regional standards for the pillars of political federation. On good governance, there is need for development of regional benchmarks, including adopting best practices from within the region. This will be facilitated by harmonization of the legal or institutional frameworks to bring convergence of Partner State practices. In doing this, there is need for multi-stakeholder engagement by establishing regional fora for key players and facilitate special teams to champion and monitor good governance in the various components [34]: constitutionalism and rule of law; human rights and access to justice; anti-corruption; democracy and democratization, including harmonization of electoral calendars.

Regarding the foreign policy pillar, efforts should focus on adopting a common foreign policy rather than foreign policy coordination, in accordance with the Treaty commitment. This should provide a more solid foundation for the joint pursuit of the Community's strategic external geopolitical objectives.

On the defence pillar, the strategies proposed under section 5.2 are pertinent to consolidating gains. Additionally, the establishment of an EAC brigade would go a long way in institutionalizing regional standards in this field and preserving the region's territorial integrity.

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[34] Critical civil society actors in this regard include political parties, researchers and academia, media, professional associations, non-governmental organizations and faith-based organizations.

To support EAC's vision of peaceful, secure and politically unite4d East Africa, the joint programmes to promote interstate security should be consolidated to prote4ct our porous borders and deal with cross border crimes and support the conflict prevention, management and resolution inst rument that is being developed at the EAC. in this regard, the inter-connectedness between conflict and governance issues needs to be highlighted.

5.3.4 Institutional Reforms

Attaining the EAC political federation must be preceded by institutional reformS and capacity building with two objectives, namely, to promote convergence among Partner States governance institutions and to transform Community institutions and mandates.

For the Community to deliver on expectat ions and meet new c hallenges that will emerge with deeper integration there is need to give executive powers to the Secretariat and also to enhance oversight powers of the Council. There is need to extend the jurisdiction of the EACJ to enable it to review Treaty implementation. Adjudicating and resolving disputes of a federal nature involving both state and non-state actors is a critical factor in resolving disputes that can undermine regional cohesion. Changes are required to enhance the legislative, representative and oversight roles of EALA, to become a more effective bridge between the Community and its citizens. The linkage with the national parliaments should be strengthened and institutionalized.

Establishment of ministries responsible for EAC affairs has created a national institutional framework to coordinate and monitor the implementation of the EAC integration. However, involvement of other ministries, departments and agencies has not been satisfactory. The capacity of the EAC ministries needs to be enhanced to be able to monitor implementation at national level to coordinate the integration process and related activities.

Decision making by quorum and consensus of all Partner States was more relevant in the initial stages of the Community to build confidence. A more practical and less bureaucratic decision making mechanism based on voting is now crucial. In addition, in the spirit of people-centredness, deliberate measures to establish an enabling environment for participation of local authorities, that is governmental actors below Partner State level[35] as well as non-state actors[36] in decision making and implementation of regional programmes should be established.

Statistical data is vital to facilitate decision making and allocation of resources. Therefore, there is need for targeted studies to systematically collect well researched and analysed empirical evidence on key issues to inform policy making to avoid

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[35] Examples of EU structures are the Committee of the Regions (CoR) and the European Grouping for Territorial Cooperation (EGTC) ref. Chapter Three.
[36] Involvement of non-state actors is facilitated by the Treaty provision for their observer status, however, an institutional mechanism has been proposed by the EAC and needs to be set up. Its effectiveness will depend on its legitimacy, relevance and accountability to East Africans.

critical decisions to be made on the basis of perceptions [37] Issues to research include existing political, social and economic asymmetries among the five Partner States to support policy formulation to facilitate convergence, and each new stage of integration including appropriate policies and institutional mechanisms required.

The corporate communication policy and strategy is due to be completed and should be implemented to ensure dissemination of information to and from all segments of East Africans. The EAC Ministries in Partner States have equally launched awareness creation initiatives at Partner State levels and this should be strengthened and well coordinated.

In conclusion,

From the foregoing, the Team of Experts made broad observations and analysis based on the existing as well as the envisaged policies and instruments to drive the integration process to its intended end. The Team recommended on the means of getting the EAC where it requires to go.

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[37] Thomas Nzioki Kibua and Arne Tostensen: Fast-t   racking East African Integration: Assessing the Feasibility of a Political Federation by 2010.

CHAPTER VI: RECOMMENDATIONS

The purpose of this chapter is to make proposals on strategies and policies that are likely to address fears, concerns and challenges identified in our work, thus unlocking the process and entrenching trust, common vision and solidarity among East African Partner States and Citizens, which are necessary conditions for a healthy political integration. They are structured around three areas: Appropriate policies; Institutional Arrangements and Institutional Capacity Building.

6.1 Appropriate Policies

6.1.1 Adoption of the type of political integration for East Africa

Partner States need to determine the type of political integration they want to adopt. Three options, among others, may be considered. The choice of option has to be informed by the extent to, and speed at which the member states are ready to cede certain powers to the new regional authority. These are:
   i.   A direct entry into a political federation;
   ii. A gradual entry into a con-federation with the possibility of entering into a political federation in future;
   iii. A political union via an incremental integration process akin to the European Union through the Customs Union, Common Market, Monetary Union with the Political Federation left open.

In this regard, the decision making organs of the Community should look into the most suitable option for the EAC and take further actions towards its feasibility and implementation plan. Hence, the Summit may also direct that a study be undertaken to examine the options so as to guide the decision on the type of the East African Political federation in line with the provisions of Article 123 (7) of the Treaty.

6.1.2. Effective Implementation Of Fundamental Stages Of

Integration

An analysis of challenges and concerns about political federation identified in different studies and surveys show that most fears, concerns and challenges are related to Customs Union and Common Market. Consequently, the most important interventions in dealing with these fears and concerns will be to adequately and appropriately implement obligations and undertakings under the respective protocols for the Customs Union and Common Market. It is anticipated that effective implementation of the provisions of the   Common Market will bring tangible benefits and therefore reduce the fears, enhance confidence and increase the East African citizens' stake in integration. Mechanisms must be put in place to ensure time bound implementation of commitments and measurable monitoring of performance.

There is also a need to appreciate the concerns and fears that some partner states have raised, based on their respective internal contexts. This informed the consensus

approach on deliberating matters of regional integration. Nevertheless, where this is not tenable, the principle of variable geometry should be applied to enable Partner States to deepen integration at different speeds. It is also noteworthy that this report recommends shifting from decision making by consensus to voting.

6.2.3 Addressing Geostrategic Imperatives Of The East African

Community

The establishment of a political federation requires agreement and taking a common position by the Partner States on critical issues with regard to the external world and geo-strategic interests of the Community. Fostering common vision on shared strategic interests will consolidate political integration and drive the EAC into a coherent geopolitical block. This particular element is extremely essential as it brings in a new perspective, beyond economic integration, thus adding value to the necessity of political integration. In this regard, mechanisms should be established at EAC level to reduce differences at international fora by adopting a common foreign as envisaged under the Treaty and not mere coordination of different foreign policies.

Some of the geostrategic imperatives for the EAC that need to be focused on jointly/regionally include:

i. **The political economy of the Nile, L. Victoria and other water bodies**.

    The importance of water as a natural resource and corresponding threats that its management may pose to individual East African Community Member States if they do not deal with it jointly cannot be overemphasized. There is therefore a need to jointly manage this strategic resource and address issues related to preservation and protection as well as equitability..

ii. **The shared security interests on the western part of the Indian Ocean**;

    Given the growing threats of terrorism, piracy, trafficking and other illegal activities on the Indian Ocean, there is need to protect trade and security in the region, the East African Community Member States need to critically address this phenomenon.

iii. **Regional Common Security and Foreign Policy;**

    There is need for the East African Community to develop appropriate regional Common security and foreign policies, taking into account the prevalence of conflicts in the region and neighbouring countries and their impact on our own stability.

6.1.4. Fostering Good Governance and Human Security

Standards in East Africa

In order to attain a sustainable political federation, it is important that Partner States observe fundamental principles of good governance and democracy. In this regard, Partner States should develop and enforce minimum measurable governance standards as a way of making the region internally coherent and strategically relevant. The work underway at the EAC secretariat to develop a protocol on governance lays a foundation for such standards and should be supported.

Those measurable standards would be developed in the following areas, among others:

a. Rid the region of the culture of impunity;
b. Ensure upholding of the rule of law;
c. Ensure protection of citizens' rights ;
d. Fostering democracy and political pluralism; and
e. Widening human security including the fight against criminality, illicit use of Small Arms and Light Weapons (SALW), and environmental degradation;
f. Fighting corruption and promoting public sector ethics and integrity.

6.1.5 . Rationalization of the time frame for achieving and sequencing different stages of integration

The EAC Partner States should harness the spirit of gradualism and pragmatism in the drive towards political integration by prioritizing and sequencing the steps, that will a form a firm foundation including:-

i. Consolidation of the Customs Union and its Protocol;
ii. Laying strong grounds for the Common Market and its implementation;
iii. Laying strong political grounds for EAC geopolitical block;
iv. Strengthening cooperation amongst Partner States' financial authorities;
v. Establishing the Monetary Union;
vi. Negotiating the framework Treaty for the East African Federation and drafting of the Federal Constitution; and
vii. Establishing the East African Political Federation.

This approach will have the advantage of building trust and confidence, enabling the people to appraise and reap benefits of success. A well-sequenced approach will itself inform the paradigm shift towards regional integration by stimulating East African regional cohesion and removing fears in the"coming together" process.

The decision making organs should define time bound targets and periodically evaluate progress made. This may be guided by a study that would include rational timeframes and suitable sequencing of different phases.

6.1.6 . Enhanced participation and people - centred regional programs.

It is critical to promote ownership, by the people of East Africa, of the EAC integration and the processes towards the ultimate goal of political federation. There should be continuous sensitization to enhance peoples' awareness and understanding about the various stages of integration including the benefits and opportunities that accrue at each stage. This will build mutual trust and social integration amongst citizens of East Africa, geared towards removing "cross border fears" amongst EAC citizens and promotion of the East African identity and so lidarity. Furthermore, the sensitisation and awareness efforts should be combined with tangible developmental programmes in the EAC cross border zones. This will make cross border communities feel and live as true beneficiaries rather than losers of integration and will pave the way for a stronger social cohesionamong the people of EAC Partner States.

6.1.7. Institutionalization of performance contracts and the culture of accountability

The timely and adequate implementation of agreed agenda in the process of integration is a key towards the consolidation of achievements. It is also an ingredient to better service delivery and accountability.

6.1.8 . Institutionalisation of East African socio-cultural activities

Unity in diversity is an imperative for the East African Community integration. Identity related issues have been expressed in almost all Partner States, mainly related to perceived loss of cultural and linguistic values as a consequence of integration.

Socio-cultural festivals would promote unity in diversity among EAC citizens. Through cultural expression, communities of East Africa will better know one another and this will cultivate the culture of appreciating what is in the culture of the "out-groups/communities". Removing cultural fears by promoting community linkages among East Africans could be achieved by promoting cultural activities such as traditional dance festivals, galas; EAC competition on art, drama, artefacts and sports.

The setting up of regional sports teams in various fields (cricket, basket ball, athletics, soccer, and so on) would enhance the sense of belonging and common identity.

In embracing both approaches, by accommodating diversity on one hand and forging unity on the other, the East African Community will be paving the way for unity in diversity.

6.2   *Institutional Arrangements*

In order to give the requisite capacities to steer the qualitative shift from one level of integration to another, there is need to strengthen the East African Community organs and institutions by reviewing their mandates accordingly with a view to making them more responsive to the demands for an effective integration.

Particular focus should be given to the East African Community Secretariat, East African Legislative Assembly, East African Court of Justice and to the Ministries responsible for East African Community Affairs in Partner States.

6.2.1   Empowering the East African Community Secretariat

In order to ensure consolidation of integration benefits so far, the East African Community Secretariat should be empowered to have executive powers.

This transformation would bring the following advantages:

a) Effective implementation of regional development programs would make the Community more attractive to the people;

b) Exercise of shared sovereignty by the empowered Secretariat especially in the developmental fields, would constitute a useful step and confidence building mechanism in fostering a culture of progressive pooling of sovereignty amongst Partner States.

6.2.2 . Strengthening East African Legislative Assembly (EALA)

EALA has the role of representation, oversight and legislation. Assembly members are currently elected by national Parliaments which does not effectively reflect on their representation function, legitimacy and their oversight role. This could be addressed by electing EALA members directly and by reviewing their mandate to make EALA a regional Parliament.

6.2.3. Strengthen East African Court of Justice (EACJ)

As East African integration evolves, there will be need for a judicial organ with authority to adjudicate disputes arising out of the integration process. The EAC will need to extend the jurisdiction of the Court to handle all disputes arising out of integration, in effect transform it into a regional supreme court.

6.2.4. Establish an East African Advisory Body to promote

regional cohesion

An East African advisory body composed of eminent East Africans would play a role to champion and popularize EAC; and recommend solutions to identified challenges to regional cohesion on a continuous basis.

6.2.5. Strengthening Institutions supporting regional convergence of political systems and political integration

Political integration has a number of key players that have a stake in shaping the governance processes that reinforce accountability and democracy in any region. These include political parties, electoral bodies, civil society organizations, media, research institutions and think tanks. There is need to strengthen functional networks and alliances of such actors beyond national borders and limit in their influence on the integration process largely because of lack of institutional arrangements for doing so. The ongoing efforts to create a political federation in East Africa may thus encounter difficulties if these actors do not take centre stage in the process. In this regard, it is recommended that regional mechanisms be established to nurture the participation, ownership and cross linkages in the region. This will promote convergence and standardization of political systems and political culture in East African Community.

6.2.6. Establishment of a regional mechanism to drive regional development and infrastructure

A regional development mechanism to coordinate and spearhead development programmes such as energy, industry infrastructure, ICT and joint investments,

including cross-border undertakings is essential. This mechanism will complement and coordinate with the East African Development Bank, the East African Business Council, including other private sector groups. For better results, it will also link and partner with institutions having the development of the human resources as their mission and those include but not limited to the Inter University Council for East Africa and the Science and Technology Commission.

6.3   Strengthening Institutional Capacities

6.3.1. Enhance Financial Autonomy of EAC

There is need for Partner States to fully own and safeguard the East African Community integration agenda by increasing their financial commitments to Community programs and projects and reducing donor dependence. The process of finding alternative domestic sources for financing EAC integration should be expedited. The mobilization of external resources should continue only to supplement internal efforts in executing EAC strategic objectives In addition, there is need to strengthen the internal capacities of the EAC organs in order to guarantee effective use of available resources.

6.3.2. Strengthening East African Development Bank (EADB)

The EADB should be developed into a lead investment financing institution in the Community to support the urgent need for development financing for both public and private sectors. Therefore, the EADB needs to be restructured to be fully owned by EAC and recapitalized to play that important role.

6.3.3. Enhancing Inter University Council of East Africa (IUCEA) Capacities and Programmes

Science technology and research are important for the advancement of economic development and and consolidation of EAC integration. Therefore, there is need to enhance cooperation and capacity of tertiary institutions to re-focus their work on coordinated and development oriented research and technology. The IUCEA should therefore, coordinate the process of harmonization and standardization of university education and tertiary institutions. This will guide targeted programmes on skills development in the region and facilitate meaningful free movement of labour and services. Thus, IUCEA should also consider facilitating exchange programmes for students and lecturers across Partner States tertiary institutions.

6.3.4. Establishing and operationalising East African Science and Technology Commission

This Commission has been proposed as an EAC Institution to promote innovation but has not yet been established. There is urgent need to put in place modalities for its establishment and operationalization.

6.3.5. Strengthen the coordination capacities of the Ministries responsible for spearheading the integration process.

The operations of the Ministries responsible for spearheading the process of East African integration need to be coordinated to ensure complementarity in their day-to-day activities. In particular, the five Ministries responsible for EAC Affairs should be empowered to coordinate national and regional planning, programming and implementing activities of the Community.

The Ministries should play a key role to ensure that border law enforcement officers should be encouraged to implement the provisions of the Customs Union and the Common Market. In addition, there is need for the Ministries responsible for immigration, customs, and internal security, among others, to inform and train their officials on the new status and impact on their work, and the beneficiaries thereof.

CONCLUSION

It is generally accepted that understanding the establishment, operation and evolution of any form of political federation requires an extensive examination, and an in-depth analysis of societal interactions, institutional structures and processes.

This study has analyzed the interaction between issues occasioned by homogeneity and diversity, within East African society and social, economic and political assymmetries between East African Community Partner States and has proposed recommendations which would allay the fears, concerns and challenges towards progressive attainment of the ultimate goal of political federation. A key strategy to address the fears, concerns and challenges is gradual, sequenced economic integration with effective implementation of each stage, including Customs Union and Common Market including by periodic review and strengthening regional policies, institutions and mandates to support each phase.

An important aspect is the degree of involvement and support of the leadership and the general public, including addressing political realities, fears, challenges and concerns by the East African citizens.

Political integration is a qualitatively deeper form of integration than economic integration. Achieving it requires the pillars of political federation, that is, a common foreign policy, peace and security, and good governance to be established and strengthened on the basis of stronger policy platforms that go beyond *cooperation* in the conduct of security and foreign policy matters. It also requires structural transformation of regional policies, institutional arrangements and capacities to support the deeper goal. The integration project is ultimately intended to achieve 'development' for East Africans in the face of internal challenges and global threats to this goal. What this means in concrete social, economic and political terms needs to be conceptualized, discussed and defined. This is critical as the legitimacy and sustainability of the East African Political Federation will depend on the extent to which this goal of development is achieved and the range of stakeholders who become invested in it.

<div align="center">August 2010</div>

Annexes

Annex 1- TERMS OF REFERENCE FOR THE TEAM OF EXPERTS

1) Undertake a detailed review and analysis of the fears, concerns and challenges towards Political Federation raised by the citizens of East Africa based on the existing documents including the following:–

    a) the Treaty, the EAC Development Strategy, the report of the Committee on fast tracking the Political Federation, reports of the National Consultative Committees of Partner States;

    b) previous background papers presented to the Summit, all relevant Summit Directives, Council Decisions and any other relevant materials.

2) Examine the progress in addressing the fear, concerns and challenges, and propose ways of addressing those that have not been addressed;

3) Identify any other emerging fears, concerns and challenges and propose how to deal with them;

4) Identify and propose ways of strengthening the Pillars of Political Federation by locking in the gains attained in the other stages of integration;

5) Identify appropriate Regional Policies, institutional arrangements and capacities which can address those fears, concerns and challenges for the Political Federation; and

6) Carry out such other activities that are relevant to the above TORs.

Annex 2 – List of Literature Reviewed

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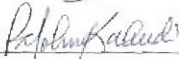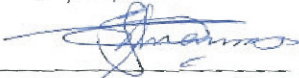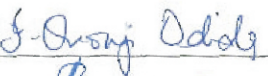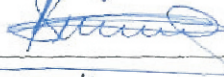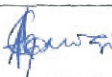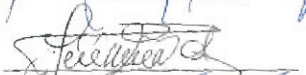
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Annex 3 – Tanzania concerns

In addition to the emerging concerns captured in the Main Report the following were expressed by Tanzanians during the national consultations as part of this study by the Team of Experts and are listed below: -

1. That there are perceptions by some people in some countries that Tanzania is either slow or seen to be reluctant to Political Federation. Tanzanians do have genuine concerns and have openly aired them out;

2. That the experience of the union of Tanganyika and Zanzibar which is the only surviving political union for the last 46 years has not been studied and appreciated as offering lessons on how to approach political integration.

3. That there is a danger of adopting a simplistic approach towards political integration and ignoring the factors that led to failures of the defunct EAC, which caused a lot of mistrust, suspicion and fear that Tanzania is being used for selfish ends by some people in other countries;

4. That the differences between the Customs Union, the Common Market, the Monetary Union and the Political Federation are not understood by majority. This is why they think that political federation is confused with the other stages of integration;

5. That people need to be involved before admission of any new members so that any expansion and admission of new members to the community is understood and supported by the majority of the people.
   That in future admissions of new members should follow graduating stages before granting full membership.

6. That there is need to avoid what may be perceived as militarization of the political union as this may defeat the spirit of people-centered integration process, and democratization process.

7. That there is no adequate cooperation among East African states in international forums. This feeling was intensified by recent events whereby Tanzania interests were openly opposed at an international forum. As a result there is a feeling that there is a systematic campaign and ganging up against Tanzania's interests internationally.

8. That during the NCC process of gathering people's views about the Federation the issue of political federation was not asked directly. Instead it was asked whether the process should be fast tracked or not. Therefore there is a need to ask the people whether they want the federation or not.

9. That there is a fatigue arising from Tanzania's contribution to the liberation movement, and the ending of civil conflicts and now it is time for Tanzania to concentrate on domestic development matters.

10. That any move to fast track Monetary Union and Political Federation is perceived by Tanzanians as a deliberate move to defeat the achievement of Tanzania in securing her interest on issues of land, permanent residence and use of IDs as travel documents as defeating the progressive implementation of Common Market.

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A Publication of the
EAC Secretariat
publication.