



**EAST AFRICAN COMMUNITY**

**HIGH-LEVEL RETREAT FOR THE EAC SUMMIT HEADS OF  
STATE ON THE EAC COMMON MARKET PROTOCOL**

**DRAFT CONCEPT PAPER**

**THEME**

**“11 YEARS OF CREATING AN EAC COMMON MARKET:  
ACHIEVEMENTS, CHALLENGES AND THE ROAD AHEAD”**

**DECEMBER 2021**

## **1.0 BACKGROUND:**

- 1.1 The East African Community (EAC) Common Market Protocol (CMP) was adopted and signed in 2009 and entered into force on July 1, 2010. This birthed the Common Market whose objective is to promote accelerated economic growth and development through the attainment of the free movement of goods, persons, labour, the rights of establishment and residence and the free movement of services and capital.
- 1.2 The overall objective of the EAC Common Market as envisaged in the Treaty for the Establishment of the East African Community is to widen and deepen cooperation among the Partner States in the economic and social fields for the benefit of the citizens. Freedom of movement of all the factors and rights is critical for vibrant economic activities.
- 1.3 This rationale for the Common Market is compelling - it has the potential to build economies of scale, accelerate competitiveness, and bring the region closer to achieving its dream of a single investment destination. The Common Market can expand opportunities for the private sector and uplift the living standards of its citizens in a way that no Partner State can do on its own.
- 1.4 Full implementation of the Common Market calls for strong implementation by all parties, particularly the Partner States, so as to deliver the rights and freedoms enshrined in the CMP.

## 2.0 Rationale

The EAC region has been implementing the Protocol for the Establishment of the EAC Common Market for the past 11 years with the aim of creating a common market, which would guarantee free movement of persons, workers, goods, services, and capital, and rights of establishment and residence in the region. To-date, notable achievements have been realized towards the attainment of a Common Market including the following:

***Under the free movement of goods***, internal tariffs have been eliminated, the Common External Tariff established and substantial progress realized in the establishment of a single customs territory. As a result, intra-EAC trade has grown substantially in nominal terms.

***Under the free movement of labour and persons***, key milestones have been achieved, including the conclusion and adoption of various Mutual Recognition Agreements (MRAs) in professional bodies for Engineers, Architectural and Accounting, New Generation e- Passport and use of National IDs as travel document for between some Partner States.

***Under the free movement of capital***, the EAC has achieved significantly high degree of capital account openness since the signing of the CMP by eliminating substantially all restrictions on the free movement of capital within the region.

***Under the free movement of services***: EAC Partner States have removed a number of *sector level and cross cutting restrictions in laws and regulations* and there is notable progress on discussions related to mutual recognition, which when concluded will enhance free movement of services. In addition, *correction of errors and inconsistencies to delink Annex V on services from Annex II on workers was undertaken*, and a Mechanism for the Removal of

Restrictions on Trade in Services established to keep track of all measures restricting market access and operations of other Partner States' service suppliers across all sectors in line with Article 23 of the CMP.

**Under the right of residence:** there has been considerable increase in the number of residence permits issued to workers and self-employed persons.

Despite these achievements, there still exist numerous challenges in the creation of a full-fledged Common Market in the EAC region:

*Goods:* there are still Non-Tariff Barriers affecting intra-EAC trade, resulting in low share (at single digit) of intra-EAC imports in total imports and the intensity of bilateral trade within the EAC lags behind that with Asia, America, and Europe.

*labour* remains hindered by a number of obstacles, complex procedures for obtaining work permits in some Partner States, non-alignment of national laws with the provisions of the CMP, lack of coordination and portability of social security benefits, and lack of a regional database of the available skills in the labour market.

*Capital and the right of establishment:* Although significant progress has been made towards elimination of legal restrictions on the free movement of capital, cross border investments across the borders has been sluggish, partly due to existence of double taxation of corporate incomes and discriminatory practices that make entry into the EAC market expensive. Notably, whereas Article 29 (2) (b) of CMP provides for non-discrimination of the investors of the other Partner States, stringent Local Content Requirements imposed by Partner States require firms to use domestically-manufactured goods or domestically-supplied services in order to operate in an economy. Similarly, Investment Laws in some Partner States are discriminatory in that they don't

grant national treatment to investors or companies from other Partner States contrary to Article 13 (2) of the CMP.

*Services:* Across the region, service sector laws and regulations remain and continue to arise without regard to commitments made under the Common Market Protocol.

The proposed High-Level Summit will provide an opportunity for the EAC Heads of State to take stock of the progress made in the last 11 years of creating a common market, discuss challenges and the required interventions to unlock bottlenecks towards the full realization of the common market. The retreat will benefit from a discussion of the practical experience from other existing common markets globally.

Specifically, the retreat will, among others, address the following questions:

1. Is the implementation of the EAC Common Market Protocol commitments in the freedoms (goods, services, capital, labour, persons) and rights (residence and establishment) on track?
2. What are the critical challenges to the implementation of the EAC CMP?
3. What lessons can EAC Partner States learn from each other and other existing functional common markets across the world?
4. What are the key critical areas where high-level intervention would help to provide impetus to the full attainment of the common market?

The vision for this High-Level Summit Retreat is

- a) The acceleration of implementation of the Common Market Protocol commitments, which would result in the full attainment of the Common Market;

- b) Agreement on a road map to drive the attainment of a fully functional Common Market.

### **3.0 Proposed Areas of Coverage**

The proposed areas of coverage of the High-Level Retreat will include the following:

- a) **Facilitating the movement of persons and workers under the Common Market**

Summit to consider all issues affecting this freedom and make interventions to unlock the freedom.

- b) **Free movements of goods and services**

The Summit will be expected to address the lags and bottlenecks affecting the implementation of the free movement of goods and services with a view to enhancing intra- EAC trade and investment.

- c) **Addressing the bottlenecks affecting the participation of the private sector in trade and investment in the EAC**

The Summit is expected to address issues which affect private sector in the region

### **4.0 Expected Outputs**

The expected output from the High-Level Retreat are:

- a) Adoption of strategic measures to unlock the lags and bottlenecks in establishment of the common market.

b) Agreement on a Road Map for the full realization of the Common Market.

## **5.0 Format**

The retreat will be organized in a three days program. Day one will have the tour of the Exhibition Stalls and Official Opening, Day two will have a Ministerial session, and Day three will commence with a keynote address followed by presentation and discussion by Summit members.

The Retreat will conclude with Summit Resolutions on the way forward on the full attainment of the Common Market.

## **6.0 Participants**

This is a high-level Retreat and participation is expected of the six Heads of State and their invited guests, several Ministers, representatives of Development Partners, Heads of Regional Economic Communities, High Commissioners and Ambassadors and Private Sector.

## **7.0 Proposed Date**

The High-Level Summit Retreat will precede the next Ordinary Summit.