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## SECRETARY GENERAL'S 2015 NEW YEAR MESSAGE



At the end of 2014, I crossed the Rwanda Ugandan border using my National Identity card. Every time I do so, I am thankful for all the hard work that you all put in, in the kitchen of integration, to make sure that the people of East Africa get the benefits they deserve.

2014 is gone, and 2015 is upon us! We have come a long way, between yesterday and today - and we have a very long way to go! 2014 has left East Africa with an increasingly functional Single Customs Territory. I thank all involved, from Revenue Authority Officials, clearing and forwarding agents, and everybody in between, who have made this critical milestone in our integration agenda possible.

For the first time in her history, East Africa has negotiated her terms of Trade with the European Union, through an Economic Partnership Agreement. I am proud of our negotiators, who have safeguarded East Africa's interests, and made sure the agreement contributes to and safe guards our integration, as well as our Industrialization policy and strategy. The Community had also concluded a Trade Facilitation Agreement with the United States of America. Together with a robust Commercial dialogue, and an investment treaty which we

*(Continued on page 2)*

## **... . 2014 saw the involvement of the Religious fraternity and faith leaders in the search for solutions to a East Africa's security challenges**

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shall negotiate in the coming year, our relationship with the US and other major trading blocks is robust, vibrant, and beneficial to the people of East Africa.

Negotiations on a Free Trade Area between COMESA, EAC , and SADC made significant progress. It is my conviction that we are at the cusp of a historic agreement that will enable Africa to reclaim her rightful place in the Global Arena, and lay a solid foundation for a Continental Free Trade Area. I am immensely proud to have seen East Africa negotiate as a bloc. It has been a lesson in the benefits of pooled sovereignty. Nobody loses theirs, but the collective effort is greater than the sum of the constituent parts. East Africans should be justifiably proud of their integration agenda.

Our infrastructure programs and projects are on track, and in the case of the Northern Corridor, on the fast track. For the first time in a hundred years, East Africa is laying new rail tracks. Mombasa and Dar es Salaam Ports have brought on board new berths, integrated and digitized their operations, re-engineered their business processes, and re engaged their stakeholders. I salute all these efforts. They are contributing to the reduction of the cost of doing business in East Africa.

For the first time, we organized the first ever Conference on packaging. As many of you know, post Harvest losses are a significant to our agriculture and Agro based industries. Yet our industrialization policy and strategy are dependent on agricultural transformation. Packaging is an important component of this strategy. During the coming year, I look forward to the first ever Manufacturing Conference, organize in conjunction with the East African Business Council.

2014 saw our Community, like the rest of the Global Community confront the threat of Ebola. East Africa refaced to this global challenge with determination. Partner States have put in place strategies to deal with the threat. Health screening at our borders has been strengthened. Simulation exercises have been carried out. And the Community has contributed to the global effort against Ebola. Going forward, it is clear that Health Systems Strengthening is critical, not only to enhance the robustness of our response to emergencies such as Ebola, but also for the routine delivery of positive health outcomes. The Community shall continue to work with her Partners to invest in the requisite health systems strengthening.

I am gratified to note the increased involvement of the people of East Africa in the integration process. 2014 saw the involvement of the Religious fraternity and faith leaders in the search for solutions to a East Africa's security challenges. In Kigali, Rwanda, intense discussions were held, and the results thereof give me confidence that the Community is resilient even the face of the threat of those who would sacrifice humanity at the altar of conformity, instead of celebrating its diversity, with its all too human imperfections.

Civil Society, the Private Sector, Women in business, Youth groups, Local Government leaders, and professional associations, have all expressed their commitment to our integration agenda. I thank all of you for your determination and support. Through your activism, we have been able to reduce Non Tariff Barriers to Trade significantly. Our Rules of Origin have been revised. A draft Bill on reduction of NTBs has been negotiated and will be introduced into the East African Legislative Assembly for consideration. Agreement has been reached, after many years, on the extension of the jurisdiction of the East African Court of Justice to cover Trade matters, especially those under the Common Market Protocol. The Court is critical to our integration agenda and I congratulate its leadership for their dedication and professionalism.

I am glad East Africans living with disabilities have become real Partners in our agenda. The Conference with people living with disabilities, held in 2014 cemented this Partnership. I wish to thank Hon. James Ndahiro and Hon Abu Bakr Zain for their leadership. Our Community is only as strong as its weakest links, and I am committed to strengthening these links.

2014 also left us with a historic decision by the Summit to begin the process for a Constitution making for an East African Political Federation. This is a result of many years of hard work by dedicated professionals. I am excited at the possibility we have to reverse the Balkanization of Africa. It is a historic, revolutionary calling, and I thank the leaders of East Africa for their vision and determination to move beyond what is, to what can be!

I thank you, the foot soldiers of integration, for your dedication. HE Uhuru Kenyatta, Chair Person of the Summit has paid tribute to you. The East African Court of Justice, in a historic ruling, has done the same. I can only follow in their footsteps. 2014 has been an exciting and challenging year for you. We have lost a number of colleagues. My condolences go to you, their families, and friends. Our consolation can only be in the certainty that they died in the service of a cause greater than themselves.

Our Colleagues at the East African Legislative Assembly have has a particularly challenging year. The Assembly has had protracted leadership challenges, which has sapped staff morale. I thank you for your professionalism, dedication and service during this difficult period. Thank you for not allowing partisan interests to cloud your judgement as servants of the people of East Africa.

So, 2014 has been exciting and rewarding. 2015 is pregnant with promise. I am proud to serve with you as we steer the Ship of integration. As we look back with satisfaction, I can only tell you that success only breeds higher expectations, requiring all of us to work harder and smarter, the challenges notwithstanding.



*Aluta Continua*

**Dr Richard Sezibera**  
**Ambassador**

## COMESA-EAC Launch Roundtables for Consolidating Regional Stability Through Peaceful Elections in Burundi



The East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA) on 15 January 2015, jointly launched Round-Tables for Consolidating Regional Stability through Peaceful Elections in the Republic of Burundi at the Royal Palace Hotel, in Bujumbura, Burundi.

Themed *Peaceful Elections in Burundi for Regional Integration*, the COMESA-EAC Roundtables are joint dialogue initiatives/activities geared towards promoting a peaceful environment for elections, prevent elections-related violent conflict and support a smooth transition during and after the 2015 elections in Burundi.

Launching the Roundtables, the First Vice President of the Republic of Burundi, HE Prosper Bazombanza commended the EAC and COMESA Secretariats for organizing the important dialogue roundtables at the right time when Burundi was heading towards General Elections from May 2015.


The First Vice President reiterated the region's a firm desire to see democratic, peaceful and stable elections in the Partner States and commended the two Regional Economic Communities for the role they have played and continue to play in supporting the consolidation of democracy, peace and stability in Burundi.

The First Vice President welcomed the inclusive roundtable as it gave the Burundi people another opportunity to share

experiences, to dialogue on the pertinent issues, and to outline the initiatives that should be taken by various stakeholders as the election approaches "in order for us to achieve the goals we want".

"It goes without saying that it is the values of dialogue and inclusion that are of the essence during this period, and which will enhance reconciliation efforts and help to build consensus among Burundians for a better tomorrow" affirmed HE Prosper Bazombanza.

The Secretary General of the East African Community, Amb. Dr. Richard Sezibera noted that Elections were a process, and not an event; thus it was imperative that all the stakeholders stay involved in this process. He called on all stakeholders to fully participate in the Roundtable dialogue and to send out a strong message of peace to the people of Burundi.

"The EAC calls on all the stakeholders to put the interests of Burundi and Burundians first", and the focus of EAC and COMESA is to walk alongside the people of Burundi before, during, and after the elections. "Peaceful elections are essential for the country as it integrates more into EAC and COMESA, and together we are committed to achieving the dream of greater social, political and economic development of Burundi" not Amb. Sezibera. 

## Rt. Hon. Kidega Elected Speaker of EALA

The East African Legislative Assembly (EALA) on 19 December 2014, elected Rt Hon Dan Fred Kidega as Speaker.

Rt. Hon Kidega becomes the fourth Speaker of EALA, replacing Rt. Hon Margaret Nantongo Zziwa who was removed from Office on 17 December, 2014.

Rt. Hon Kidega was elected unopposed after his main contender, Hon Chris Opoka- Okumu stepped down. The two were the only ones validly nominated.

At exactly 3.56 pm on 19 December 2014, the Clerk to the Assembly declared Rt. Hon Dan Kidega duly elected and proceeded to administer the oath of the Office of the Speaker.

In his acceptance speech, the new Speaker pledged to uphold the dignity of the House at all times and to apply the Rules without fear or favour.

"You will note as a House, we have a big and challenging task ahead of us to legislate and represent a Community whose activities and Membership is expanding fast," Rt. Hon Kidega said.

" I have no doubt we shall deliver. I will pick up from where my predecessors left and continue to promote the good ideals of our mandate of widening and deepening the integration process. In doing so, I will give the majority their way but respect and protect the rights of the minorities at all times" Rt. Hon Kidega added.


Rt Hon Kidega, 41, is serving as a Member of Parliament of East African Legislation Assembly for a second stint having been a Member in the 2nd EALA (2007-2012).

He has prior, been a Member of Parliament in Uganda for a period of five (5) years (2001-2006) representing the youth. Rt. Hon Kidega has been active in NRM politics and was a member of President Yoweri Kaguta Museveni's national campaign taskforce in 2001, and the Party's National Executive Committee (NEC) member.



Rt. Hon Kidega has also worked as a Private Secretary to the Vice President of the Republic of Uganda. Prior to joining legislative work, he was a youth leader at different levels; including being Chairman of the National Youth Council (NYC), National Representative to the Commonwealth Youth Forum (African Region). Rt. Hon Kidega is remembered in his days in school as a strong student activist.

The Speaker is an entrepreneur and has been engaged in the struggle against HIV/AIDS and Women Empowerment in Uganda.

Rt. Hon Kidega obtained his first degree in Business Administration from Uganda Christian University. He holds a Master of Science Degree in International Trade Policy and Trade law. He is also a Diploma holder in Bio-Chemistry. 

## EALA Swears in New Tanzania Minister to EAC



The United Republic of Tanzania's new Minister for East African Cooperation, Hon Dr Harrison George Mwakyembe was on 28 January 2015 sworn-in as an Ex-Officio Member of EALA.

The Oath of Allegiance to the House was administered by the Clerk of EALA, before the EALA Speaker, Rt. Hon Dan Kidega.

Hon Dr. Mwakyembe took the oath in accordance with Rule 6 of the Rules of Procedure of the Assembly.

The Rules of Procedure say in part that: "No Member can sit or participate in the proceedings of the House until the Oath or Affirmation of Allegiance to the Treaty is taken".

Rule 6(3) specifically states that "when a Member first attends to take his or her seat other than at the first sitting of a new House, he or she shall be brought to the table by two Members and presented by them to the Speaker who shall then administer the Oath or Affirmation of Allegiance".

The Minister was ushered into the House by Hon Shem Bageine, Minister for EAC, Republic of Uganda, Hon Dr. Nderakindo Kessy and Hon Nusura Tiperu.

Article 48 (1) (b) (1) of the Treaty for the Establishment of the East African Community, requires the Minister responsible for East African Community Affairs from each Partner State to become an ex-Officio member of the East African Legislative Assembly.

Hon Dr Mwakyembe, was appointed Minister for EAC on January 24, 2015, following a Cabinet reshuffle by H.E. President Jakaya Kikwete. He swops places with the former EAC Minister, Hon Samuel Sitta who was moved to the Ministry of Transport.

Hon Dr. Mwakyembe is the Member of Parliament for Kyela Constituency since 2005. He was an elected member of EALA in the first Assembly (2001-2005) and chaired the Tanzania Chapter of EALA for two years between 2003 and 2005.

Hon Dr. Mwakyembe who holds a PhD. In law from the University of Hamburg has several years of political experience. He has been a Member of the National Executive Committee (NEC) of the ruling party, Chama Cha Mapinduzi for five years and also served as the party's legal advisor in 2001.

Hon Dr. Mwakyembe was a Commissioner of the Joint Presidential Supervisory Commission in Zanzibar in 2001-2005. He was formerly a Deputy Minister for Works in 2010-2012.

He has lectured in law at the University of Dar es Salaam and is a holder of a Masters' degree in Law from the University of Dar es Salaam and a similar one from the University of Hamburg. Hon Dr Mwakyembe, an Advocate of the High Court of Tanzania, also holds a Post-Graduate certificate in Intellectual Property from the University of Turin, Italy. Dr Mwakyembe was once a media practitioner, and holds a Diploma in Journalism from the Tanzania School of Journalism.

The Minister has published widely and attended several symposia, seminars and conferences.

EALA has 45 elected Members and seven Ex-Officio Members. The Ex-Officio Members are the Ministers of EAC in the Partner States, the EAC Secretary General and the Counsel to the Community. The United Republic of Tanzania is the current Chair of the Council of Ministers, a post that Hon Dr. Mwakyembe assumes immediately. ●

## Outgoing Russian Ambassador Bids Farewell to EAC Secretary General



The outgoing Russian Ambassador to the United Republic of Tanzania and representative to the East African Community H.E Alexander A. Rannikh on 19 January, 2015 bid farewell to the Secretary General of the East African Community, Amb. Dr. Richard Sezibera.

The outgoing Russian Envoy and the Secretary General discussed at length how to upscale the EAC-Russian relations. Amb. Alexander disclosed that Russia views the EAC as the best regional economic community in the continent.

He reiterated that his country was in good terms - politically, economically and socially with all the five Partner States.

Amb Sezibera hailed the Russian Envoy for strengthening the relations between the EAC and Russia during his tenure of office.

Dr. Sezibera appreciated and commended the support rendered to EAC by the Russian Federation. ●

# EALA Adopts New Rules of Procedure



The East African Legislative Assembly on 21 January 2015 debated and adopted its new Rules of Procedure. The Rules of Procedure however take effect at the 5th Meeting of the 3rd Session in March 2015, following a Motion moved by Hon Dora Byamukama to suspend Rule 83(4) and Rule 87 that bring the new Rules of Procedure into immediate effect.

The Motion for the transition period will allow for quality control, re-packaging and publishing of the Rules of Procedure according to the mover of the Motion.

Salient points in the new Rules of Procedure include the introduction and definition of the Commission as established under Section 3 of the Administration of EALA Act 2012. The Commission replaces the House Business Committee which hitherto performed similar roles. The Seat of the Assembly has also been retained as Arusha in line with Article 136 of the Treaty for the EAC following a vote by the House to retain Rule 2 as is.

The Rule 7 (9) on election of the Speaker was further amended to give it clarity. A Member shall now be elected Speaker when he or she is supported by votes of two thirds of the House. In

event that there is only one candidate, the revised Rule 7(8) stipulates that the House shall subject the candidature to approval through the secret ballot in a move aimed at ensuring the will of the House is realized. In the past, a sole candidate would automatically be declared elected and conducted to the chair.

On the converse, the Speaker of the House may also be removed upon a Resolution of the House. Herein, a motion for the same shall be tabled in the Assembly within 24 Hours of its receipt by the Clerk. It shall then be referred to the Committee on Legal Rules and Privileges who shall investigate and report the findings to the House.

Another key amendment is with regards to Rule 13 on quorum. Now quorum shall constitute half of the elected Members that include in it, at least, a third of the elected Members from each Partner State.

The amendments form part of the Report of the Legal Rules and Privileges Committee that was adopted on 21 January 2015.




## EACJ Appellate Division Rules on Walk to Work Case

The EACJ Appellate Division on 16 January 2015, resumed business by delivering a judgment of an appeal by the Government of the Republic of Uganda against the East African Law Society (EALS) and the Secretary General of the East African Community, challenging the decision of the First Instance Division dated 13 February 2013 which allowed the EALS to file electronic evidence to support the matter on the Walk to Work case to adduce additional evidence in the form of documentation and in electronic form.

The Appellate Division upheld the decision of the first Instance Division on grounds that The Appellant has failed to demonstrate that the Learned trial Judges misdirected themselves in granting leave to the 1st Respondent to adduce the new evidence. "We find that the trial Judges did act within their discretion and in accordance with the Law and the established principles and standards governing the exercise of judicial discretion", said the Appellate Division.

The Court further stated that no prejudice will be occasioned to the Appellant from the admission of the new evidence in as much as a reasonable opportunity will be provided to him to respond to and to rebut the new evidence.

The Appeal was dismissed and the matter is remitted to the First Instance Division for determination of the Reference on the merits.

The subject matter of the case is the alleged actions of the agents of the Government of Uganda on various groups of Ugandan Citizens who decided to walk to work in protest against the high cost of fuel, transport and living. The EALS asserts that the action by the Ugandan Government offended the peoples' human rights under Uganda's Constitution and the EAC Treaty. 





# EAC Projects and Programmes Get US\$ 2 Million



The Assembly on 28 January 2015, passed the EAC Supplementary Appropriation Bill 2015 providing a supplementary expenditure to the tune of US\$ 2,040,520 out of the budget for the Financial Year ending 30th June 2015.

Of the said amount, US\$ 99,840 will come from the EAC General Reserve Fund while US\$ 1, 940,680 is to be sourced from development partners.

The supplementary budget allocates US\$ 919,413 to undertake mediatory and confidence building activities prior to the upcoming May-June 2015 elections. The support from the European Union will assist the EAC/COMESA/AU Early Response mechanism (ERM) – African Peace Facility support to implement activities in the COMESA/EAC region. It is part of on-going efforts by the regional economic communities to consolidate democracy and promote peaceful elections in the region.

The Chair of the Council, Hon Dr. Abdalla Sadaala Abdalla presented the Supplementary Budget for the Financial Year 2014/2015 to the House.

US\$ 295,000 is earmarked for the expenditure incurred on maintaining the EAC Regional Food balance sheet and trade help desk while US\$ 170,000 shall be utilised for the development of EAC-African Growth and Opportunity Act (AGOA) Strategy and sensitisation.

The Supplementary Budget further provides for US\$ 150,000 to be used for the expenditure incurred on conducting the EAC HIV and AIDS Symposium during the period. The Minister, Dr.

Abdalla Sadaala maintained that the symposium under the theme 'Getting to Zero in the EAC region' will focus specifically on HIV and AIDS, Tuberculosis (TB) and Sexually Transmitted Infections. A similar amount is required to support the expenditure for carrying out a baseline survey on population, health and environment (2015-2020).

An assessment study on the needs and preparedness of the Partner States to implement the new generation E-Passport and a review of the existing passport issuance legal frameworks shall also get a boost following the allocation of USD 49,840 to the activity. According to the Chair of the Council of Ministers, procurement of the necessary e-passport issuance infrastructure, passport booklets and capacity building for the immigration personnel need to be integrated into the 2015/16 budget cycle. The phase-out programme of the national passports as proposed in the roadmap shall be customised by each Partner State to address the respective needs and peculiarities.

US\$ 50,000 shall be earmarked for the formulation of the EAC Vision for 2050. A Multi-disciplinary team of experts shall be engaged to ensure success in the exercise.

The Assembly resolved itself into a Committee of Ways and Means to consider the Financial Statement for the Financial Year 2014/15 and A Committee of Supply to consider and approve the Revised Estimates of Expenditure for the Financial Year 2014/15.



# EACJ Hears Appeal by Alcon International Limited Against Standard Chartered Bank and GoU

The Appellate Division of the East African Court of Justice on 22 January 2015, heard an appeal by Alcon International Limited Kenya, a construction company seeking the Court to overrule a decision of the First Instance Division delivered in September 2013.

Alcon International Limited came to Court claiming an award of US\$8,858,469, with interest and costs, which was made in its favor by an arbitrator and adopted by the High Court of Uganda.

The award arose from a contract between National Social Security Fund (NSSF), Uganda and Alcon International Limited (Kenya) of which the former terminated the contract leading to the dispute.

The matter was first determined in an arbitration proceeding as provided under the contract of which Alcon claimed to have succeeded hence awarded the amount claimed.

The disputed award is alleged to have been contested in the Courts in Uganda. The dispute also found way to the EACJ and on 2 September 2013, the First Instance Division dismissed the case on grounds of lack of jurisdiction.

On Appeal, Mr. Fred K. Athuok, Counsel for the Appellant (Alcon International Limited) told the Court that the rights of the Appellant were breached and the First Instance Division failed to grant redress.

Counsel submitted that the Appellant's cross border investment was not protected by the Respondents as guaranteed under Article 29 of the EAC Common Market Protocol.

He further stated that the 1st Respondent (Standard Chartered Bank) failed to promptly pay the award. Mr. Athuok further argued that the Court is vested with jurisdiction under Article 54 (2) of the EAC Common Market Protocol to enforce a right under the Protocol.

He therefore stated that the First Instance Division failed to exercise its jurisdiction to apply the Treaty and that it is a brave failure of justice and law. He asked Court to allow the Appeal.

Mr. Barnabas Tumusingize, Counsel for the 1st Respondent (Standard Chartered Bank) submitted that, the Bank did not enforce the guarantee because a judgment of the Court of Appeal on the Arbitrator was overturned by the Supreme Court of Uganda.

Mr. Tumusingize for the first Respondent also stated that the Bank is neither an institution nor a Partner State of the Community to be taken to Court as it is provided under Article 31 of the Treaty.

He further argued that, this Court lacks jurisdiction to determine the matter as per Article 54 (2) of the Common Market Protocol saying that the provision provides the power to the National Authorities.

Ms. Patricia Mutesi representing the Government of Uganda and the Registrar of the High Court also associated with the submissions of the 1st Respondent and said that they are not properly sued before the Court and asked the Court to uphold the decision of the First Instance Division.

The Court will deliver the Judgement on notice.



# EALA Appoints Select Committee to Look into Genocide and Genocide Ideology

East African Legislative Assembly on 29 January 2015, passed a Resolution to form a select Committee on Genocide.

The Committee shall in addition look at the security impact on the Community of genocide ideology including genocide denial.

The Resolution moved by Hon AbuBakr Ogle and unanimously supported by Members gives the EALA Commission the go-ahead to nominate seven persons consisting of at least one Member from each Partner State.

The Select Committee is charged with considering ways and means of combating, outlawing and preventing genocide. It shall make proposals on how EALA and other Institutions of the EAC can provide leadership in the fight and prevention of genocide. This should

include the development of instruments and institutional capacity in the Community.

The Select Committee has three months from the time of its appointment to execute its mandate.

The resolution was supported by Members who contributed including Hon Christopher Bazivamo, Hon Dora Byamukama, Hon Abubakar Zein, Hon Patricia Hajabakiga, Hon Mumbi Ngaru, Hon Hafsa Mossi and Hon Mike Sebalu.

Rule 80 of the Rules of Procedure allows the House at any time upon a motion to appoint a Select Committee to be nominated by the Commission for the consideration or investigation of such matter(s) as the House may refer to it and to report the same to the House.

In August 2013, EALA passed an initial resolution on the matter where it also urged the Summit of EAC Heads of State to institute mechanisms to stop the perpetuation of genocide ideology and denial in the region and to take appropriate action.


The Resolution according to Hon Ogle is buoyed by the fact that the Summit is entitled to review the state of peace, security and good



governance in accordance with Article 11 of the EAC Treaty. At the same time, under article 124 of the Treaty, the Partner States undertake to co-operate and to enhance handling of joint measures for maintaining and promoting peace and security.

Genocide denial is often defined as an attempt to deny or minimise the scale and severity of an incidence of genocide.

The EAC region has suffered from the negative impact of genocide. Last year, the Republic of Rwanda commemorated the 20th Anniversary of the Genocide against the Tutsi. In 1994, the entire globe watched in trepidation as the Republic of Rwanda went up in flames. Thousands of lives were lost, homes demolished and economies desiccated as genocidiars descended on peace-loving Rwandans with machetes, knives, axes, guns and clubs.

Analysts contend that the international community came on board, albeit late, by establishing the United Nations International Court of Rwanda to try suspects accused of masterminding the genocide. The country also sought for reparation and justice as close to two million people were arraigned and sentenced by the 'Gacaca' Courts, a community justice system set up between 2001 and 2012 to try those involved in the genocide against the Tutsi. 

# EACJ Hears Appeal on Alleged Failure of Partner States to Accept Competence of the African Court on Human and Peoples' Rights

The East African Court of Justice Appellate Division on 26 January 2015, heard an appeal filed by the Democratic Party (Appellant) against the Secretary General of the East African Community (EAC) (1st Respondent) and the Attorneys General of the Republics of Uganda (2nd Respondent), Kenya (3rd Respondent), Rwanda (4th Respondent) and Burundi (5th Respondent).

The matter appeals the decision of the First Instance Division of 26th November 2013 dismissing the case. The case principally challenges the alleged failure by the Republics of Uganda, Kenya and Burundi (Respondents) to make individual Country declarations in acceptance of the competence of the African Court in line with Articles 5(3) and 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.

It is urged that the alleged failure to do so is an infringement of Articles 5, 6, 7(2), 8(1)(c), 126 and 130 of the Treaty for the Establishment of the East African Community and Articles 1, 2, 7, 13, 26, 62, 65 and 66 of the African Charter on Human and Peoples' Rights and the aforesaid Protocol.

Mr. Justin Semuyaba Counsel for the Appellant submitted that, the lower Court error in its decision by stating that it has no jurisdiction to entertain the said matter. He also submitted that, the African Charter is part and parcel of the EAC Treaty under Article 6 (d) and thus the Treaty allows the Court to look at the Charter. He further stated that, Partner States surrendered their sovereignty when entering into the Treaty. He also stated that, the EAC Partner States by coming together under the EAC Treaty undertook an obligation to observe all international obligations. Further arguing that, by upholding jurisdiction of the African Court, the 2nd, 3rd and 5th Respondents were infringing provisions of Article 6 (d) of the EAC Treaty.

Dr. Anthony Kafumbe, for the EAC Secretary General (1st Respondent) stated that, the lower Court arrived at a correct decision and it is proper for the Appellate Division to uphold the decision. It was Counsel's submission that, Articles 23 and 27 of the EAC treaty set out the role of the Court and its jurisdiction respectively, which is to ensure adherence to law in the interpretation and application of and compliance with the Treaty. To this he added that the Court did not operate outside that framework. He also said that delay caused no violation because the Protocol doesn't set time limit to deposit their declarations.

Dr. Kafumbe also stated that Article 67(3) of the Treaty establishes the Office of the Secretary General and spells out its functions and there is no provision that says the bearer of the Office


has to supervise Partner States in meeting their obligations. He further added that Article 29 of the Treaty gives the Secretary General a margin of appreciation therefore he has to be convinced that a Partner State has failed to fulfil its obligations under the Treaty. Dr. Kafumbe also submitted that Article 130 of the Treaty does not create obligations of the Secretary General to ensure that Partner States honour their commitments in respect of multinational and international organisations.

Dr. Kafumbe said there was no violation of the Treaty and urged the Court to uphold the decision of the lower Court and overrule the appeal.

Mr. Elisha Bafirawa Counsel for Uganda (2nd Respondent) submitted that, the language of Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights is very clear that no time is spelt out for a State Party to deposit a declaration accepting the competence of the African Court. The framers of the Protocol left it out for the State Parties to determine when they should deposit. Counsel prayed that the Court find it fit to dismiss the appeal.

Mr. Mwanji Njoroge Counsel for Kenya (3rd Respondent) submitted that Article 27 (1) of the EAC Treaty stipulates the Court's jurisdiction. The provision does not extend the Court's jurisdiction to include the African Charter. If the Court's jurisdiction was extended it could have been officially announced. On the issue of delay, he referred to the lower Court finding that, since no time is set, Partner States are at liberty to deposit or not the declaration. It was Counsel's submission that, it would not have been difficult for the framers of the Protocol to state otherwise. He requested the Court to uphold the decision of the First Instance.

Mr. Malala Aimable Counsel for Rwanda (4th Respondent) submitted that Rwanda has accepted the jurisdiction of the African Court and that the Appellant dropped the case against it. However, he found it necessary to say that the lower Court did not error in its decision. He also stated that, the wording of Article 34(6) of the Protocol to the African Charter is very clear that "any time thereafter" the deposit of the declaration can be made. Thus according to Counsel it can be 2 years, 3 years and so forth, no time limit. Counsel asked Court for cost because they see no reason why Rwanda should continue to be dragged to the Court on this matter since they have accepted the jurisdiction of the African Court.

No appearance was made for the Republic of Burundi. All appeared before a full bench of the Appellate Division. The Court will deliver the Judgement on notice. 

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