



**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**REPORT OF THE COMMITTEE ON
COMMUNICATIONS, TRADE AND INVESTMENTS
ON THE CAPACITY BUILDING WORKSHOP**

July 23rd - 24th, 2012

LAICO Regency Hotel, Nairobi - KENYA

Clerk's Chambers

5th Floor, Ngorongoro Wing

AICC Building

Arusha, TANZANIA

September 2012

1.0 INTRODUCTION

Hon. Speaker,

The Committee on Communications, Trade and Investment (CTI) held a two day Capacity Building Workshop from 23rd to 24th July 2012 at LAICO Regency Hotel in Nairobi. The objectives of the workshop were to orient New Members of the Committee on;

1. The functions of the committee in the execution of the EAC integration;
2. The areas of intervention in the integration process of the EAC;
3. The role of EALA in the implementation of the EAC integration process;
4. The Nature and Flow of Parliamentary Business, among others.

1.1 Methodology and the Structure of the Workshop

As a capacity building workshop for new members of the Committee on Communications, Trade and Investments, it was attended by the Members of the Committee including the Resource persons. At this workshop, various papers were presented on different topics that fall within the mandate of the Committee. Plenary sessions were held to discuss the presentations made, Salient issues emerged and recommendations were made.

1.2 Opening Remarks

In her opening remarks, the Chairperson of the Committee welcomed Members to Nairobi and thanked them for turning up to attend the workshop, aimed at enhancing the capacity of New Members on the Committee's mandate. She further extended sincere appreciation and thanks to the Rt. Hon. Speaker and the entire Management of EALA for having thought it wise that new Members of CTI Committee need to know what is expected of them from their respective Committees, and organized this workshop.

She further noted that the East African Community has reached a critical stage of integration; which is the establishment of single currency (East African Monetary Union). Therefore the committee has a very important role to play in terms of

legislation, oversight, representation and otherwise in order for East Africa to achieve its ultimate goal of Political Federation.

2.0 PRESENTATIONS AT THE WORKSHOP

A number of presentations were made aimed at acquainting members of the committee on their mandate. These included the following:-

2.1.0 General Overview: The East African Legislative Assembly and the East African Community Integration Process: Presented by Gervase B. K. Akhaabi

2.1.1 The Establishment and Objectives of the East African Community

In his presentation, Hon. Gervase Akhaabi stated that the East African Community (EAC) was established under the Treaty for the Establishment of the East African Community signed on 30th November 1999 by the Republic of Kenya, the Republic of Uganda and the united Republic of Tanzania. The Treaty came into force on 7th July 2000 and was later acceded to by the Republic of Burundi and the Republic of Rwanda in 2007.

He further stated that the objectives of the Community are set out in Article 5 of the Treaty as developing policies and programs aimed at widening and deepening cooperation among the Partner States in political, economic, social and cultural fields, research and technology, defense, security, legal and judicial affairs. For these purposes, the Partner States undertook to establish among themselves a Customs Union, a Common Market and subsequently, a Monetary Union and ultimately, a Political Federation.

2.1.2 Mandate and Responsibility of the Community

The presenter alluded that the Treaty charges the Community (EAC) with the responsibility of ensuring that its objectives are realized by strengthening and consolidating co-operation in the fields in which the Partner States have agreed to cooperate. EAC ensures the discharge of this mandate through its various organs and institutions.

2.1.3 The East African Legislative Assembly

The East African Legislative Assembly (EALA) is one of the organs and institutions of the Community established under Article 9 of the Treaty. EALA is an independent legislative organ and is not under the control of any other organ of the community, and its functions are set out in Article 49 of the Treaty. These include: - Legislation; Representation; Oversight; and Budget Approval.

2.1.4 The role of EALA in the Integration of EAC

The presenter affirmed that EALA has a critical role to play in introducing and enacting laws that could greatly influence the integration process which take precedent over similar national laws on matters pertaining to the implementation of the Treaty. It could also substantially determine the speed with which the Partner States and the people integrate. EALA may do this by:-

- (a) Acquainting itself with the Treaty objectives and influence policy formulation geared towards enactment of laws and regulations to ensure deeper integration.
- (b) Helping in the formulation of policy and enactment of laws to establish appropriate and robust EAC institutions to ensure that the objectives of the Community are achieved.
- (c) Enacting appropriate legislation to establish and strengthen both legal and institutional frameworks to deepen and widen the EAC legislation.
- (d) Establishing an effective and consultative mechanism with the Council of Ministers and the Summit.
- (e) Establishing effective liaison and other collaborative consultative mechanisms with the National Assemblies to synchronize the EAC integration agenda into the national development processes.
- (f) Together with the National Assemblies, undertaking outreach and awareness creation and sensitization activities in the Partner States to

inform and involve the public on the integration agenda as required by Articles 6, 7 and 8 of the Treaty.

- (g) Scrutinizing proposed EAC activities and, during budget approval, determine for funding such activities that will further the integration process.
- (h) In the exercise of its oversight function, ensuring that the EAC policies and programmes are carried through by the EAC organs and institutions.
- (i) Ensuring that such activities that EALA has determined for financing out of the resources of the Community are executed effectively and on time.

2.2.0 Functions of the Committee on Communications, Trade and Investment; and its Specific Areas of Attention in the EAC Integration Process *by Hon. Kanyomozi Yonasani.*

2.2.1 Functions of the Committee on Communications, Trade and Investments

The Presenter underscored that the roles and scope of CTI Committee include critically looking at the areas of communications, trade and investments in the EAC region and how these can be enhanced to improve the general welfare of the peoples of East Africa. CTI Committee's mandate broadly covers:

- Co-operation in Trade and Development.
- Co-operation in Investment and Industrial Development.
- Co-operation in Standardization, Quality Assurance, Metrology and Testing.
- Monetary and Financial Co-operation.
- Co-operation in Infrastructure and Services.
- The Private Sector and Civil Society.
- Relations with other Regional and International Organizations and Development Partners.

It was noted that as the committee commences its work, two of the main phases that fulfil the objectives of the EAC – the Customs Union Act and the Common Market Protocol - are in place. These are supported by relevant acts, such as the

East African Standards, Quality Assurance, Metrology and Testing (SQMT) Act, 2006, The EAC Competition Act, 2006, and the EAC Joint Trade Negotiations Act, 2008. These will, however, need amendments so as to comply with provisions that have been ushered in by the Common Market Protocol. There will be a need for the Committee to embark very quickly on anti-trust laws that will deal with monopoly situations and protect citizens against abusive situations that are normally associated with monopoly power.

The CTI Committee is in the forefront of ensuring that the Assembly makes enabling laws; provides advice; and provides oversight of the actions taken that will ensure social justice at all levels in the integration process. This Committee is therefore expected to within its specific mandate, keep these lofty ideals at the fore.

CTI is of particular importance in providing guidance and oversight towards achieving an enabling environment for economic growth and development. Its main functions are broadly to receive reports on the status of implementation of the provisions of the Treaty falling within its mandate; handling complaints of non-compliance in facilitating the achievement of the objectives/goals of the Treaty; oversight of work and activities of the Sectoral Committee of the EAC and organs charged with implementation of provisions in this realm.

2.2.2 The Integration Process and Specific Areas of Attention

The presenter emphasised that in order to find a way forward, the Committee must take stock of what has been achieved so far in the EAC integration process and these include the following:-

a) EAC Customs Union

The Treaty provides for the Customs Union as the first phase of the integration process. The Protocol for its implementation was signed in March 2004 and took effect on 1st January, 2005. The key aspects of the Customs Union include: -

- a Common External Tariff (CET) on imports from third countries;
- duty-free trade between the member states; and
- Common customs procedures.

b) The EAC Common Market

On 1 July 2010, the East African Common Market Protocol, an expansion of the Community's existing customs union was launched. This was meant to facilitate the free movement of labour, capital, goods and services within the EAC. It requires review and harmonisation of national laws to allow the full implementation of some aspects of the Common Market such as immigration and customs.

2.2.3 Investment and Industrial Development

The presenter highlighted that the provisions of the Treaty, especially Chapter 11, Article 78 of the Treaty provides comfort to members. The CTI Committee therefore should utilise these safeguard measures to persuade the Council of Ministers since there is a lot to be gained from the integration process.

It was stated that there are a number comforts in the integration process which the Committee should fully exploit and enhance to the full. These include the following: -

- a) **Cross listing and merging of stock-exchanges.** Currently, there is little activity in cross-listing and it is necessary to encourage companies to cross-list within the partner states. The Committee should encourage the current stock exchanges to examine the possibility of merging so as to serve the whole region. Initial Public Offerings (IPOs) launched in member states should be open to the whole region but should avoid discriminatory treatment of investors.
- b) **Investment in Infrastructure.** Chapter 15 of the Treaty emphasizes the need to have common transport and communication policies. This is an area where this Committee has to act decisively by providing legislation that standardizes the facilities offered in the region. These should be easy to interconnect with contiguous countries, especially those that are likely to become members of the EAC.
- c) **A shift from road to rail for bulk transportation.** Rationalisation of civil aviation and airline operations should be made with a view to having, where possible, a regional carrier leaving national/state airlines for domestic operations. CTI Committee should be encouraging moves in that direction.

- d) **Telecommunication.** There are too many telecommunication operators making competition not yield the positives results for the region. Most of these operators are foreign owned and being a service, the returns are mostly repatriated to the home countries overseas without tangible positive gains to the region. An examination should be made by CTI Committee to see to it that we maximize the existence of these operators to the benefit of the region and minimise the costs to the region.
- e) **Internet.** With the completion of the East African Submarine Cable System (EASSY) project, there have been improvements in broadband services and internet access. Further gains may be accrued with increased access to electricity especially in the rural areas.
- f) **Railway concessioning** has not worked as expected. The East African Railway Master plan should be re-examined with a view to making the railway system viable and integrated.
- g) Most people realize that there still exists a barrage of hurdles or **Non-Tariff Barriers** (NTBs), which must be addressed by CTI Committee, these include: -
- administrative requirements, new regulations and procedures;
 - arbitrary police interference, including unnecessary road blocks;
 - business registration and licensing;
 - customs and immigration procedures;
 - insufficient and inefficient cargo handling facilities;
 - poor institutional capacity - technical and human resource;
 - sanitary and phyto-sanitary standards;
 - technical standards;
 - weighbridges.

2.2.4 Monetary Union

It was reported that the Common Market is expected to ease the formation of a Monetary Union which is expected to be realized in 2012 with the introduction of ‘an East African Common Currency’. Given the happenings in the European Union, a cautious approach has got to be taken by member states to harmonise other phases of integration by making member states share their sovereignty to ensure smooth launching of a common currency. This, of necessity, involves

rationalization and harmonization of politics and a common code of conduct of all political actors in the member states.

The presenter further explained that the banking and monetary system and policies also require harmonisation and strict supervision and oversight. In the absence of these, the scandals that have happened in Europe and America will be repeated with unimaginably worse impact in our nascent economies.

2.2.5 East African Political Federation

The presenter said that a functional East African Political Federation is expected by the year 2015; however, he was sceptical that it may not be realized due to political, social and economic challenges that are yet to be addressed. These include among others lack of political will, poor public perception or owing to the new dynamics and challenges presented by an EAC that is expanding faster than was anticipated.

Given the above discussion, it is wise that the CTI Committee, EALA as whole and the National Parliaments give particular attention to the issues herein.

The above notwithstanding, the gains from integration are many, among which are: -

- EAC is becoming a larger market for mutual support of its citizens and for those who want to trade with it, thus affording it comparative and competitive advantage and a larger voice in the comity of nations.
- There is increased attractiveness as an investment area for both local and international investors.
- Improved welfare of the citizens as benefits will be gained through both growth and development of the region.

2.3.0 The Opportunities and Challenges of Multi-Lateral Trading Agreements in the East African Community Integration presented by Gervase B. K. Akhaabi

In his paper, the presenter highlighted that policies are developed at national, regional and world levels to promote and regulate international trade by

eliminating barriers that constrain a free-flow of goods and services. It is contended that liberalized trade integrates a country's economy into the world economy and improves competition and efficiency and leads to both trade creation, employment creation and further wealth creation. In turn, increased growth may lead to poverty reduction and elimination or reduction of inequalities.

It was affirmed that the EAC Partner States are already members and participate in different trading arrangements regionally and globally such as WTO and the African Economic Commission, COMESA, SADC, and IGAD among others. However EAC is negotiating trade agreements with other countries and trading blocs such as EAC COMESA SADC Tripartite, EAC-EU Economic Partnership Agreement to mention a few.

2.3.1 Benefits of Regional and Multilateral Trading arrangements

The reporter acknowledged that these trading arrangements provide a number of benefits which may include;

- (a) Under WTO arrangement, the Most Favoured Nation (MFN) and National Treatment (NT) principles require all member countries not to discriminate between their trading partners within their markets. More importantly, the rules provide for deviations, exceptions and allowances for departure in special circumstances in the application of both MFN and NT principles.
- (b) Promote development through regional co-ordination of trade;
- (c) Trade liberalization by reduction of tariffs;
- (d) The removal of other barriers to trade;
- (e) An enlarged integrated market increases opportunities for investments and better utilization of economies of scale;
- (f) Promotes joint industrialization and investment policies and addresses supply-side constraints.
- (g) Integrates the regional economies into the WTO World trading systems.
- (h) With the benefit of the recent occurrences in the world financial market, it acted as a cushion against the harsh impact of the international financial crisis.

2.3.2 Challenges of Regional Economic Trading arrangements

- (a) These arrangements may lead to inefficiency without any substantial benefit to the people especially at a multi-lateral level;
- (b) They may also lead to trade diversion instead of trade creation hence resulting in unemployment;
- (c) The multilateral and regional arrangements could be stumbling blocks to trade liberalization and economic development;
- (d) Trade liberalization may hurt the welfare of sections of society through competition due to removal of protective policies.

2.4.0 Best Parliamentary Practices and Approaches that EALA Must Adopt to Enhance its Integration Agenda Presented by Hon. Kanyomozi Yonasani.

While introducing his paper, Hon. Kanyomozi alluded to the fact that Parliaments succeed in working because the different parts of the parliament from the Speaker downwards work together. Each part does its part in order to support the other part so as to achieve the goals established for it of being representative of the people. EALA though not elected by Direct Universal Suffrage falls in this category.

He further stated that Parliaments work on established procedures which parliament itself sets up and EALA has its Rules of Procedure which have been amended several times to meet the necessities of operating as an Assembly. These procedures include various legal interpretations on how the conduct of business in parliament is done. They are normally followed by the letter unless the Speaker or Chairperson suspends them and assumes quasi powers.

The time the debates are conducted is normally set for members and in particular there is a limitation on time in order to avoid persons speaking endlessly.

The presenter noted that to maintain order in the House and in Committees, parliaments normally institute sanctions to handle incidents of disorder, disorderly conduct and at times more severe, by imposing disciplinary actions such as suspension from the House for denying access to facilities and services,

blaming a member in a motion etc. These are proceedings as established by conventions, traditions of the parliament under question.

In order for the Member of Parliament to be free and to perform effectively, he/she is protected by privileges. He/she has special rights, immunities and powers that are normally allowed in democratic nations. These privileges are given so as to allow a member to fulfill his duty either in a national, regional or any parliament so established. These privileges enable the Member to exercise his/her duty in parliament without being constrained by any other power. Thus; parliamentarians can execute their mandate without fear or favour within the precepts of parliament. This protects them from being dragged to courts of law and from being prosecuted for whatever they say in parliament.

It was further revealed that relations between the Assembly and the National Assemblies of Partner States are fundamental. In this case, strong relations between EALA and National Assemblies will lead to popular participation of the general public in the Partner States on matters relating to the achievements of the objectives of the Community as expressed through the debates of the elected members of their National Assemblies.

The presenter also briefly touched on the conduct of business in the House. To ensure quality work in the Assembly, the House must observe that the rules of procedure of parliamentary business fall into four main categories – namely: - motions, bills, questions to ministers and the budget. The conduct of the debates in the House relate to the rules affecting those categories. For example, the process of moving a motion applies to all items of business introduced to the Assembly for consideration.

A member gives notice of motion, notifying the period when the motion will be presented. The same notice applies to the withdrawing of the motion. Later when the motion is already tabled, members are allowed to propose amendments to that motion, which must be supported by another member so that the debate can continue. The selection of who speaks on the motion depends on the person '*catching the eye*' of the Speaker. This also applies to interventions of points of

order, seeking a right to reply, giving information. During the debate, whoever speaks must be relevant to issues that touch that motion. The Speaker has the right to impose time limits on any debate. During the course of the debate, members must maintain order, keep in their chairs, maintain silence, curtail movement; members are not allowed to read newspapers or books and must be dressed properly in accordance with the dress code of the Assembly.

The Members normally assist the Speaker to apply the rules of procedure and manage the Assembly. He/she has to avoid a situation when he/she feels that they made a procedural mistake.

2.5.0 Nature & Flow of Parliamentary Business presented *by Hon. Dora C. Kanabahita Byamukama*

This presentation briefly highlighted on the following areas:-

The Institutional support of the Assembly, for all the parliamentary work and business to be successful must be supported by the staff of Assembly. These include; - the Clerks, Researchers, Public relations Officers, Serjeant-At-Arms, Network Administrators and Accountants.

Committee Work: The committee work includes oversight activities and committee meetings among others that the committees of the Assembly may consider.

Plenary Sessions: This is the time when all Members of the House convene to consider and debate all the committee reports, Questions to the Council of Ministers and any other business as may be determined by the Speaker.

Procedure of Business: Under the instructions of the Speaker, the Clerk draws up the order of business for each sitting. Any item of business standing on the Order Paper on any particular day which has not been completed or reached on the interruption of business under the relevant provision of these Rules, shall be placed on Order Paper for the next sitting in such order as the Speaker may decide.

Rules of Procedure: Article 60 of the Treaty establishing the East African Community stipulates that the Assembly may make, amend add to or revoke rules governing the procedure of the Assembly

Powers, privileges & immunities of the assembly & its members: Article 61 stipulates that Members are immune from legal action for any acts of omission or commission in the discharge of their functions under this Treaty.

Acts of the Community: Article 62, 63 and 64 of the Treaty stipulate that the enactment of legislation are effected by means of Bills passed by the Assembly and assented to by the Heads of State, and every bill that has been duly passed and assented to shall be styled an Act of the Community.

Bills and Motions: Article 59(1) states that any Member may propose any motion or introduce any Bill in the Assembly provided that it relates to the functions or Acts of the community relevant to Treaty and no financial implications.

In terms of Legislation, the Office of the Counsel to the Community can offer professional assistance in drafting of the Bill. A Member can seek leave of the House to move a Bill by motion which is seconded and to which a draft bill is attached. Under Rule 61 of the Rules of Procedure, the Bill is printed & circulated by Clerk.

When the motion is moved, the Speaker refers the Bill to the relevant Committee for discussion of principles, amendments, and proposals for correction of errors. The Bill must be read 3 times prior to its being passed.

Invitation of Persons to assist Assembly; Article 54 of the Treaty provides that the Speaker of the Assembly may invite any person to attend the Assembly, notwithstanding that he or she is not a member of the Assembly if in his or her opinion the business before the Assembly renders his or presence desirable.

Questions to Council of Ministers; Part VI of Rules of Procedure states that questions should be referred to the Council at least three weeks before the sitting on whose Order Paper they are to appear and the question should be genuinely of

an interrogative character and limited to seeking information or pressing for action.

The presenter of this paper concluded by saying that, in execution of their Work, all Members of the Assembly should exercise their mandate independently and not be bound by any instructions or orders from any person or authority regarding the exercise of their mandate.

She finally said that all members should preserve the independence of EALA in accordance with Article 8(4) of the Treaty which provides that Community organs, institutions and laws take precedence over similar ones on matters pertaining to the implementation of this Treaty; in the same breath, Article 16 stipulates that the effects of regulations, directives, decisions and recommendations of the Council are binding on the Partner States, on all organs and institutions of the community except the Summit, the Court and the Assembly.

3.0 EMERGING ISSUES FROM THE DISCUSSIONS

- a. Participants observed that there is a need for EALA to strengthen its engagement with the Public at the National Level on issues of EAC publicity and awareness through the media and public rallies;
- b. It was noted with concern that EALA submits its reports and resolutions to National Assemblies but they are never tabled and debated in respective Assemblies and yet they are of regional importance. For example the General Motors Petition and Chicken and Eggs Petition for Tanzania traders;
- c. Participants observed that there is need to put in place a law on the implementation of the EAC Treaty provisions. This law should also provide for sanctions in case of non-compliance;
- d. It was also observed that there is too much political bureaucracy which is frustrating the realization of EAC integration process, for example the process of assenting EALA bills is problematic;
- e. EAC majorly prefers the signing of protocols which are not binding instead of laws and also commissioning of studies which take long time to be

concluded yet the issues at hand are very critical and require urgent attention for the integration to be realized;

- f. Some of the EAC Countries are still involved in bilateral arrangements within the Community; this culture should not be encouraged in East Africa at this moment in time since it acts as an impediment to the regional integration process;
- g. Multiple Memberships by some EAC Countries within other regional blocs such as SADC and COMESA;
- h. It was also observed that little budget is allocated to infrastructure investments yet this sector should be one of the priority areas that can lead EAC to reap integration benefits;
- i. Participants affirmed that Land remains immovable and a fixed asset, once it is not effectively utilized, it becomes of less benefit to the people. However what is only needed in the EAC region is putting in place conducive policies for land security;
- j. Members took note of the fact that some of the negative effects of the regional economic trading arrangements presented have not been experienced particularly in the EAC integration process, for example, inefficiencies by these arrangements that bring no substantial benefits, trade creation and trade diversion;
- k. Members noted that high level Political Will influences and drives the technocrats to implement the EAC integration.

4.0 RECOMEMNDATIONS

- (a) EAC should negotiate and join other regional blocs as a Community (one entity);
- (b) A neutral authority should be established to undertake the implementation of the Treaty and its provisions;
- (c) A fund should be created to cater for EAC Publicity and promote the role of Media in the integration process;
- (d) To avoid donor dependency syndrome, EAC Partner States should increase their funding to support the priority areas such infrastructure investments;

- (e) Alternative sources of funding for infrastructural investment should be created for example Public Private Partnerships should be upheld for EAC to reap benefits of integration;
- (f) A single Visa should be introduced to make EAC a single tourism territory;
- (g) EAC should appoint eminent persons who are experienced on regional integration issues to work for the Community;
- (h) EAC Trade Policy should be put in place to streamline trade and investments in the region;
- (i) Special Committees on East African Community affairs should be set up in all the National Assemblies of the EAC Partner States. This will foster strong cooperation and close relations between EALA and the National Assemblies in the Partner States to move the integration process.
- (j) The Ministers in charge of EAC Affairs in the Partner States should be residents in Arusha and should be allocated sectors at the EAC Secretariat to monitor and follow up closely on matters related to the EAC integration process.

5.0 CONCLUSION

Hon. Speaker, this capacity building workshop portrayed high level of success, and this could be proved by the quality presentations which were made. The knowledge and information exchange exhibited at the workshop is a clear manifestation of the fact that new members of the CTI Committee had a lot to learn with regard to the scope of the committee's mandate including ways and means of executing this mandate. It is the sincere hope of members of this committee that the forums of this kind will always be organized to equip members with pertinent knowledge and skills that could enable them effectively exercise their mandate.

Hon. Speaker, I beg to move

MEMBERS OF THE COMMITTEE ON COMMUNICATIONS, TRADE AND INVESTMENT

(Report on the Capacity Building Workshop for New Members)

July 23rd – 24th 2012, LAICO Hotel, Nairobi, Kenya

Name		Signature
1. Hon. Angela Charles Kizigha	-	-----
2. Hon. Yves Nsabimana	-	-----
3. Hon. Dr. James Ndahiro	-	-----
4. Hon. Frederic Ngenzebuhoro	-	-----
5. Hon. Nusura Tiperu Omar	-	-----
6. Hon. Shy-Rose S. Bhanji	-	-----
7. Hon. Patricia Hajabakiga	-	-----
8. Hon. Dan F. Kidega	-	-----
9. Hon. Straton Ndikuryayo	-	-----
10. Hon. Dora K. Byamukama	-	-----
11. Hon. Adam Omar Kimbisa	-	-----
12. Hon. Joseph Kiangoi Ombasa	-	-----
13. Hon. Emerence Bucumi	-	-----
14. Hon. Nancy Abisai	-	-----
15. Hon. Peter Mathuki	-	-----