

4.4 East African Community's Agenda in the Productive and Social Sector

The presentation was made by Mr. Jean Claude Nsengiyumva, Deputy Secretary General (Productive and Social Sectors). He underscored the significant strides in the development of cooperation in each sector as follows:

4.4.1 Agriculture and Food Security

- Undertake a feasibility study on regional fertilizer production;
- Strengthen trade at regional level in Agricultural Inputs (STAR);
- Implementation of the EAC Avian influenza regional preparedness and response project; and
- Finalization of the Protocol on Sanitary and Phytosanitary (SPS).

4.4.2 Regional Industrialization Programme

- That industrialization will assume greater significance with the onset of the Common Market; and
- The formulation, within 2010, of the EAC Industrial and Investment Strategy aimed at promoting equitable industrial development in East Africa, as directed by 6th Extraordinary Summit.

4.4.3 Immigration, Labour, Employment and Refugee Management

- That the broad objective of the sector is to facilitate free movement of persons, labour and management of refugee movement in the promotion of peace and security in the region;
- The Common Market Protocol, as negotiated, contains detailed provisions on the free movement of workers, persons, the rights of establishment and residence, and detailed annexes to support the Protocol provisions;
- The development, by the Secretariat with the assistance of ILO, of a Regional Issues Paper focusing on the factors contributing to youth unemployment and underemployment in the region; and

- The key agenda for the sector in 2010 will be finalization of the remaining annexes, particularly on Portability of Social Security benefits.

4.4.4 Tourism and Wildlife Management

- Finalization of the Protocol on Cooperation in Tourism and Wildlife management;
- Hotel classification and harmonization of professional standards has been concluded; and
- The introduction of a Single Tourist Visa will be the focus for 2010.

4.4.5 Education, Science and Technology, Culture and Sports Development

- The Inter-University Council of East Africa (UCEA), during 2009, completed the study on the development of curriculum teaching, learning materials and quality in education;
- Establishment of the East African Kiswahili Commission and its operationalization are priority areas for 2010; and
- The search for an acceptable EAC Anthem will be intensified.

4.4.6 Gender, Community Development and Civil Society

- A forum of ministers responsible for social development, has been put in place to spearhead the operationalization of social development programs;
- Undertake the preparation of a strategic plan on gender and women in socio-economic development; and
- Preparation of the Civil Society Mobilization Strategy.

4.4.7 Cooperation in the Health Sector

- EAC has secured USD 10million for the recruitment of additional staff in the EAC Health sector and for the implementation of i) a regional project on the strengthening of cross-border animal and disease prevention and control, ii) an integrated multi-sectoral strategic plan for HIV And AIDS, iii) strategic plan on sexual and reproductive health and rights.

4.4.8 *Environment and Natural Resource*

- Ratification of the Protocol on Environment and Natural Resource Management continued in 2009; and
- The development of the EAC Climate Change Master Plan by the Secretariat

4.4.9 *Energy*

- The expansion of the 2005 EAC Power Master Plan to cover Rwanda and Burundi commenced in 2009 and is continuing;
- The planned development of an EAC Cross-border Electrification Policy;
- Study on the Dar es Salaam- Tanga- Mombasa natural gas pipeline is to be commissioned and USD 561700 has been procured for the purpose.

4.5 EAC State of Play in Peace and Security, Governance, Anti-Corruption and Political Federation

The presentation was made by Mr. Jean Claude Nsengiyumva, Deputy Secretary General (Productive and Social Sectors) on behalf of Hon. Beatrice Kiraso, the Deputy Secretary General (Political Federation), with the following as the highlights:

4.5.1 Peace and Security

- The EAC has developed a "strategy for Regional Peace and Security" whose vision is "A secure and peaceful environment for development";
- 15 Broad Goals, each with strategies for its implementation were identified as key in achieving the objectives of the protocol;
- The EAC Draft Protocol on Peace and Security was adopted by the Council of Ministers, it awaits the input of the Sectoral Council on Legal and Judicial Affairs;
- EAC Partner States are all signatories to the Eastern Africa Police Chiefs Cooperation Organization (EAPCCO) Protocol on Cattle Rustling;
- To facilitate peaceful resolution of both inter and intra state conflicts, a framework for Conflict Prevention, Management and Resolution is currently under development;
- Forums continue to be convened to support development of cooperation modalities among: Intelligence services; Correctional services; Disaster Preparedness and response entities; Counter Terrorism entities
- EAC continues to support and work with the continental framework established to enhance continental convergence on Peace and Security matters.

4.5.2 Good governance

- EAC is in the process of negotiating a Protocol on Good Governance which was initially developed as a framework with four major pillars namely:- Democracy and Democratization processes; Anti-Corruption, Ethics and Integrity; Human Rights and Equal Opportunities; and Rule of Law and Access to Justice

4.5.3 Foreign Policy Coordination

- For over ten years, the EAC Partner States have been coordinating their common foreign policy interests guided by a Memorandum of Understanding on Foreign Policy Coordination. Partner States have decided that the MoU be upgraded into a Protocol;
- The Council has already adopted the draft EAC Protocol on Foreign Policy Coordination and has referred it to the Sectoral Council for Legal and Judicial Affairs for legal input in preparation for its signature;
- Within the framework of the MoU, Partner States agreed, among others, to establish an EAC Subcommittee on Candidatures for International Jobs;
- Partner States have also taken a common stand on key issues in international relations, mostly at the levels of the African Union, European Union and United Nations;
- Partner States are exploring deeper engagement of their Diplomatic Missions in the integration processes. The Diplomatic Missions will be empowered to provide consular and visa services on behalf of each other, especially where a Partner State does not have physical representation.

4.5.4 Political Federation

All the above initiatives on peace and security, good governance and anti-corruption are part of the process towards the establishment of the East African Political Federation. To this end:

- A comprehensive sensitization programme has been proposed and is expected to be adopted by the next Council of Ministers; and
- A team of experts will propose on the way forward basing on the extent to which concerns raised by East Africa Citizens during National Consultations have / have not been addressed.

4.6 An Overview of the Directorate of Trade

This session was chaired by the Head of Rwanda Delegation Senator Ayinkamiye Speciose.

A presentation was made on behalf of the Director-General of Customs and Trade on the current state of play in the EAC Customs Union, with the following as highlights:

4.6.1 Elimination of NTBs

The operationalized time bound NTBs Monitoring Mechanism since September 2009 has been constrained by:

- Cumbersome Municipal legal frame work e.g. over 70 legislations governing trade still exist;
- Cumbersome customs and non customs procedures;
- Application of Rules of Origin despite a fully fledged Customs Union;
- High cost of doing business due to dilapidated infrastructure;
- Low levels of intra-regional Trade (13% in 2008);
- Different interpretations of regional laws;
- Lack of mutual recognition of and licenses;
- Dispute settlement mechanism not Operational;
- Lack of interface of Customs administrations;
- Multiplicity of clearance procedures; and
- Absence of joint border operations.

4.6.2 Common Trade Policy

This entails:

- Common external Tariff applied uniformly;
- Free circulation of goods including imported ones;
- Common Legal and institutional framework for collection and accounting of customs revenue;

- Common trade regime with third parties.

Application is being hampered by:

- Requests by Partner States to add items to the sensitive list and exemptions;
- Requests by Partner States for derogation of the CET through National lists;
- Implementation of National exemption regimes that vary from EAC exemption Regime;
- Lobbies by private sector members for country and firm specific remissions or to impose protective rates; and
- Imposition of levies and taxes of equivalent effect on imports.

4.6.3 Common External Tariff

This entails that on entry into the Customs Union goods do not suffer any additional customs Procedure while entering into another Partner State. This has, however, faced the following Challenges:

- National taxes on goods are imposed at point of entry into a country (Final Destination Principle);
- No legal and institutional framework for collection and accounting of customs duties;
- No universal bond to facilitate free movement of goods;
- Limited intra regional trade(raising dependence on customs revenue); and
- No legal framework for Secretariat to sanction in case of failure to implement Customs Instruments.

4.6.4 Common Trade Policy

This entails that Partner States negotiate joint trade pacts with third parties as a group. It faces the following Challenges:

- Lengthy process or failure in reaching joint positions in trade negotiations;
- Conflicting interests;

- Inadequate number of trained negotiators in national negotiating teams;
- Negotiating from a point of weakness compared to other party (due to inadequate technical capacity and resources)

4.6.5 *Single Trade Regime*

This will require:

- Continuous empowerment of private sector through training and sensitization on regional trade regime;
- Assisting partner States to correctly interpret Customs Union legal instruments;
- Supporting Partner States in EPA negotiations;
- Supporting Activities that lead to opening up new trade frontiers and investment, e.g. AGOA.

To succeed, the-

- Private sector must align business strategies to the expanded market;
- Governments should lead by procuring goods manufactured in the region;
- Partner States should ensure that political stability prevails;
- The institutional structure of the Secretariat should be reviewed to enable it to meet expanded mandate; and
- EALA should continue sensitization on East African integration.

4.7 The Common Market Protocol: Unpacking the Key Discussions, and Outlining the Operational Challenges

The presentation was made by Mr. Daudi Sajjabi, Principal Planning and Research Officer. The highlights of his paper are as follows:

4.7.1 What is a Common Market?

- Higher level of regional economic integration of two or more countries that encompasses the free movement of goods, services, labour and capital plus the right of establishment and residence.
- Involves greater harmonisation of macro-economic policies including tax regimes to minimise distortions in the market.

4.7.2 Benefits of a Common Market

- Effective, efficient, and sustainable *market enlargement* is the principal purpose of regional integration as it is the single "crucible of benefits" for the entire population in the common area. It results into increased competition, increased specialisation, larger economies of scale and increased efficiency in resource allocation.
- The *primary benefit* is a fostering and *enhancement* of a *faster economic growth rate*, from which a host of (i) economic (ii) social and (iii) political benefits then flow.

4.7.3 Objectives of a Common Market

The specific objectives are:

- accelerate economic growth and development of the Partner States through the attainment of the free movement of goods, persons and labour, the rights of establishment and residence and the free movement of services and capital;
- strengthen, coordinate and regulate the economic and trade relations among the Partner States in order to promote accelerated, harmonious and balanced development within the Community;

- sustain the expansion and integration of economic activities within the Community, the benefit of which shall be equitably distributed among the Partner States;
- promote common understanding and cooperation among the nationals of the Partner States for their economic and social development; and
- enhance research and technological advancement to accelerate economic and social development.

4.7.4 Free Movement of Goods

- Article 6(1) - The free movement of goods between the Partner States shall be governed by the Customs Law of the Community as specified in Article 39 of the Protocol on the Establishment of the East African Community Customs Union.

4.7.5 Free Movement of Persons

- Article 7(1) - The Partner States hereby guarantee the free movement of persons who are citizens of the other Partner States, within their territories.
- Key principle of non discrimination.
- The above right is subject to limitations on grounds of public policy, public security or public health.
- Implementation is in accordance with Annex I of the Protocol – a pass issued free of charge entitles one to stay for up to six months. Student pass shall be issued free of charge and renewed annually over the duration of the study.
- Article 9 - Partner States which have agreed to use machine - readable and electronic national identity cards as travel documents may do so and shall work out the necessary modalities.

4.7.6 Free Movement of Workers

- Article 10 (1) - The Partner States hereby guarantee the free movement of workers, who are citizens of the other Partner States, within their territories.
- Key principle of non discrimination.
- A worker shall have the right to be accompanied by a spouse and children who shall be entitled to be employed.

- Employment in the public service is excluded unless permitted by the Partner State.
- The above right is subject to limitations on grounds of public policy, public security or public health.
- Implementation is in accordance with Annex II of the Protocol.

4.7.7 *Schedule for the Free Movement of Workers*

Using the ILO classification, Partner States committed themselves to open up for the following categories of workers:

- Burundi – Professionals – by 1st July 2010.
- Kenya – Managers, Professionals, Technicians and Associate Professionals, and Craft and Related Trades Workers – by 1st July 2010.
- Rwanda – Professionals, and Technicians and Associate Professionals – by 1st July 2010.
- Tanzania – Professionals, and Technicians and Associate Professionals – ranging from by 1st July 2010 to 2015.
- Uganda – Managers, Professionals, and Craft and Related Trades Workers – by 1st July 2010.

4.7.8 *Right of Establishment*

- Article 13 (1) - The Partner States hereby guarantee the right of establishment of nationals of the other Partner States within their territories.
- Key principle of non discrimination for workers, self employed persons and firms.
- Article 13 (4) - The rights applicable to a spouse, child and dependant of a worker under Article 10 of this Protocol shall apply to the spouse, child and dependant of a self employed person.
- The above right is subject to limitations on grounds of public policy, public security or public health.
- Implementation is in accordance with Annex III of the Protocol - a pass issued free of charge entitles one to stay for up to six months. Work permit to be issued for an initial period of 2 years in accordance with harmonized fees as approved by Council. Denial of a work permit shall have to be communicated in writing.

4.7.9 *Right of Residence*

- Article 14 (1) - The Partner States hereby guarantee the right of residence to the citizens of the other Partner States who have been admitted in their territories in accordance with Articles 10 and 13 of this Protocol.
- Article 14 (2) - The right of residence guaranteed under paragraph 1, shall apply to the spouse, child and a dependant of a worker or self-employed person entitled to rights provided in Articles 10 and 13 of this Protocol.
- Article 14 (7) - The Partner States hereby agree that matters relating to permanent residence shall be governed by the national policies and laws of the Partner States.
- Implementation is in accordance with Annex IV of the Protocol - Denial of a residence permit shall have to be communicated in writing.

4.7.10 *Access to and Use of Land and Premises*

- Article 15 (1) - The Partner States hereby agree that access to and use of land and premises shall be governed by the national policies and laws of the Partner States.
- Article 15 (2) - The rights provided under Articles 13 and 14 in as far as they relate to access to and use of land and premises shall be subject to this Article.

4.7.11 *Free Movement of Services*

- Article 16 (1) - The Partner States hereby guarantee the free movement of services supplied by nationals of Partner States and the free movement of service suppliers who are nationals of the Partner States within the Community.

The free movement of services shall cover:

- The supply of services from the territory of a Partner State into the territory of another Partner State (Mode I – e.g. where a service is supplied electronically);
- The supply of services in the territory of a Partner State to service consumers from another Partner State (Mode II – e.g. tourism and education);
- The supply of services by a service supplier of a Partner State, through the commercial presence of the service supplier in the

territory of another Partner State (Mode III – e.g. KCB, Nakumatt and Uchumi in Uganda); and

- The supply of services by the presence of a natural person, who is a citizen of a Partner State, in the territory of another Partner State (Mode IV – e.g. professional services like lawyers, doctors accountants, engineers, etc).

4.7.12 Free Movement of Services

- Key principle of non discrimination – *nationals from other Partner States to be treated under the same conditions as are applicable to the nationals of that Partner State.*
- Article 17 – National Treatment - Each Partner State shall accord to services and service suppliers of other Partner States, treatment not less favourable than that accorded to similar services and service suppliers of the Partner State.
- Article 18 – MFN Treatment - Each Partner State shall upon the coming into force of this Protocol, accord unconditionally, to services and service suppliers of the other Partner States, treatment no less favourable than that it accords to like services and service suppliers of other Partner States or any third party or a customs territory.
- Implementation is in accordance with Annex V of the Protocol

4.7.13 Schedule of Commitments on the Liberalisation of Services

- Partner States have committed themselves to progressively open up some sub-sectors within the following 7 broad sectors over the period 2010 - 2015:
 - Business and Professional Services
 - Communication Services
 - Distribution Services
 - Educational Services
 - Financial Services
 - Tourism and Travel Related Services
 - Transport Services

- Partner States will make commitments on the remaining 5 sectors (Health and Social Services, Construction and Related Services, Energy Services, Environment Services, and Movement of Natural Persons) plus additional commitments on the above indicated 7 service sectors in line with Article 23 (2) of the Protocol.

4.7.14 *Elimination of Restrictions on the Free Movement of Capital*

- Article 24 (1) - Except as provided in this Part, the Partner States shall upon the coming into force of this Protocol:
 - remove restrictions between the Partner States, on the movement of capital belonging to persons resident in the Community;
 - remove any discrimination based on the nationality or on the place of residence of the persons or on the place where the capital is invested;
 - remove any existing restrictions and shall not introduce any new restrictions on the movement of capital and payments connected with such movement and on current payments and transfers, or apply more restrictive regulations; and
 - remove restrictions relating to current payments connected with the movement of goods, persons, services or capital between Partner States in accordance with the provisions of this Protocol.
- Implementation is in accordance with Annex VI of the Protocol:
 - Kenya, Rwanda and Uganda have already opened up their capital accounts.
 - Burundi and Tanzania will open up within the period 2010 – 2015

4.7.15 *Outstanding Work*

- The following remain outstanding:
 - Annex on the Harmonization and Mutual Recognition of Academic and Professional Qualifications.
 - Additional Commitments under the Schedule on the Progressive Liberalization of services.
 - Additional Commitments under the Schedule on the Free Movement of Workers.

- Annex on Social Security Benefits in the Community.
- Annex on the Macro Economic Convergence Criteria.

4.7.16 *Institutional Structure of EAC*

- Study underway on the institutional structure that will support the effective functioning of the EAC Common Market – final report is expected by April 2010.

4.7.17 *Operational Challenges*

- Funding of the Community
 - Treaty Provisions – Article 132 (4) – specifies equal contributions by the Partner States.
 - Increasing donor dependence.
 - Institutional reforms of the Community
 - Case for amending the formula is glaringly clear – any economic variable will give similar conclusions – take GDP – out of US\$ 55 billion for EAC – Burundi 2%, Rwanda 6%, Uganda 24%, Tanzania 29% and Kenya 40%. Similar picture for intra EAC trade.

- Sensitisation – EAC citizens need to know the rights accorded to them by the Protocol.
- Extended Jurisdiction for the EACJ.
- Issues of sovereignty vis-a-vis deeper regional integration - need for an optimal mix – principle of subsidiarity. Need to provide for organisational authority.
- Multiple memberships specifically in COMESA and SADC – grand vision of an FTA encompassing EAC, SADC and COMESA should minimise the operational challenges.
- Infrastructure bottlenecks – quality and quantity of telephone lines, mobile phone penetration, electricity capacity and length of road network stock.