IMPORTANT ASPECTS

OF

THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY

FOREWORD

By Hon. Amanya Mushega, Secretary General, East African Community

On behalf of the Secretariat of the East African Community, I would like to welcome the publication of ***Important Aspects of the Treaty for the Establishment of the East African Community***. The publication introduces the reader to the basics of the Treaty for the Establishment of the East African Community in a simple and captivating style. The book is also produced in Kiswahili, a language used by the majority of the East African population.

Signed on 30th November 1999, the Treaty for the Establishment of the East African Community entered into force on 7th July 2000 following its ratification by the Partner States.

The Treaty sets out a bold vision for the eventual unification of the EAC Partner States, namely Kenya, Uganda and Tanzania. It outlines a comprehensive system of co-operation among the Partner States in Trade, Investments and Industrial Development; Monetary and Fiscal Policy; Infrastructure and Services; Human Resource, Science and Technology, free movement of factors of production; Agriculture and Food Security; Environment and Natural Resources Management; Tourism and Wildlife Management.

Other areas of co-operation outlined in the Treaty are health, social and cultural activities; women and development; participation of the private sector and civil society; as well as co-operation in legal, judicial and political. The scheme of cooperation includes issues of defence, security, and coordination of foreign policy.

The Treaty outlines the main stages to be undergone in bringing about East African integration. These are: the establishment of the Customs Union as an entry point, and thereafter a Common Market, subsequently a Monetary Union and ultimately a Political Federation of the East African States. It also establishes the main organs of the Community, which include the Summit of Heads of States; the Council of Ministers; the Co-ordination Committee; the Sectoral Committees; the East African Court of Justice, the East African

Legislative Assembly; and the Secretariat of the East African Community; and it emphasizes the participation of the Private Sector and Civil Society in the integration process.

The provisions of the Treaty take into account the strategic interests of the East African region. It is recognised that, by providing a larger market the Community will boost trade and investment in the region. Co-operation in the development of science and technology will help the East African Region to modernise and industrialize faster, thus creating employment opportunities and raising the standards of living of all. On the whole, the Community will boost our pride, dignity and confidence, and enhance our clout in dealings with the rest of the world.

The Treaty is the basic document of the East African Community setting out the vision, objectives, systems, structures and strategies of integration. Clear understanding of the Treaty is the starting point of the participation of the people in the integration process. I would like therefore to recommend ***Important Aspects of the Treaty for the Establishment of the East African Community*** for wider reading in the region. I thank the Friedrich Ebert Foundation for its support towards the realisation of this important publication, which will contribute to widespread understanding of the purpose and objectives for the Establishment of the East African Community.

EAC Secretariat
Arusha, Tanzania
May 2002.

Greetings from the Friedrich Ebert Foundation

The Friedrich Ebert Foundation has always enjoyed a close working relationship with the Community, through various activities leading to the establishment of the East African Community, even before the signing of the Treaty establishing the East African Community on 30th November 1999. This co-operation was and still is being pursued by the Foundation as it understands, supports and values the need for the integration of the people of East Africa.

The Friedrich Ebert Foundation continues to cooperate with the three Partner States and their citizenry in strengthening the new East African Community following its revival.

The preparation of this publication is part of the Foundation's efforts whose aim is to sensitise the people of East Africa, enabling them understand the establishment and objectives of the Community, so as to make it possible for them to participate fully in the realization of its objectives.

It is our sincere hope that this publication will be used in Schools, Colleges, Adult Education Institutions, Non Governmental Organisations, in Government offices and more so by the ordinary citizens.

A lot of people have contributed in the preparation process of this publication. I would like to take this opportunity to give my heartfelt thanks to them all, hoping that this end result will meet the objectives they strived for.

Once again I thank you.

Peter Haeussler
Resident Director
Friedrich Ebert Foundation
Dar Es Salaam, Tanzania

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Preface

This book is an English counterpart of a Swahili version about the Treaty of the East African Community. Unlike the Treaty for establishment of the East African Community, which was written in a legal language, this book has been set out in a simplified narrative that avoids the legal jargon, in order to enable ordinary readers to grasp the basics of the Treaty with ease.

In this book, the substance of the Treaty has been reorganized into four main themes, touching on the establishment of the Community and outlining the main areas of cooperation.

The establishment part mainly outlines the institutional framework for East African integration. This consists of declaring the establishment of the Community; setting out the main goals and objectives of the Community; and creation of organs charged with various functions and responsibilities for realizing the aims of the Community.

On the areas of cooperation, the main ones outlined in this book are three, namely:

1) Economic and production issues;
2) Social issues, science and technology; and
3) Political issues and international affairs.

The purpose of this book is to inform the people of East Africa about the existence of the East African Community, its purposes and how they will be able to participate in, and benefit from the implementation of its aims and objectives.

The layout of the chapters in this book reflects the purpose of it as described above. It is therefore obvious that, the book does not include all the chapters and articles which are in the Treaty. But any possible deficiencies have been taken care of, in order to make sure that they do not distort the interpretation of the Treaty.

The intended readership of this book consists of different categories of people in the society of East Africa, particularly primary and secondary school pupils. But it can also be used in high schools, adult education classes, in some higher levels of learning, and by non-governmental organizations.

Interpretation

In this agreement: "**Act of the Community**", means an act of the Community, in accordance with the Treaty.

"**Audit Commission**" means the Audit Commission established by Article 134 of the Treaty.

"**Assembly**" means the East African Legislative Assembly established by Article 9 of the Treaty.

"**Bill**" means a Bill of the East African Legislative Assembly.

"**Civil Society**" means a realm of organized social life that is voluntary, self-generating, self-supporting, autonomous from the state, and bound by a legal set of shared rules.

"**Clerk of the Assembly**" means the Clerk of the East African Legislative Assembly, appointed under Article 48 of the Treaty.

"**Common Carrier**" includes a person or an undertaking engaged in the business of providing services for the carriage of goods and passengers for hire and operating as such under the laws of a Partner State.

"**Common External Tariff**" means an identical rate of tariff, which is imposed on goods imported from third countries.

"**Common Market**" means the Partner States' markets integrated into a single market in which there is free movement of capital, labour, goods and services.

"**Common Standard Travel Document**" means a passport or any other valid travel document establishing the identity of the holder, issued by or on behalf of a Partner State, of which she or he is a citizen and which shall include also inter-state passes.

"**Community**" means the East African Community established by Article 2 of the Treaty.

"**Contracting Parties**" means the United Republic of Tanzania, the Republic of Kenya and the Republic of Uganda.

"**Cooperation**" includes the undertaking by the Partner States in common, jointly, or in concert, of activities undertaken in furtherance of the objectives of the Community as provided for under the Treaty or under any contract or agreement, made thereunder or in relation to the objectives of the Community.

"**Coordination Committee**" means the Committee established by Article 9 of the Treaty.

"**Council**" means the Council of Ministers of the Community established by Article 9 of the Treaty.

"**Counsel to the Community**" means the Counsel to the Community provided for under Article 69 of the Treaty.

"**Countervailing duty**" means a specific duty levied for offsetting a subsidy, bestowed upon the manufacture, production or export of a product.

"**Court**" means the East African Court of Justice, established by Article 9 of the Treaty.

"**Customs Clearing Agent**" means a person who is licensed in any of the Partner States to provide a service at a fee, in connection with documentation and customs clearance of import and export.

"**Designated Airline**" means an airline which has been authorized by a Partner State to operate agreed services.

"**Duty Drawback**" means a refund of all or part of any excise or import duty paid in respect of goods for a purpose prescribed as a condition for granting duty draw back.

"**East African Industrial Development Strategy**" means the strategy, which provided for under Article 80 of the Treaty.

"**The East African Law Reports**" means the published reports of the judgements of the former Court of Appeal for East Africa and the High Courts of Tanzania, Kenya and Uganda.

"**East African Trade Regime**" means a trade regime provided for under Article 74 of the Treaty.

"**Environment**" means the natural resources of air, water, soil, fauna and flora, ecosystem, land, the man-made physical features, cultural heritage, characteristic aspects of the landscape, and the socio-economic interaction between the said factors and any living and non-living organisms.

"**Equitable Distribution of Benefits**" means fair and proportionate distribution of benefits.

"**Financial Year**" means a financial year referred to under Article 137 of the Treaty.

"**Foreign Country**" means any country other than a Partner State.

"**Freight Forwarders**" means a person engaged at a fee, either as an agent for other transport operators or on his own account, in the management of transport services and related documentation.

"**Gazette**" means the official gazette of the community.

"**Gender**" means the role of women and men in Society.

"**Head of Government**" means a person designated as such as by a Partner State's Constitution.

"**Head of State**" means a person designated as such by a Partner State's in the Community Constitution.

"**Import**" means bringing in or causing to be brought into the Partner State of goods from a foreign country.

"**Indigenous Entrepreneur**" means a citizen who is a businessperson of a Partner State, but who does not possess a foreign nationality.

"**Institutions of the Community**" means the institutions of the Community established by the Article 9 of the Treaty.

"**International Standards**" means standards that are adopted by international, standardizing organizations made available to the public.

"**Judge**" means a judge of the East African Court of Justice and includes the President and Vice-President of the court.

"**Judgement**" shall include a ruling, an opinion, an order, a directive or a decree of the Court.

"**Minister**" means as far as the Partner States are concerned, is a government Minister of a member country, and any other person who may in accordance with a particular member state, be performing the functions of a Minister in that state.

"**Multimodal Transport**" means the transportation of goods or services from one area to another by using two ways or more of basic transportation through an agreement authorized by a person who is actually dealing with the transportation of goods, who then finally completes the work.

"**Multimodal Facilities**" includes machines that can move heavy goods, lifts, low-loaders, storage facilities, access facilities, trucks, forklifts and others, including containers.

"**National Assemblies**" means Partner States' legislatures.

"**Non-Tariff Barriers**" means administrative and technical requirement imposed by a Partner State, in the movement of goods.

"**Organs of the Community**" means organs of the community established by Article 9 of the Treaty.

"**Other Charges if Equivalent Effect**" means any tax, surtax, levy or charge, imposed on imports and not on locally produced goods, but does not include fees and similar charges made to compensate the cost of a service.

"**Partner States**" means the United Republic of Tanzania, the Republic of Kenya, the Republic of Uganda and any other country, which may be granted membership to the Community under Article 3 of the Treaty.

"**Person**" means a natural or legal person.

"**President of the Court**" means the person appointed as President of the Court under Article 24 of the Treaty.

"**Principle of Asymmetry**" means the principle, which addresses variances in the implementation of measures in an economic integration process for purposes of achieving a common objective.

"**Principle of Complementarity**" means the principle, which defines the extent to which economic variables support each other in economic activity.

"**Principle of Subsidiarity**" means the principle that emphasizes the multi-level participation of a wide range of stakeholders in the process of economic integration.

"**Principle of Variable Geometry**" means the principle that allows flexibility for progression in cooperation among a subgroup Partners within a larger scheme of integration.

"**Private Sector**" means that part of the economy of a Partner State that is not owned or controlled by the State.

"**Protocol**" means any agreement that supplements, amends or qualifies of the Treaty.

"**Registrar**" means the registrar of the Court appointed under Article 45 of the Treaty.

"**Safeguard Measures**" means the measures that a Partner State takes to protect the economy under Articles 78 and 88 of this Treaty.

"**Salary and Terms and Conditions of Service**" includes wages, overtime, pay salaries, transport allowances, pensions, and other retirement benefits, such as redundancy, severance allowance, housing and medical allowances and leave allowances.

"**Secretariat**" means the Secretariat of the Community as established by Article 9 of the Treaty.

"**Secretary General**" means the Secretary-General of the Community as provided for under Article 67 of the Treaty.

"**Sectoral Committee**" means the Sectoral Committee established by Article 20 of the Treaty.

"**Sectoral Council**" means the Sectoral Council provided for under Article 14 of the Treaty.

"**Shipping Agent**" means a local representative of a shipping company.

"**Speaker of the Assembly**" means the speaker of the Assembly provided for under Article 53 of the Treaty.

"**Subsidy**" means a financial contribution by a Government or any public body within the territory of a Partner State or where there is any form of income or price support in the sense of Article XVI of GATT 1994.

"**Summit**" means the Summit established under Article 9 of this Treaty.

"**Surviving Institutions of the Former East African Community**" means the East African Civil Aviation Academy, Soroti, the East African Development Bank, the East African School of Librarianship and the Inter-University Council of East Africa.

"**Telecommunications**" means any form of transmissions, emission or reception, signal, writing, images and sounds or intelligence of any nature by wire, radio, and optical or other electromagnetic system.

"**Trade Procedure**" means activities related to the collection, presentation, processing and dissemination of data and information concerning activities constituting international trade.

"**Treaty**" means the Treaty establishing the East Africa Community, including any annexes and protocols thereto.

1. INTRODUCTION

The three countries of East Africa, Kenya, Uganda and Tanzania, have a long history of social, cultural and economic cooperation.

In spite of the fact that, in the early days this cooperation benefited the British colonial power, it later became the foundation of a new type of cooperation among the independent States of East Africa.

Following the independence of all the three countries in the 1960's, the social, cultural, and economic interests became the incentive for cooperation among the countries of East Africa.

The first institution created by the Independent States of East Africa to foster such cooperation among them was the East African Community in 1967. The Headquarters of this community was located at Arusha, Tanzania. Unfortunately, it collapsed in 1977.

The collapse of the community was brought about by many factors. Some of these are, among others, differences in political outlook, ideology and economic development.

For example, while Kenya continued with the market economy inherited from the colonial system, Uganda and Tanzania developed state controlled economies.

Other reasons for the breakdown of the East African Community include lack of political will among the leaders, and inadequate participation by the private sector and the public as a whole in the cooperative activities. The other reason was inequitable distribution of the benefits accrued from the cooperation.

Inequitable distribution of benefits was partly caused by the difference in the level of development among the members of the community. While Kenya was relatively more developed industrially, Uganda and Tanzania became virtually the markets for the goods produced in Kenya.

The absence of any mechanisms to rectify this situation contributed greatly towards the subsequent deterioration and breakdown of the community in 1977.

Following the breakdown of the community, the Partner States engaged a mediator who also dealt with the redistribution of assets and liabilities. This task was accomplished in seven years, from 1978 to 1984, when members of the Community signed the Agreement for the Redistribution of Assets and Liabilities. The Agreement was signed in Arusha on May 24, 1984.

One of the terms of the Agreement was an item, which required the members of the East African states to explore areas of possible future cooperation. But it took more than ten years to agree on the areas and mechanisms of cooperation.

These new efforts were signalled by the decision of November 30th 1993, to start a new Permanent Secretariat for East African Cooperation. The Secretariat was envisaged to coordinate economic, social, cultural, political, and security matters. The agreement that gave a go-ahead to set up the Secretariat of the Commission was signed on November 26, 1994.

Having evaluated the various accomplishments by the Permanent Commission in enhancing cooperation, the leaders of East Africa reached a decision at Arusha, Tanzania, of restating a new East African Community. So the Commission was instructed to supervise the negotiations regarding a new Treaty for the Establishment of the East African Community.

The preparations for the new East African Community were completed in 1999. The Treaty for the Establishment of the East African Community was signed by the leaders of the East African states at Arusha, in Tanzania, on November 1999.

All the three countries of East Africa have ratified the Treaty. Further, all the main organs of the Community listed under Article 9 of the Treaty, have already been created.

2. ESTABLISHMENT OF THE COMMUNITY AND ITS BASIC PRINCIPLES

The establishment of the Community, and the articulation of its basic principles are matters covered from Article 2 to 8 of the Treaty.

2.1 Establishment of the Community

Article 2 pronounces the establishment of the Community, and outlines the transitional stages towards total integration in East Africa. The transitional stages mentioned include the creation of a Customs Union, and a Common Market for East Africa.

Article 3 outlines the structure of the Community. Firstly, Tanzania, Kenya and Uganda are stated as founding states. Secondly, the Article sets out the terms and conditions of membership for other countries wishing to join the Community. The conditions stipulate that, any country requesting to be considered for membership, must accept the community as it is provided in the Treaty, and abide by the principles of democracy, the rule of law and the observance of human rights.

Other factors to be considered vis-à-vis the applying country include the potential contribution of that country to the Community, and the geographical proximity to East Africa. The aspiring country will also be required to foster a market-based economy, and align her social and economic policies with those of the Community.

2.2 The Basic Principles of the Community

The Legal Capacity and objectives of the Community

The legal capacity of the Community is stipulated under Article 4 of the Treaty.

Apart from being a 'body corporate', the community has the capacity to acquire, to hold, manage, and to dispose land, and any other property. The Community is also able to borrow, to sue and to be sued in its own name, and the Secretary-General is designated as its representative.

The objectives of the Community are provided under Article 5 of the Treaty, and they include developing policies and programmes aimed at widening and deepening cooperation among the Partner States. This cooperation is envisioned to be in political, economic, social, cultural and legal matters. Other outlined areas of cooperation include research, technology, defence and security.

In ensuring the realization of these aspirations, the Member States have agreed to take four important steps, namely: creation of a Customs Union; formation of a Common Market; formation of a Monetary Union; and finally, forging a Political Federation.

Principles of the Community

The principles of the Community are categorized into 'fundamental' and 'operational'.

The fundamental principles of the community as outlined under article 6 of the Treaty, include promoting mutual confidence, building political will and recognizing sovereign equality among the Partner States. Others involve promotion of peaceful co-existence, and good neighbourliness of states, which includes adopting a peaceful approach to resolving conflicts. Another principle consists of striving to promote good governance and equity for all.

The operational principles of the Community as outlined under Article 7 of the Treaty show that, East African cooperation is envisioned to be people-centred and market driven.

Apart from fundamental and operational principles, there are general principles regarding implementation of the Treaty as stipulated under Article 8 of the Treaty. The principle calls upon Partner States to take several actions in order to realize the objectives of the Community. These steps include making policy plans and redirecting resources to serve the interests of cooperation. Further, Partner States are required to promote coordination, and abstain from taking measures subversive to the Community.

Another task is to ensure that, all necessary steps, be it legal, legislative or administrative, are taken to enable the Community to operate smoothly.

3. THE STRUCTURE OF THE COMMUNITY AND ADMINISTRATIVE MATTERS

3.1 The Main Organs of the Community

The main organs and institutions of the Community are created under Article 9 of the Treaty. Organs of the Community mean all those units and sections, which make up the institutional machinery of Community.

For the implementation of its different functions, the Community has created the following organs:

1. The Summit
2. The Council
3. The Coordination Committee
4. The Sectoral Committees
5. The East African Court of Justice
6. The East African Legislative Assembly
7. The Secretariat and the Staff of the Community

It should be noted that, the Summit is empowered to create more organs.

3.1.1 The Summit: The Meeting of the Heads of State

The Summit is the highest organ of the Community, established under Article 9 of the Treaty. And according to Article 10, the Summit is described as a meeting of the Heads of State or Government of Partner states.

At present, the Summit is formed by the President of the Republic of Kenya; the President of the United Republic of Tanzania, and the President of the Republic of Uganda.

The main function of the Summit as provided under Articles 11 and 12 of the Treaty, is to give general directives to the Community, in order to enable it achieve its objectives.

But the Heads of State may delegate their powers to individuals or to the various organs of the Community.

The Summit is to be chaired by one of the Presidents of the Partners States of the East African Community, in rotation. This chairmanship is supposed to be for periods lasting one year each.

Another business to be dealt with by the Summit is to appoint judges of the East African Court of Justice, and to admit new states as members to the East African Community.

3.1.2 The Council

The Council (also known as the Council of Ministers) is made up of the Ministers appointed by Partner States to be in charge of international cooperation, or East African integration. Matters related to the Council are covered under Articles 13 to 16.

The main function of the Council is to deal with policy issues of the Community. Therefore, the Council is expected to promote, monitor, and keep under constant review the implementation of the programmes of the Community. It is also supposed to ensure progress is made, towards the realization of the Community's objectives.

3.1.3 The Coordination Committee

According to Article 17, the Coordination Committee is consisted of the Permanent Secretaries responsible for regional integration in each Partner State.

The Coordination Committee is mainly charged with the responsibility of implementing the decisions of the Council. The Committee is also a watch-guard of the Community, tasked to make recommendations and submit reports on the implementation of the Treaty.

3.1.4 Sectoral Committees

Sectoral Committees are the organs charged with the responsibility of preparing detailed implementation plans and setting out priorities.

According to Article 20, Sectoral Committees are to be formed upon the recommendation of the Coordination Committee to the Council.

A Sectoral Committee also has to monitor the implementation of the Treaty with regard to its sector, and may make such proposals and recommendations to the Coordination Committee as appropriate.

3.1.5 The East African Court of Justice

The basis for establishing the East African Court of Justice is the agreement by the Partner States to harmonise their legal systems. Matters related to the East African Court of Justice are covered under Articles 23 to 47 of the Treaty.

Jurisdiction of the Court

According to Article 23, the Court's basic mission is to ensure the adherence to law in the interpretation and application of the Treaty. That is why the jurisdiction of the Court, according to Article 27, is basically over the interpretation and application of the Treaty. It is also envisaged that, the Court should have other original, appellate and human rights jurisdictions as to be defined.

Complaints and Appearance Before the Court

Cases to be filed before the Court should either be based on a failure to fulfil an obligation provided for in the Treaty, or an infringement of a provision of the same.

Along this line, a complaint may be based on the fact that, a certain undertaking is deemed to exceed the mandate of the Community, or otherwise it is simply unlawful, or constitutes an infringement of a provision of the Treaty.

The procedure laid down under Articles 28 to 30 provides that, complaints can be filed before the Court by any of the following: Partner States; the Secretary General; organizations, companies and institutions; and individual persons.

It should be noted that, not only complaints that are to be taken before the Court, but also requests for advisory opinions of the Court, on a point or points of law can be made.

Complaints filed before the Court may be either written or verbal, and appearance of parties before the Court can be either personal or through an advocate.

Decisions of the Court

The first, among the Court's judicial functions as outlined under Article 34 of the Treaty, is to issue Preliminary Rulings upon the request of national courts as elaborated above. An initial ruling is not a judgement, but an opportunity to show the Court's position regarding the issue in dispute.

The second function as provided under Article 35 of the Treaty, is to deliver judgements. The issuance of judgement happens after the issues that were brought before the Court have been considered, and submissions from both sides are complete. A judgement is a decision of the majority of the judges.

The third function as stipulated under Article 36 is to give advisory opinions as mentioned above. In giving its advisory opinion, the court is supposed to be guided by the Treaty.

The fourth function of the Court as provided under Article 39 is to issue temporary orders and other directions. Temporary orders or injunctions are used to prevent anything from either happening, not happening or continue to happen, until the Court rules otherwise.

Also, Partner States are directed to the effect that, as soon as issues are lodged at the court, they are supposed to refrain from doing things which jeopardize reaching a resolution of the conflict, or permit the matter to proliferate and escalate.

After judgement has been pronounced, the parties have the obligation to implement it.

Appeal

The East African Court of Justice does not have a system of appeals. However, under Article 35 of the Treaty, an unsatisfied litigant may request the Court to review its judgement.

But the grounds for moving the Court to review the judgement include the discovery that, an issue has cropped up, which if it had been discovered before the judgement, it might have vitiated the outcome. But it also must be established that, the issue in question was absolutely not known.

The East African Court vis-à-vis National Courts

The presence of the East African Court does not overshadow the domestic courts of the Partner States, because, according to Article 33, any disputes to which the Community is a party can be instituted in any domestic court of a Partner State.

Secondly, according to Article 34 stated above, a domestic court in any Partner State, before issuing a judgement on a matter brought before it concerning the interpretation and application of the Treaty, may request the East African Court to give a preliminary ruling on that matter.

And thirdly, according to Article 44, the execution of the judgments of the East African Court in monetary compensations, is supposed to be governed by the rules of civil procedure of the Partner State in which execution is to take place. This necessarily involves the national courts of the respective state.

However, decisions of the East African Court on the interpretation and application of the Treaty, generally, have precedence over decisions of the national courts on the same.

In conducting its business, the East African Court of Justice has to use English as language of communication

Judges of the Court

According to Article 24, the Judges of the Court are to be appointed by the Summit. Basically, they are supposed to come from the Partner States.

The judges should be persons of high integrity; impartial and independent, and must be qualified for the judicial function.

The number of judges is not supposed to exceed 6, and no more than two judges shall be appointed on the recommendation of one state. This means that, the nationality of the judges is not an issue, as it can happen that, more than two judges hail from the same state. But not more than two of them shall have been nominated by one country. In other words, two of them will be nominated by one country and the third or more must be nominated by another country. This also means that, freedom of nomination is not confined to ones country only, but a state shall be free to nominate even from another country.

The Court is supposed to be lead by a President and a Vice President, chosen from among the judges. This presidency shall rotate within the Partner States.

3.1.6 The East African Legislative Assembly

Matters related to the Legislative Assembly of the East African Community, are covered under Articles 48 to 65 of the Treaty.

The East African Legislative Assembly is an organ created to legislate on some aspects of the East African cooperation.

The functions of the Legislative Assembly

According to Article 49, the Assembly is designated as the chief legislative organ of the Community. Apart from its Legislative functions, the Assembly is supposed to be an organ for enhancing the cooperation with other legislatures of the Partner States, on matters of common interest.

The Assembly is also responsible for approving the budgets of the Community. However, before approving the budgets, the Assembly has to examine and evaluate the annual reports of the Community. Another function of the Assembly is to discuss all the affairs of the Community, and forward the recommendations to the Council of Ministers.

It is also part of the functions of the Assembly, to recommend the names of the persons, from among whom the Secretary-General and other officers of the Community are to be appointed.

Composition of the Assembly

The East African Legislative Assembly is composed of twenty-seven elected members, and five others who are to come into the House as ex-officio members. The ex-officio members include the Ministers ordinarily involved with matters of cooperation in the East African Community, as well as the Secretary-General.

On top of that, the Speaker is empowered to invite to the Assembly, any other person whose contribution would be desired in a discussion on any matter in the Assembly.

The Speaker of the Legislative assembly
Article 53 establishes the post of Speaker to the Legislative Assembly. The Speaker is supposed to be elected from among the members elected to the Legislative Assembly. The title of Speaker shall be held in rotation among the Partners States.

The Law Making Process in the Assembly
The legislation process starts with submission of a Bill into the Legislation Assembly, for discussion.

Bills to be sent to the Assembly can be proposed by any Member, but they should be in connection with the work of the Community, and based on the Treaty for the Establishment of the East African Community.

If the Legislative Assembly passes a Bill, the Speaker takes it to the Summit, Which approves or disapproves it. If it is disapproved by the Summit, it may be returned to the Legislative Assembly with a recommendation as to what the Legislative Assembly should do.

After a Second Reading, the Legislative Assembly shall take the Bill to the Summit again. If the Heads of State approve of it, it becomes a law. If they do not approve it, it is assumed to have failed.

For a Bill to become a law, all the members of the Summit must approve it. If one member of the Summit does not give his consent, that Bill cannot become a law.

The Internal Rules of the Legislative Assembly
The Legislative Assembly has the capacity to make its own rules and regulations, related to the capacity, immunity of the members, as well as the governance of its internal business, among others.

Elections of the Members of the East African Legislative Assembly
Members of the East African Legislative Assembly of the East African Community shall be elected from the National Legislative Assemblies of the Partner States.

Therefore, whoever wants to be elected for the Legislative Assembly of the East African Community should seek for election in his own National Parliament.

Every Partner State is entitled to elect 9 members, but not from among the members of its National Parliament.

This election of Members should take into account the proportionate numbers of the representations of the different political parties that have seats in the national parliament.

This election should also take into account gender, and any other factors ordinarily taken into account in representational issues.

Qualifications of Members of the East African Legislative Assembly

1) He/She should be a citizen of a Partner State of the Community.

2) He/She should qualify to stand for election in the National Parliament of that partner state in accordance with the Constitution of the country.

3) He/She should not have a Ministerial Portfolio in the Partner State.

4) He/She should not be an employee of the East African Community.

5) He/She has proven experience or interest in consolidating and furthering the aims and objectives of the Community.

3.1.7 The Secretariat and the Staff of the Community

According to Articles 66 to 73 of the Treaty, the Secretariat is the most important executive organ of the Community, comprised of the following offices:

- The Secretary-General of the Community
- The Deputy Secretaries-General of the Community.
- The Counsel for the Community.
- Other Officers.

The Secretary General

The post of Secretary General is established under Article 66 of the Treaty. The appointment of the Secretary-General is done by the Summit. Having

been appointed, the Partner State that has nominated him, shall not be allowed to nominate a Deputy Secretary-General.

The Secretary-General is the Chief Executive Officer of the Community, which means that he is the Head of the Secretariat. He is also the Chief Accounting Officer of the Community, and Secretary to the Summit. He may perform other responsibilities also, as can be delegated to him from time to time.

The Deputy Secretaries General

The Treaty, under the same Article 66 of the Treaty, establishes posts of Deputy Secretaries-General, whose number is to be determined by the Council, depending on the types of responsibilities. These Deputy Secretaries-General are supposed to be appointed by the Summit, after receiving recommendations from the Ministerial Council.

The Deputy Secretaries-General are to function as deputies to the Secretary General on specified matters, and to do any other work as the Council of Ministers direct.

The Counsel to the Community

The office of Counsel to the Community is established under Article 69 of the Treaty. The chief task of the Counsel is to advise the Community and all its organs, on all legal matters related to the Community.

The Ministerial Council of the Community is supposed to outline the functions of the Counsel, but he is also empowered to appear, on behalf of the Community, in proceedings before Municipal Courts of Partner States where the Community is a Party.

Other Officers of the Secretariat

The East African Community has other officers and workers of the Secretariat. These persons will be engaged on contract, and the Council shall deal with matters regarding their salaries and their work generally. All the staff of the Community shall enjoy diplomatic privilege.

Functions of the Secretariat in General

Generally, the Secretariat has a lot of responsibilities as follows: -

1) To prepare matters to be dealt with by the Council of Ministers and the Legislative Assembly.

2) To plan and coordinate the best way for implementing the programmes of the Community.

3) To investigate on any issue which is likely to weaken the Community.

4) To disseminate information regarding the Community.

5) To deal with administrative and financial matters of the Community.

3.2 Financial Matters

Financial matters are covered under Articles 132 to 135 0f the Treaty. The financial item deals with issues of budget; sources of funding, audit of the accounts and financial rules and regulations to guide the expenditure of the Community.

The Budget
The budget of the Community is supposed to be prepared by the Secretary General, and considered by the Council of Ministers. The Legislative Assembly must finally approve it.

The budget of the Community is meant to provide for the running of the organs and institutions of the Community. Therefore, all expenditures of the Community shall be covered from this budget.

Sources of Finance
The sources of finance for the East African Community include contributions, made on equal basis, from the Partner States. Other sources include grants from regional and international donations, and the income generated from the Community's activities.

Auditing
A Special Commission is supposed to do the auditing of the accounts of the Community. This Commission is supposed to be composed of by the Auditors General of the Partner States.

In its audit exercise, the Commission is supposed to examine the financial sources and the expenditure of the Community.

In performing its duties, the Audit Commission is endowed with full independence, and is not supposed to receive instructions from anybody nor be controlled by anybody, or any authority.

4. COOPERATION IN ECONOMIC FACTORS AND DEVELOPMENT

Cooperation in economic factors and development in the East African Community, is envisioned to cover mainly the following areas: trade liberalization and development; investment and industrial development; monetary and financial matters; free movement of factors of production; agriculture and food security; environment and natural resources; tourism and wildlife management; and promoting the private sector and the civil society.

4.1 Trade Liberalization and Development

Issues of trade liberalization and development are covered under Articles 74 to 78 of the Treaty. The aim of the Partner States under this area is to create policy guidelines for Liberalization of trade in East Africa.

This liberalization is to be realized by establishing a Customs Union and subsequently a Common Market for East Africa.

Establishment of a Customs Union for East Africa

In any Customs Union, the member states agree to a common external tariff, the intention of which is to prevent the goods coming from outside the union to enter with the lowest tariffs.

This is the same intention with the East African Community. The important things, which the Partner States want to achieve by creating a Customs Union for East Africa, include the elimination of internal tariffs and other like measures. It also aims towards elimination of trade barriers, and establishment of an external tariff common to all East African States. This endeavour goes to the extent of envisaging cooperation in customs matters, and simplification and harmonization of trade regulations and procedures.

Establishment of a Common Market for East Africa

Establishment of a Common Market is intended to guarantee the people of East Africa, freedom to move from one member state to another in seek of employment and providing services. The freedom extends to movement of goods, investment and business establishment.

4.2 Investment and Industrial Development

Matters related to investment and industrial development are covered under Articles 79 and 80 of the Treaty.

In this area, the Community envisages to promote industrial growth, which is self-sustaining, and to strive to balance this growth among the Partner States.

Other endeavours include the urge to improve the competitiveness of the industrial sector in East Africa, and to promote indigenous entrepreneurs.
In order to realize the above endeavours, several steps have to be taken, which include preparing an industrial development strategy for East Africa, and to forge linkages within the industrial sector in the Community.

As part of these steps, it is considered imperative to set out a modality for facilitating a transfer of technology within the Community, and the development of small and medium scale industries. These small industries are expected to concentrate on basic capital and intermediate goods, such as food and agro processing.

In line with this, it is considered imperative also to develop science and technology related to industrial development, and to harmonize investment incentives.

4.3 Monetary and Financial Matters

Matters related to monetary and financial cooperation are covered under Articles 82 to 85 of the Treaty.

The envisaged starting point towards cooperation in monetary and financial matters is to harmonize the major economic policies of the Partners States, a task which is to be coordinated by the Council of Ministers. The second step is to agree on a convergence framework for the Community.

The vision of the Partner States is that, the harmonization of economic policies as stipulated above must be followed by removal of all exchange restrictions on imports and exports within the Community, and liberalization of the financial sector. It is also considered important to take steps towards harmonization of tax policies. The ultimate aim is to create financial stability within the Community

To achieve the above endeavours, Partner States will have to do the following: to make sure that their currencies remain convertible, which is also a basis for establishing the envisaged monetary union; and to have the same approach regarding exchange policy and interest rate, and specifically to let the exchange rate be determined by the free market.

Partner States will also have to harmonize their monetary and fiscal policies generally, and facilitate the free movement of goods, services and capital within the Community. The ultimate purpose of all this is to finally integrate the financial systems of the Partner States.

However, Partner States are also encouraged to continue with the current exchange arrangements involving their national currencies, in transactions within and among agencies of the Partner States, and so economize on the use of foreign currencies. In this line, some steps have to be taken to ensure commercial growth, and smooth transfer of capital within the Community. Ultimately, Partner States will harmonize and integrate their financial systems.

Another avenue for monetary and financial cooperation is on the banking sector and capital market development. To realize this, a capital market development programme is to be established, whose other function is to facilitate free movement of capital as envisaged in the aspirations towards a Common Market.

The free movement of capital will be achieved by removing controls in the capital transfers among the Partner States, and by permitting the citizens and other people legally living in the Community to acquire stocks, shares and other securities, and to invest. This goes hand in hand with encouraging cross-border trade in financial instruments.

Further, in the same quest to cooperate in monetary and financial matters, Partner States envisage to cooperate in financing joint projects in every State, particularly those which enhance integration in the Community. They also agree to cooperate in mobilizing foreign capital for financing national projects, as well as joint projects with the same purpose stated above.

4.4 Free Movement of Persons, Services and Labour

Matters related to free movement of persons, services and labour are covered under Article 104.

It is the intention of Partner States to work towards allowing free movement of persons, which includes movement of labour and services, and to grant people permission to establish themselves business wise in other countries of the Community. Under this endeavour, Partner States endeavour to take steps towards easing border crossing by citizens of those countries.

To further facilitate this, it is envisioned to set out common standard travel documents for citizens of countries that are members to the Community, and to make sure that borders remain opened on all frontiers.

In facilitating free movement of labour and services, it envisioned to have in place common employment and labour policies, including harmonization of legislation related to issues of labour and employment.

Other envisioned measures for realizing the same objective include: establishment of a regional labour exchange and employment information centre; sharing training facilities by the people of Partner States, and promoting the activities of labour organizations and trades unions within the Partner States.

4.5 Agriculture and Food Security

Matters related to cooperation in agriculture and food security are covered under Articles 105 to 110.

Under this part, the achievement of food security and the importance of food production in the Community are matters highly underscored. The main goal of Partner States is to have increased agricultural productivity in crops, livestock, fisheries, and forestry, and to enhance the preservation of farm products, including making improvements on food processing.

Common Policy on Agriculture and Food Security

In order to achieve the above, it is envisioned to create a common policy on agriculture and food security. Further, Partner States agree to cooperate in harmonizing their agricultural policies and to enhance agro-meteorology and climatology. Other things include the development and application of agricultural training in the science of food processing; research and agricultural consultancy; and the establishment of joint programmes for the control of animal and plant diseases and pests.

It is also envisaged to cooperate in the marketing of food and the coordination of the export and import of agricultural commodities.

Breeding And Production Of Seeds

Other areas of cooperation include the production and dissemination of quality seeds, and breeding and distribution of livestock. In this line, Partner States will encourage and facilitate exchange of genetic materials, in order to widen the base for livestock development in the Community.

On the same line too, Partner States envisage to encourage the participation of the private sector in the breeding and distribution of livestock, and to cooperate in harmonizing their agricultural control mechanisms.

Pests and Disease Control

Another area of cooperation under this part is the control of plant and animal diseases. To achieve this, Partner States commit themselves to undertake a harmonization of policies, rules and regulations for the enforcement of mechanisms for pests and disease control, including harmonization and strengthening of the institutions that perform these tasks. In the same line, it is further envisioned to harmonize and strengthen the regulatory institutions dealing with inspections and control of animal and plant diseases.

However, in order to realize the above aspirations, it is considered imperative to construct animal and plant laboratories, to deal with the diagnosis and identification of pests and diseases, and to use common mechanisms to ensure the safety and efficacy of agricultural inputs, drugs and vaccines.

Other steps include using and promoting environmentally safe methods of land use, and to cooperate in supervising diagnosis and control strategies of cross-boundary pests and animal diseases.

Irrigation And The Management Of Water Sources

There is an agreement by the Partner States to cooperate in preparing and implementing irrigation schemes at national and community levels; and this includes developing and preserving traditional methods of irrigation.

Other matters to be worked out include the management and preservation of water sources and catchments of rainwater. All these endeavours are to be carried out in environmentally safe and sustainable ways of using land.

Food Security
As part of the efforts of ensuring food security, Partner States are required to design mechanisms for exchanging information regarding food requirements, supply surpluses, shortages, trade and forecasting including the determination of the state of nutrition.

On top of that, Partner States will have to harmonize their quality and standards of inputs and products including food additives; and they envisage developing methods of getting information regarding market prices at appropriate times. Initiating and maintaining strategic food reserves is also seen as a measure for ensuring food security.

4.6 Environment and Natural Resources

Matters related to cooperation on the environment and natural resources are covered under Articles 111 to 114.

There is a general assertion among Partner States that, a clean environment contributes to sustainable human development. Noting that issues of environment go together with issues of natural resources, they basically agree to take steps to further their cooperative efforts in enhancing supervision and management of natural resources within the Community.

The above stated endeavour goes hand in hand with the aspiration to cooperate and coordinate policies and action, in order to protect and conserve the natural resources and the environment, against any form of degradation and pollution, arising from the development activities of man.

Environmental Management Policy
It is realized that, the above endeavours cannot be achieved without putting in place a viable policy for managing the environment. To this end, Partner States agree to make common environmental management policies. They also agree to take steps to prevent air-pollution, land degradation and water pollution.

Toxic Chemicals and Hazardous Wastes
Preservation of the environment goes hand in hand with prevention of illegal trade in, and the movement of toxic chemicals and hazardous wastes.

In this respect, Partner States agree to cooperate and to have one common approach against any illegal dumping of poisonous, chemical and other dangerous wastes in the Community, either from a Partner State or from any other country.

Natural Resources
For purposes of the Treaty, matters that are to be included in the natural resources envelope include: forests, water and marine resources, and mineral resources.

The necessary measures that Partner States envisage to take regarding natural resources are: undertaking conservation; enhancing management; and adopting common regulations.

The realization of the above endeavours requires a number of steps to be taken, which include: adopting common policies; undertaking joint promotion and utilization approaches; adopting common regulatory and conservatory approaches; and doing joint explorations on natural resources.

4.7 Tourism and Wildlife Management

Matters related to cooperation in tourism and wildlife are covered under Articles 115and 116.

Tourism
With regard to tourism, Partner States agree to undertake to develop a collective and coordinated approach to the promotion and marketing of quality tourism, into and within the Community.

Apart from developing a common code of conduct for private and public tour and travel operators, Partner States commit themselves to standardize hotel classifications and harmonize the professional standards in the tourism industry within the Community.

In the same line, Partner States resolve also to promote a regional strategy in order to develop tourism, in which the efforts of individual states will be consolidated under the regional strategy.

Wildlife Management
With regard to wildlife management, it is the commitment of the Partner States to develop a collective policy and system for conservation and

sustainable utilization of wildlife in the Community. To this end, emphasis is put on harmonizing policies on the preservation of wildlife, inside and outside the protected areas. This is strengthened by the endeavour to exchange information, and to coordinate efforts in controlling and monitoring poaching activities.

It is further endeavoured to encourage the joint use of training and research facilities available in the Partner States, and to develop common management plans for protected areas.

Equally important, Partner States agree to take steps to ratifying, or acceding and implementing international agreements on tourism and wildlife management.

4.7 The Private Sector, Civil Society and the Role of Women

The Partner States consider that, the economic development endeavours outlined above, cannot succeed, if the private sector and the civil society remain excluded.

In view of this, the enhancement of the private sector and the civil society are matters envisioned to be part of the cooperation initiative, as contained in Articles 127 to 129 of the Treaty.

Participation of the Private Sector and the Civil Society

The Treaty creates an enabling environment, which permits the participation of the private sector and the civil society. In this connection, the two entities are called upon to take full advantage of the Community.

However, emphasis is put on providing opportunities for private businesses to participate actively in improving the policies and activities of institutions of the Community, which tend to affect them.

With regard to the civil society, the vision is to create opportunities for continued dialogue with the Community and the governments of Partner States.

Improving the Business Environment and Promoting the East African Market

Partner States endeavour to improve the business environment in the Community, through the promotion of conducive investment codes, and the

protection of property and other rights. This includes proper regulation of the private sector.

An integral part of this enterprise is to promote the development of the East African market, through linking up of different types of infrastructure, within the Community, and removing barriers and obstacles to the development of the market.

The endeavour to promote the development of the East African market goes hand in hand with facilitation of the exchange of commercial intelligence, and promoting useful trade practices among the Partner States.

It is also envisioned to strengthen the role of the national organisations of the Partner States in formulating their economic policies, and to facilitate exchange of information on the joint use of capital. As stated above, it will be imperative to allow investments to cross the boundaries of Partner States in order to promote businesses, and enhance the promotion of economic development.

Strengthening The Private Sector

As pointed out above, it is envisioned, as part of this cooperation, to undertake the strengthening of the Private Sector. Partner States are to initiate programmes that will strengthen and promote the development of the private sector.

In order to fulfil these aims, Partner States agree to encourage the proper use of rare resources that are available, to promote the development of organizations that are in the Private Sector dealing with economic activities, such as entrepreneurs, associations, and federations of businessmen engaged in industrial sector, agriculture, manufacturing, farming and those involved in the services sector including provision of technical services.

Cooperation Among Business Organizations And Professional Bodies

Partner States agree to cooperate in promoting common measures for strengthening linkages among key stakeholders.

This cooperation is to be developed by supporting joint activities, which will ultimately promote trade and investment among the Partner States. The idea is to recognise and contribute to the efficient operation of federation of

business organisations, and professional and commercial interest groups as well as any similar associations within the Community.

It is further envisaged to encourage and promote, within the Community, discussions about decisions by the Council and other relevant organs of the Community.

The Role of Women in Business

The role of women in business is underscored under Article 122 of the Treaty. In recognizing the importance of women as an essential economic link between agriculture, industry and trade, Partner States agree to increase women's participation in business at policy and programme formulation and implementation level. Other steps include removing all the laws, rules, policies and actions that normally prevent women to get access to financial assistance and credit.

5. COOPERATION IN SERVICES, OTHER SOCIAL MATTERS, AND SCIENCE AND TECHNOLOGY

5.1 Infrastructure and Services

Cooperation in infrastructure and services are matters covered under Articles 89 to 101 of the Treaty.

Policies on Transport and Communication

In order to promote the objectives of the Community, as set out in Article 5 of the Treaty, the Partner States commit themselves to initiate a number of steps. These steps include the harmonization of transport and communication policies, and to enhance the existing communication ad transport links.

The harmonization endeavours stated above will touch on standards, regulatory laws, rules, procedures, practices, and use of facilities concerned with transport and communication.

The enhancing endeavour touches on construction, review and re-designing, maintaining, and security matters in transport and communication. Others include facilitation of exchange of information on technological developments in transport and communication, and granting special treatment to land locked countries.

In order to achieve the above objectives, Partner States will examine and review the structures of the transport system in the Community.

Roads and Road Transport

Under this area, Partner States envisage to harmonize their transport regulations, automobile specifications, transport rules, and traffic laws, including the award of licences and the training of drivers.

This endeavour involves taking concerted steps to ratify international conventions on road traffic and road signs and signals. They will adopt common requirements for the insurance of goods and vehicles; adopt and establish common road safety regulations and accident rescue including first aid and medical care.

Railways and Rail Transport
Partner States agree to establish and maintain coordinated railways services that will efficiently connect the Partner States within the Community; and where necessary to construct additional railway connections. Together they will harmonise their railways industry and operational systems.

They will also harmonize procedures with respect to the packaging, marking and heading of goods and wagons for railways transport within the Community, they will also charge non-discriminatory tariffs in respect of goods transported by railway within the Community.

In general, they will deal with all maters related to railways and railway transport operations.

Civil Aviation and Civil Air Transport
In respect of civil aviation and civil air transport, Partner States commit themselves to harmonize their policies on civil aviation to promote the development of safe and efficient transportation. They will take appropriate steps to facilitate the establishment of joint air services and the efficient use of aircraft. This will enhance air transportation within the Community.

Alongside the above endeavour will be to adopt common policies on the development of civil aviation and civil air transportation in the Community, in cooperation with other relevant international organisations. In particular, they will harmonize: civil aviation rules; control systems; the common measures; and coordinate use of facilities and flight schedules. Equally important will be to coordinate matters of security.

Maritime Transport and Ports
In this area, Partner States envisage to harmonise their policies and structures on Maritime Transport. This is planned to go hand in hand with establishment of efficient and profitable seaport services through the liberalization and commercialisation of port operations.

The above aspiration will necessitate the Partner States to ratify and enter into international agreements on Maritime Transport, and cooperate in joint projects. They will also have to undertake maintenance of communication equipment, and enhancing security in Maritime Transport, among others. Another aspiration is to harmonize tariff structure for waterways transport.

Cargo Transporters, Customs Clearing Agents And Shipping Agents
With regard to this area of cooperation, Partner States saw the need to subsequently harmonize the requirements for registration and licensing of freight forwarders, Customs Clearing Agents and shipping Agents. They also foresee the importance of jointly facilitating the registration and licensing of persons as Freight Forwarders, Customs Clearing Agents, and Shipping Agents, provided that, the persons so referred to, fulfil the legal and customs requirements of that Partner State.

Naturally, the above aspiration requires Partner States not to restrict the commercial activities, and rights and obligations of a lawfully registered and licensed clearing and forwarding agent.

Postal Services And Telecommunication
Partner States envisage enhancing their cooperation in their postal services organizations, and creating reliable ways of getting fast, secure, economical and efficient postal services among themselves.

To this end they underscore the need to strengthen postal sorting centres, routing, transit and distribution systems within the Community. They plan also to pool together financial, technical and human resources, for the improvement of their postal services, and adopt competition market strategies to increase market shares in the international courier services. In line with this idea, it is considered equally important to conduct joint market research activities with a view to launching new postal products or services.

Meteorological Services
Included in this area is a commitment by every Partner State to gather and disseminate to other Partner States, all information on weather forecast, in order to facilitate their air, sea and inland waters transport.

Therefore, the meteorological services network and communication of Partner States will be expanded and upgraded. Similarly, their training in research methodology will also be harmonized and strengthened.

The Partner States will cooperate and assist one another in all the activities of the World Meteorological Organization (WMO) which affect the Community, particularly to design an early warning system and remote

sensing. To serve this purpose includes also the necessity to exchange information regarding developments in this area, including equipments and technical know-how.

Energy
With regard to energy, Partner States envisage to adopt policies and systems for the promotion of utility, development, research and the use of different energy resources available within the region.

5.2 Development of Human Resources, Science and Technology

The main things under this part as provided under Articles 102 and 103 of the Treaty, include promotion of education and training, and science and technology.

Education and Training
Partner States agree to take concerted measures to foster cooperation in education and training within the Community. This involves coordination of their policies on human resources development and strengthening research and training to develop and harmonize their educational systems. Other steps include the revival and enhancement of Inter-University Council of East Africa.

Science and Technology
Considering the primary importance of science and Technology, the Partner States agree to increase cooperation in the development of science and technology in the Community. The joint establishment and support of scientific and technological research, and creation of a conducive environment for the promotion of science and technology will be the steps taken to achieve this objective.

This cooperation will also be increased through the increased use of science and technology in the Community; the mobilization of technical and scientific support inside and outside of the Community from international organizations or their agencies; exchange of scientific information technical staff and the publication of research results.

Other steps to be taken include cooperation in the training of personnel on both, scientific and technical issues using the existing institutions and the institutions, which have recently been started; to develop and to utilize technological reports and other literature within the Community. To

establish joint guidelines on the best way of doing research, and to harmonize commercial and technological policies and promote the protection of intellectual property rights.

5.3 Health, Social and Cultural Affairs

Matters related to cooperation in health, social and cultural affairs are covered under Articles 117 to 120.

Health

In health services cooperation, the Partner States have agreed to take common steps to prevent and control infectious diseases including HIV/Aids and others. They will control contagious and chronic diseases.

Further, Partner States commit themselves to participate in inoculation campaigns and to develop joint policies on drugs. To this end, they underscore the importance of enhancing efficiency, intensity research, and promoting training efforts, which includes exchange of information on health reports and publicizations of new drugs and natural nutritious foodstuffs.

Culture and Sports

Under this area, Partner States purport to encourage cooperation at different levels on matters of culture and sports, by developing and promoting cultural and sports activities. Other matters of equal importance are indigenous languages, especially Swahili, which is envisaged to be a *Lingua Franca* for the people of East Africa.

Other steps would be to ratify agreements and policies on the trade of, conservation, safeguarding, and development of cultural heritage of the Partner States including historical materials and antiquities.

Social Welfare

In this area, Partner States resolve to cooperate, specifically focusing on employment, poverty alleviation; vocational training, eradication of adult illiteracy, and develop a common approach towards the poor and disadvantaged people, including children, the youth and the aged.

5.4 The Role of Women

The role of women in economic and social development is enshrined under Articles 121 to 122 of the Treaty.

The provisions of the Treaty on this part are based on the assertion that, women have a significant role to play in the process of social and economic transformation of the people as a whole. It is therefore acknowledged that, it is impossible to succeed in the aspiration to about social and economic transformation of the people of East Africa without including women.

To serve the ends of this endeavour, Partner States commit themselves to increase the participation of women in socio-economic development including in decision-making.

Opportunities in the higher wings of leadership and decision-making will be made accessible to women. Further, steps will be taken to increase women's capacity and give them permanent employment, and this will go hand in hand with the elimination of all laws and practices that hinder women's access to financial assistance, including credit.

To further serve the interests of this cause, it will be imperative to initiate changes in educational and training strategies, to enable women to improve their industrial employment levels through the acquisition of transferable skills, offered by various forms of vocational schemes, and so establish opportunities for equality.

6. COOPERATION IN POLITICAL MATTERS AND INTERNATIONAL AFFAIRS

6.1 Political Matters

Matters related to political cooperation are covered under Articles 123 to 125 of the Treaty.

Political Cooperation

In this context, political cooperation is approached in way that facilitates the eventual establishment of a political federation. The key things that are being underscored in this connection, namely the formulation of joint foreign and security policies. The purpose of these foreign and security policies is to safeguard the common values, fundament interests and independence of the community; and to develop and strengthen democracy and the rule of law and respect for Human Rights as well as fundamental freedoms.

The other purposes, which will be taken into account, will include the preservation of peace and strengthening security between Partner States and within the Community; and to increase cooperation at international for a. These are conceivably considered as important steps towards the eventual establishment of a Political Federation of the Partner States.

The aims and purposes stipulated above, will be fulfilled through the adoption of a systematic cooperation among the Partner States on foreign and security policies of general interest within the Community in order to define a common position to be upheld by the Partner States. Further, Partner States should inform one another about what they are doing and defend these issues at the international fora and support them perfectly. Equally, they are to avoid doing anything that would be construed by the other Partner States, as going against the interests of the Community, or even weakening it.

The Community will adopt an approach of peaceful resolution of conflicts and disputes between and within the Partner States. They will also coordinate their defence and security policies.

Regional Peace, Security and Defence

Partner States agree that, peace and security are essential for social and economic development within the Community, and vital to the achievement of the objectives of the Community. Therefore, the Partner States agree to foster and maintain an atmosphere conducive to peace and security among the Partner States, through Cooperation and consultation on issues of peace and security.

Further, Partner States agree to promote and maintain good neighbourliness as a basis for promoting peace and security within the Community. Together they will establish regional disaster management mechanisms.

In addition to the above, Partner States express their willingness to initiate joint methods of dealing with refugees. To this end they commit themselves to cooperate in dealing with cross-border crimes, and combating crime, including facilitating the extradition of criminals to their states and exchange of information on national mechanism for fighting crime.

In fulfilling these aims and purpose, Partner States intend to strengthen their methods of exchanging reports on crime and security among them, and to strengthen joint activities that are aimed at combating crime, such as searching for criminals.

In the same endeavour, Partner States plan to establish joint organs for communication on security, and to use the International law on mutual assistance on criminal matters.

Other steps include concluding agreements on combating illicit drug trafficking, and enhancing the exchange of visits by security authorities; and facilitating exchange in training programmes, and establishing common mechanisms for the management of refugees.

In order to promote peace, security and stability within the Community and with the neighbours, Partner States agree also to cooperate very closely in defence and security matters, and they envisage to set out a framework for cooperation in this area.

6.2 Cooperation With Other Regional And International Organizations And Development Partners

Matters related to cooperation with international organizations and benefactors are covered under Article 130 of the Treaty.

In this area, Partner States agree to respect their commitments to multinational and international organizations, of which they are members also. Apart from emphasizing their desire to have a wider unity for Africa, they regard the East African Community as one of the steps of achieving the African Unity.

For the purpose of contributing to the promotion of the Community, the latter will cooperate with other organizations, whose objectives and activities have a bearing on the objectives of the Community. Partner States will put special emphasis on cooperation with the African Union, the United Nations, other international organizations, and multilateral and bilateral development partners interested in the objectives of the Community.

7. OTHER MATTERS

General Provisions, Transitional and Final

Headquarters of the Community
According to Article 136 of the Treaty, the Headquarters of the Community and other offices are to be in Arusha, Tanzania.

Official Language of the Community
Article 137 of the Treaty provides that, the official language of the Community shall be English. The Swahili language will be developed as a *lingua franca*.

Duration of the Treaty
Article 144 provides that the Treaty shall have a perpetual duration.

Withdrawal from Membership
Article 145 provides for the procedure of withdrawing from the Community as follows:

1. A Partner State may withdrawal from the Community provided that:
   (a) The withdrawal is effected by a resolution of the National Assembly of the Partner State concerned by a two-thirds vote.
   (b) The Partner State wishing to withdraw from the Community shall give a twelve [12] months notice.

2. A Partner State wishing to withdraw from the Community shall during the twelve [12] months period, continue to discharge its obligation under the Treaty.

3. Even when the withdrawal has been affected, the Partner State concerned will continue to discharge its long-term obligations incurred during the membership.

Expulsion of a Member
Article 147 concerns the expulsion of a member. The Summit can terminate the membership of a Partner State from the Community for gross and

persistent violation of the principles and objectives of the Treaty, by giving that country a twelve [12] month notice.

Unless cancelled in between, when the period stipulated in the notice expires, the member's expulsion is complete.

Rights Over Property and Assets Upon Cessation of Membership
Article 149 deals with the rights over properly and assets of the Community, upon cessation of membership, namely when a Partner State withdraws or is expelled from the Community, as per Articles 145 and 147.

If any of the above occurs, the property of the Community in that Partner State's territory shall remain vested in the Community. The Partner State, which has withdrawn from the Community, will have no claim to the Community's property. The Community will continue to exist with the remaining Members, in spite of a Member's expulsion or withdrawal.

Amendment of the Treaty
According to Article 150, the Treaty can be amended any time by agreement of all the Partner States, after receiving recommendations for the amendment from any Partner State or from the council of Ministers.

Any recommendations regarding the amendment of the Treaty shall be submitted to the Secretary-General in writing. Then, within 30 days of receiving them, he will pass them on to the Partner States. The Partner States that are prepared to submit their views on the proposed amendments will do so in 90 days from the date of receiving the Secretary General's recommendations.

After the expiration of that date, the Secretary-General will submit those recommendations together with any other recommendation to the Summit through the Council of Ministers.

Any amendment to the Treaty has to be approved by the Summit, and shall be assumed to be operative, as soon all the Partner States have ratified them.

APPENDICES

1. Protocols to the Treaty establishing the East African Community.

Introduction

A Protocol to the Treaty of the East African Community is part and parcel of the Treaty, which established it. This interpretation is explained in Article 151 of the Treaty as follows:

1) Partner States will conclude protocols, as they may be necessary in every area of cooperation, which shall spell out the purpose and the spirit of cooperation and how to further this spirit.

2) Every protocol shall be approved by the Summit on the recommendation of the Ministerial Council.

3) Every protocol shall have to be signed and ratified by all the signatories.

4) The annexes and the protocols of this Treaty shall form an integral part of the Treaty.

The following is the list of protocols, which have been completed and ratified by the summit and signed by all the Partner States.

i) Protocol on Rectifying and Ascertaining on Refinement, Measurement and Measuring (Based on Article 81 of the Treaty).

ii) Agreement on the Fight and Transportation of Dangerous Drugs (Based on Article 24, Sect. 5(e) of the Treaty)

iii) Tripartite Agreement on Road Transport (Based on Article 142, Sect. 1(f) of the Treaty).

iv) Tripartite Agreement on Fresh Water Transport (Based on Article. 142, Sect. G of the Treaty).

v) A Memorandum of Understanding on Cooperation on Defence (Based on Article 142, Sect. 1(e) of the Treaty).

vi) A Memorandum of Understanding on Coordination of Foreign Affairs Policies (Based on Article 142, Sect. 1(h) of the Treaty).

vii) Tripartite Agreement on Double Taxation Evasion and prevention of Income Tax Evasion (Based on Article 142, Sect. 1(d) of the Treaty).

viii) Protocol on the Establishment of the Secretariat of the Joint Permanent Commission of Cooperation for the United Republic of Tanzania, the Republic of Kenya and the Republic of Uganda (Based on Article 142, Sect. 1(b) of the Treaty).

ix) A Memorandum of Understanding between the United Republic of Tanzania, the Republic of Kenya and the Republic of Uganda (Based on Article 142, Sect. 1(b) of the Treaty).

x) Agreement Concerning the Head-quarters of the Secretariat of the Commission of Cooperation on the supervision of Environment (Based on Article 142, Sect. 1 (b) of the Treaty).

xi) Protocol on Decision-Making of
a) The Summit (Based on Article 11 of the Treaty)
b) The Ministerial Council (Based on Article 18 of the Treaty)
c) The Coordination Committee (Based on Article 18 of the Treaty)

xii) Qualifying Standards of Entry into the East African Community (Based on Article 3, Sect. 3 of the Community).

xiii) Protocol on the institutional and Legal Structure of Developing the Lake Victoria Valley.

2. Other Documents

xiv) Industrial Development Strategy of East Africa.

xv) East African Development Strategy of East Africa for the period 2001 – 2003.

xvi) Know the New East African Community – by George Nangale.

xvii) The East African Community challenges and opportunities No. 1.

For more information please contact:

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4. The East African Legislative Assembly at its First Session – November 29, 2001

The United Republic of Tanzania

1. Hon. Abdulrahman O. Kinana -Speaker, East African Legislative Assembly.
2. Hon. Dr. Harrison Mwakyembe
3. Hon. George Francis Nangale
4. Hon. Ambassador Isaac Abraham Sepetu
5. Hon. Said Bakari Jecha
6. Hon. Mabere Nyaucho Marando
7. Hon. Kate Sylivia Magdalena Kamba
8. Hon. Beatrice Matumbo Shelukindo
9. Hon. Mahfoudha Alley Hamid

The Republic of Uganda

1. Hon. Nanziri Sarah Bagalaaliwo
2. Hon. Richard Baker Ddudu (Capt.)
3. Hon. Sozi Kiwanuka Medi Kaggwa
4. Hon. Yonasani Bankobeza Kanyomozi
5. Hon. Mishambi Sheila Kawamara
6. Hon. Irene Ovonji Odida

7. Hon. Wandera Daniel Ogalo
8. Hon. Mutende Lydia Wanyoto
9. Hon. Muntu G. Mugisha (Maj. Gen.)

The Republic of Kenya

1. Hon. Lt. Gen. Abdullahi Aden
2. Hon. Haji Adbulrahim Haithar
3. Hon. Prof. Margareth Kamar
4. Hon. Jared Benson Kangwana
5. Hon. Ochieng Gilbert Mbeo
6. Hon. Calista Mwatela
7. Hon. Wairimu Rose Waruhiu
8. Hon. Mutende Mohammed Zubedi
9. Hon. Maxwell Shamalla

Ex-Officio Members
(Ministers of the Co-ordinating Ministries)

1. Hon. Jakaya Mrisho Kikwete (MP) – Minister for Foreign Affairs and International Co-operation, Tanzania.

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2. Hon. James Wapakhabulo (MP) – Minister for Foreign Affairs and Regional Cooperation, Uganda.

3. Hon. Kipyator Nicholas Kiprono Biwott, EGH (MP) - Minister for Trade and Industry, Kenya.

Ex-Officio Members (The Secretariat of the East African Community).

1. Hon. Nuwe Amanya Mushega – Secretary-General
2. Hon. Wilbert T. K. Kaahwa – Counsel to the Community.

i. The East African Court of Justice

1. Hon. Judge Moijo Ole Keiuwala – President of the Court.
2. Hon. Judge Joseph Mulenga –Vice President of the Court.
3. Hon. Judge Joseph Warioba
4. Hon. Judge Augustine Ramadhani
5. Hon. Judge Solomony Bbosa
6. Hon. Judge Jackson Kasanga Mulwa