Enhancing Public Financial Allocations, Spending and Accountability to Promote Trade and Growth in the East Africa Community

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List of abbreviations and acronyms

AFDB	Africa Development Bank
CASSOA	Civil Aviation Safety and Security Oversight Authority
COMESA	Common Market for Eastern and Southern Africa
EAC	East African Community
EACJ	East African Court of Justice
EALA	East African Legislative Assembly
IUCEA	Inter-University Council for East Africa
LVBC	Lake Victoria Basin Commission
LVFO	Lake Victoria Fisheries Organization
MEACT	Ministry of East Africa Affairs, Commerce and Tourism
MTEF	Medium Term Expenditure Framework
NTBs	Non Tariff Barriers
REC	Regional Economic Communities
RISP	Regional Integration Support Programme
RMO	Resource Mobilisation Office
SADC	Southern African Development Community
SCT	Single Customs Territory
USAID	United States Agency for International Development

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Centre for Economic (CEG) is a civil society organization whose vision is a cohesive society where there is economic justice and equity for all. CEG seeks to influence change among policy makers and citizens with regard to equity in resources mobilization and allocation and in provision of services.

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Centre for Economic Governance

1.0 EXECUTIVE SUMMARY

Since its reestablishment, the East African Community (EAC) has formulated policies to initiate cooperation in different areas of focus as per the East African Community Treaty. The Treaty, in Article 7(a), proclaims that the Community is "people-centred" and "market-driven". To give effect to the people centeredness of the Community, the policies that are crafted in different areas of cooperation have to reflect the interests, needs and rights of the people of East Africa.

The Treaty also prescribes East African Community Customs Union as a foundation stage for strengthening economic, social, cultural, political, technological and other ties for fast balanced and sustainable development of the Partner States (Article 75 & 151). The EAC Customs Union Protocol was signed on 2nd March 2004 and came into force on the 1st January 2005. The Protocol provides for elimination of internal tariffs, that is, free movement of intra-EAC trade; Common External Tariff of 0% for raw materials and capital goods; 10% for intermediate goods; 25% for finished goods; a list of sensitive products; and application of Rules of Origin.

Since the Customs Union commencement, the region has registered growth in intra-EAC trade. By 2012 the total intra-regional trade were over $4 billion having risen from $2 billion in 2005 and to $5.5 billion in 2012 up from $4.5 billion recorded in 2011. The ratio of intra-EAC trade to total EAC trade has grown from 7.5% in 2005 to 11.5% in 2011. The region has also started witnessing Partner States, which were net intra-EAC importers start to become intra-EAC exporters. For example, the United Republic of Tanzania registered a surplus budget in its intra-EAC trade in 2010. However, these are modest achievement compared to other regional communities' progress.

One of the main underlying factors that have led to modest achievements is low financial resourcing. According to the EAC Treaty, Article 132 (4), all Partner States contribute to the EAC budget equally. The budget is funded by the equal contributions of the Partner States and receipts from regional and international donations and any other sources as may be determined by the Council of Ministers. The Treaty provides that other resources of the Community shall include such extra-budgetary resources, grants, donations, funds for projects and programmes, technical assistance and income earned from activities undertaken by the Community.

The budgeting period commences with a pre-budget conference usually held before 30th September of every year. This is done in consultation with the other organs and institutions of the community. It is at the budget Conference that sets priorities for a particular year, including the theme of the budget. The Budget preparation period has to fit into the Partner States' budgeting process in order to be incorporated into the requirements within the relevant Ministries' budgets at the national level. The principles of mutual trust, political will and sovereign equality are central to budgetary contribution. The 4th EAC Development strategy 2011-2016 and various development strategies provide the framework and guidelines for the prioritizing process. They also emphasize the necessity of pooling resources and exploring modalities for increasing EAC's resources base.

Overall, the EAC's budget has grown consistently over the years. However, overdependence on donor funding for EAC programmes has been a big challenge with over 90% of the development budget being funded through development partners. It is also apparent from the Council reports and the reports of the Finance and Administration Committee that Partner States remittances often delay. This has affected the timely delivery of programmes and overall performance of the Community against its set targets.

Kenya is the leading economy in the EAC, therefore its leadership in these aspects has potential to bring significant results. The study therefore sought to look into how the Partner States, and in particular Kenya, have played their role in mobilising and allocating resources towards EAC regional integration; to identify the how the trade related matters have been prioritised in allocation of resources; and to review the Development Partners support towards regional integration programmes and projects.

In addition, the study also looked into the budgeting and accountability processes and their effectiveness in ensuring good governance standards of participation, transparency and accountability. The study also reviewed the progress made in the dialogue on alternative financing options that are expected to release greater resources into regional integration.

It is against this backdrop that the analysis of allocations and disbursements of resources to the EAC by the Ministry responsible for integration in Kenya, the Ministry of East Africa Affairs, Commerce and Tourism (MEACT) was done. Whereas the Partner States contribute to the EAC budget equally it is the prerogative of each Partner State to ensure that their respective portions are budgeted for and approved at the national level. In addition, there are many national level programmes that are components of the decisions made at the EAC level. These have to be factored in at the national level budget allocations.

Kenya and the other East Africa Partners States in general use the Medium Term Expenditure Framework (MTEF) to prepare its budget. This enables the government to align policies to plan and budget, and to provide the budget projections over the medium term (3 years). The Ministry of East Africa Affairs, Commerce and Tourism is grouped in the General Economic and Commercial Affairs Sector under the MTEF. This implies that ceilings capped for this sector are then competed for across the two Ministries: that is, MEACT and the Ministry of Industrialisation and Enterprise Development.

The study found that MEACT spent approximately 49%, 52% and 46% of the sector resources in 2010/11, 2011/12 to 2012/13 respectively. During the same period, the Ministry for Industrialisation spent approximately 43%, 39% and 45% indicating that MEACT spent more of the sector's resources. Other State Agencies attached to the two ministries spent the remaining balances of 8%, 9% and 9% for the period under review.

Analysis of the expenditures of the MEACT against the allocations indicates that expenditures were generally lower than what had been approved. The spending for *recurrent budget* was lower than planned by approximately 7%, 3% and 1% and *development budget,* lower than planned by 24%, 3% and 18% in 2010/11, 2011/12 and 2012/13 respectively. This also indicates that the absorption rate for the development budget is far much less than that of recurrent budget.

Analysis of whether the budget was growing on an annual basis indicates that the MEACT recurrent budget spending increased by 11.6% from 2010/11 to 2011/12 and by 9.5% from 2011/12 to 2012/13 while for the same period, the development budget spending increased by 49% and 22.6% respectively. The increase in development spending was a positive indicator on the performance of the sector.

The analysis also indicated that MEACT consistently allocated about 10% of its total budget for disbursement to the East African Community. The proportion of allocations to the EAC against the MEACT total budget was 9.0%, 9.4%. 9.5% and 10.5% for the last four successive fiscal years respectively. On the other hand, MEACT budget grew minimally at 1.2%, 6.5% and 0.2% while keeping the proportion to EAC growing at 10% during the same period.

A review of the reports of the Council of Ministers meetings indicates that there are occasions where the contributions are disbursed late. It was noted that Kenya has brought forward arrears to the tune of USD 4,329,737 (Ksh.368million). A significant amount of these arrears were for the Inter-University Council for East Africa (IUCEA). The Ministry of Higher Education was responsible for making these disbursements. This responsibility has now been taken up by the MEACT.

Kenya's commitment towards regional integration goes beyond the work of MEACT. A key Ministry whose projects directly contribute towards creating an enabling environment for increased trade and movements of goods and services is the Ministry of Transport. The Ministry is in the process of constructing a Standard Gauge Railway from Mombasa to Malaba and Kisumu and has consequently allocated Ksh.19.4billion (USD228million) in the 2014/15 budget.

If this project succeeds, it shall significantly increase the speed and volume of movement of goods from the Port of Mombasa to the hinterland while reducing the cost of transport. This is expected to in turn reduce the costs of goods, which has direct implication on the cost of living. Other development projects being carried out along the Northern Corridor such as modernizing the Mombasa Port; development of One-Stop Border Post, and construction of bypasses, among others, that have a direct implication on the cost of goods in the region and indicate the commitment of the Government towards regional integration. For the ongoing and new road constructions, Ksh.116.7bn (USD1.37bn) has been allocated in the 2014/15 budget.

Kenya is endowed with the region's largest port that serves a large hinterland through the northern corridor. Therefore, the onus is on Kenya to ensure that it dedicates adequate resources for regional integration. The country also needs to dedicate more funds towards harmonization and domestication of regional policies and standards, enactment of laws, removal on non-tariff barriers to trade and active engagement with the private sector and civil society, among others. These would upscale effective implementation and enhance movement of goods, services and factors of production in the region.

Creation of awareness and education on the benefits of integration and the opportunities that exist including economical means of doing business in East Africa are efforts that will enhance Kenya's progress and position in the regional integration. Budgetary allocations to some of these programmes and projects may not fall within the MEACT budget, therefore, the analysis of MEACT budget alone may not give the full picture, but is a good indicator of the Government's commitment towards regional integration.

With regard to the overall EAC budget in the period under review from 2010/11 to 2013/14, it was noted that the total EAC Budget has substantially increased from US$ 23.91 Million to US$ 124.3 Million over the four years period. Out of this, the Partner States' contribution to the regional budget increased from US$ 13.78 Million to US$ 33.67 Million. The latter indicates a 2.44 times increase in Partner States contributions, against the 5.2 times increase of the Development Partners contributions in the same period. The share of Partner States contributions to the budget to that of Development Partners changed from 58% to 27% an indicator of unsustainable reliance of the EAC on Development Partners.

With regard to budget allocations to prioritised regional integration activities and the proportions (in percentages) of these allocations against the total annual budget from FY2010/11 to 2013/14 it was observed that the Community has maintained its focus on the four key development pillars. In the past four fiscal years, 2010/11 to 2013/14, *Implementation of the EAC Common Market Protocol* received the highest allocations of resources at 4.37%, 9.37%, 18.8%

and 28.14% in proportion to the total budget in that period, increasingly progressively over the medium term.

The second priority area indicated by its share of budget is the *expansion of regional infrastructure facilities* which received the second highest allocations at4.18%, 8.59%, 10% and 15.74% respectively over the medium term from 2010/11 to 2013/14. Consolidating the Customs Union received a one-off significant allocation of 3.5% of the 2011/12 budget.

The *EAC Single Customs Territory (SCT)* whose advancement is expected to be accelerated following the decision of the Council to set up a High Level Task Force to assess the requirements for operationalising the SCT was allocated 1.92% of the FY2012/13 budget. It is expected that this will remain a core priority area with the onset of the implementation of the Single Customs Territory and may continue to get increased budget allocations.

The Monetary Union Protocol which is set to be ratified by all the Partner States by July 2014 and received consistent resourcing over the period under review of 2.17%, 1.46%, 7.7% and 1.4% from 2010/11 to 2012/13. The work and corresponding budgetary allocations to operationalise the Monetary Union are expected to grow both at the regional and national levels once the Partner States ratify the Protocol with Tanzania having led in ratifying the Monetary Union Protocol on 25th June 2014.

It is noted that for the successive budgets in the four fiscal years from 2010/2011 to 2013/2014 prioritised implementation of the Customs Union and negotiation of the subsequent stages of integration, that is, the common market and the monetary union. For example, establishment of the Single Customs Territory and addressing NTBs are some of the activities that were given priority during the period under review. The decision by the Summit to implement the Single Customs Territory is yet another critical milestone of the EAC integration process. The Single Customs Territory is set to crystallize the gains of integration to be characterized by minimal internal border controls and more efficient institutional mechanism of clearing goods. The trends in budget allocation *vis a vis* priorities is progressive.

It is also noteworthy that the number of key priority areas have almost halved over the same period indicating that there has been better targeting and focus particularly in the areas that will enhance trade in the region. In 2010/2011 there were 12 priorities areas but as at 2013/2014 they were six priority areas but better resourced. This could be an indication of progressive improvement of the budget process and budget allocation.

It is important to also note that the core priority areas have increasingly received increased proportion of the total budget from 21.28% in 2010/11 fiscal year to 50.70% in 2012/13.

A significant percentage of the total budget funds development initiatives at the EAC. Approximately 50.6%, 37.89% and 66.57% of the total budget was allocated to development expenditure in the financial years 2009/10, 2010/11 and 2011/12 respectively. However, over 90% of the development budget is resourced through Development Partners and not from Partner States contributions. This situation needs to be addressed by the Partners States urgently as it predisposes the Community to the risk of unsustainable financing of the regional integration.

With regard to the support to the EAC Organs and Institutions, the Secretariat has been the biggest recipient of funds. In the last five financial years beginning 2009/10 up to 2013/14, the Secretariat proportion of the budget was 47.28%, 44.76%, 45.79%, 49.41% and 53.51% respectively. These allocations are justifiable as the Secretariat serves as the executive organ of the Community. However, the amount allocated to it annually is not enough since it has a very wide mandate and its activities require considerable amounts of resources.

In the 2011/12 financial year, the Inter-University Council for East Africa (IUCEA) was able to make its independent budget estimates for the first time. This was as a result of an amendment to a legal instrument that gave IUCEA mandate to bring independent estimates to the Assembly for debate and approval.

The EAC has had challenges in budget absorption. This low absorptive capacity is partly a replica of the challenge also faced by the Partner States of poor resource disbursement in the first and second quarters of the year (July – December) after the reading of the annual budgets in June. This in turn leads to late disbursements to the EAC. The 28th Council Meeting cited late disbursement by Partner States, delayed and unpredictable disbursements from the development partners and also institutional challenges such as low human resource capacity and long procurement processes as the main causes of low budget absorption and in turn low execution of projects in the Community.

For example, as at February 2014, with only a quarter of the fiscal year 2013/2014 remaining, EAC Secretariat, EALA, EACJ and LVBC; IUCEA; and LVFO had received only 73%, 42% and 32% of their budget allocations.

As at December 2013, while the EAC Organs and Institutions had received a total of USD 47,693,367 (37%) of the approved budget of USD 130,429,396, only USD 35,641,146 had been spent. This was a budget utilisation of 74% against the receipts but only at 27% utilization against the approved budget.

The analysis of Development Partners contributions in years 2012/13 and 2013/14 showed that Africa Development Bank was the highest contributor to the implementation of EAC programmes and projects, providing approximately 38.1% of total development partners' support. The World Bank Group was second, contributing approximately 16.1%, followed by the EAC Partnership Fund which provided approximately 9.9% of the total development budget support. RISP and USAID were next in rank providing 6.4% and 5.7% respectively.

The highest ranking development partners support largely fall in the category of loans rather than grants, nevertheless, they have been instrumental in supporting the large infrastructure programmes being undertaken by the region. On the other hand, some of the lower ranking development partners targeted the national level projects such as the Mombasa port support by Trade Mark East Africa; and others provided flexible funding for ongoing initiatives and projects and most of this has been grant support. The budgeted allocations of Development Partners' support for 2014/15 indicated that the ranking will remain fairly the same if the stated commitments are met.

The overall increase in the EAC budget is largely attributed to the increased support of the development partners, whose contribution increased significantly from US$ 6.13 Million to US$ 90.33 during the period under review.

Nevertheless, there still exist the challenge of delays, unpredictability and lack of flexibility in donor funding. Delays in funding could be due to different fiscal calendars of the Community and development partners. Unpredictability is also attributed to donor reviews of policies towards funding certain sectors every financial year. The economic down turn in Europe also caused others donors to delays in remittances or to change their commitments in the period under review.

It was noted that the differences in the fiscal years between the EAC and development partners imply that if some of the donor funds are disbursed or are released late in relation to the EAC budget processes, they may not be appropriated in time and, therefore, cannot be in the budget and can only be appropriated through a supplementary budget.

The current financing mechanism for the EAC Budget is not sustainable as the EAC has increasingly become dependent on support from development partners, a fact that is likely to compromise the integration processes. Contribution from development partners in financing the EAC Budget increased from 25.63% in 2007/8 to 72.67% in 2011/12, and then reduced to 64.1% in 2012/13 and 69.2 in 2013/14.

The Council of Ministers at their 11th Extraordinary Meeting in 2005 directed the Secretariat to prepare a proposal on modalities of a Sustainable Financing Mechanism of the EAC. In addition, the 9th Summit of the Heads of States directed the Secretariat to undertake a study on other budget funding modalities for consideration by the Summit. The proposals that emerged from the study were discussed in various Council meetings since 2005, and more earnestly since 2010. However, the views and positions taken by the Partner States were divergent and it was difficult to build consensus.

The EAC study proposed that the budget for the EAC integration process be financed from 1% on the value of imports from outside the EAC region. However, the financial burden particularly to the leading economies needed further interrogation and convincing. A hybrid of equal contributions of 50% and assessed contributions of 50% was considered a compromise proposal in 2013. Nevertheless, this proposal was also not adopted.

The Summit directed the Council to present a report on alternative financing mechanism guided by the principles of *financial solidarity* and *equity* to its 12th Extra-Ordinary Meeting in April 2014. While the principles of mutual trust, political will and sovereign equality have been central to budgetary contribution current dialogue and changes being proposed that depart from the "equal contributions principle" raises the risk of building hegemony in the Community that would later monopolize the benefits of integration.

Whichever alternative is agreed upon, the proposed option will have a far reaching implications. It will require amendment of Article 132(4) of the Treaty which provides for equal contributions by Partner States. The Partner States would be obliged to make the necessary amendment of the Revenue Authority Acts so as to pave way for the Revenue Authorities to develop new modalities for real-time collection and remission of funds to the EAC especially if the 1% on the value of imports is adopted.

On independent oversight and accountability processes, the role of EALA, Audit Commission and CSOs/PSOs were reviewed. Article 49 of the Treaty bestows upon the Assembly oversight role that mandates it to debate and approve the Budget of the Community, consider annual reports on the activities of the Community, annual audit reports of the Audit Commission and any other reports referred to it by the Council of Ministers. It was observed that EALA seem to have little latitude on monitoring the performance of EAC Secretariat and other Organs and Institutions of the Community.

Articles 127, 128 and 129 of the Treaty provide for establishment of structured dialogue framework for consultation between the private sector organisations (PSOs), Civil Society Organisations (CSOs) and other interests groups on the

EAC integration. This is also in the context of a people-centred and market-driven integration as envisaged by the Treaty. The EAC Consultative Dialogue Framework aims at providing an enabling environment for PSOs, CSOs and other interested groups to: participate in the EAC integration processes, articulate their interests and lobby their respective constituencies on the benefits and challenges of regional integration.

Through the engagement of CSOs it is expected that the voice of the citizen will be mobilised and visible in the decision making processes of the EAC. The Citizens of East Africa should demand for accountability from the Organs and Institutions of Community and also from the national governments in the implementation of regional policies and programmes.

While the framework for engagement provided conforms to the known governance principles of participation, inclusion, transparency and accountability there has been little success in getting the voice of particularly the poor and marginalised in the community.

2.0 BACKGROUND

The Treaty for Establishment of the East African Community was signed on 30th November 1999 and entered into force on 7th July 2000 following its ratification by the original three Partner States – Kenya, Tanzania and Uganda. The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and became full Members of the Community with effect from 1st July 2007. The EAC aims at widening and deepening co-operation among the Partner States in, among others, political, economic and social fields for their mutual benefit.

Since its reestablishment, the East African Community (EAC) has formulated policies to initiate cooperation in different areas of focus as per the East African Community Treaty. The Treaty, in Article 7(a), proclaims that the Community is "people-centred" and "market-driven". To give effect to the people centeredness of the Community, the policies that are crafted in different areas of cooperation have to reflect the interests, needs and rights of the people of East Africa.

The Treaty also prescribes East African Community Customs Union as a foundation stage for strengthening economic, social, cultural, political, technological and other ties for fast balanced and sustainable development of the Partner States (Article 75 & 151). The EAC Customs Union Protocol was signed on 2nd March 2004 and came into force on the 1st January 2005. The Protocol provides for elimination of internal tariffs, that is, free movement of intra-EAC trade; Common External Tariff of 0% for raw materials and capital goods; 10% for intermediate goods; 25% for finished goods; a list of sensitive products; and application of Rules of Origin.

The Customs Union has faced various implementation challenges some of which are: institutional/policy-related constraints; high incidences of Non-Tariff Barriers (NTBs); inadequate physical and non-physical infrastructure to support private sector investment; financial insufficiency that has limited access to requisite investment finance; and inefficiency in implementation of agreed decisions characterised by lack of enforcement by the Partner States and EAC Organs and Institutions. The prevailing situation is further compounded by a general lack of people's participation in the integration process.

However, one of the main underlying factors that can be attributed to many of the constraints in realising the objectives of the Customs Union Protocol is low financial resources. A critical look into the resource mobilization, aid effectiveness and accountability mechanisms indicate that policy changes can address some of the bottlenecks that have been experienced in the implementation of the Customs Union Protocol and other trade related agreements.

Kenya is the leading economy in the EAC, therefore its leadership in these aspects has potential to bring significant results. The study therefore sought to look into how the Partner States, and in particular Kenya, have played their role in mobilising and allocating resources towards EAC regional integration; to identify the how the trade related matters have been prioritised in allocation of resources; and to review the Development Partners support towards regional integration programmes and projects.

In addition, the study also looked at the budgeting and accountability processes to review their effectiveness in ensuring good governance standards of participation, transparency and accountability.

Finally, the study reviewed the alternative financing options that are expected to release greater resources into regional integration.

2.1 Objectives of the Study

The objectives of the study were:

i. To review EAC Partner states resources allocations towards regional integration and particularly contributions trade priorities.
ii. To provide an overview of the budget process, and analyse the effectiveness of budget process, allocations and expenditure of resources towards regional integration.
iii. To analyze financial allocations and expenditures by Kenya towards regional integration vis a vis that of other member states and development partners with a particular focus on Customs Union Protocol.
iv. To review the role of the EALA representatives in overseeing the spending of resources and auditing.
v. To provide recommendations on enhancement of budget allocation, and accountability mechanisms expenditure towards regional integration and increase in trade.

2.2 Methodology

The study employed was descriptive and exploratory research which entailed collection of primary and secondary data through key informants and literature reviews respectively. The key informants were from the Ministry of East Africa Affairs, Commerce and Tourism (MEACT), the East Africa Community Secretariat, the East Africa Legislative Assembly (EALA) particularly members of the Committee on Accounts of EALA, amongst others.

Supportive documents/publications were sourced from the National Treasury in Kenya, MEACT, the EAC Secretariat, EALA, and other institutions. The documents reviewed included the budget estimates and speeches and Council of

Ministers’ Reports for Fiscal Years 2009/10 to 2014/15; and various reports on implementation of the Customs Union Protocol, trade policies and laws, among others.

2.3 Limitations of the Study

The study was to look critically in to the accountability mechanisms at the EAC especially the oversight role of EALA and how the recommendations of the Audit Commissions reports are implemented and adhered to. However, access to EALA reports and those of the Audit Commission was difficult. It brought to the fore the need for access to Hansards and other EALA reports to the public. These limitations provide areas for future exploration and research and advocacy work.

3.0 EAC REGIONAL INTEGRATION PROCESS AND ORGANS

3.1 Background

The East African Community (EAC) is a regional intergovernmental organization established under Article 2 of the Treaty for the Establishment of the East African Community. The Treaty entered into force in July 2000. The *Vision* of the EAC is to have a prosperous competitive, secure and politically united East Africa. As stated under Article 5(2) of the Treaty, the Partner States undertake to establish among themselves a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation. The main objective of the integration is to improve the quality of life of East Africans through integration in economic, social, cultural and political spheres that would lead to accelerated, harmonious and balanced development. The principle of equitable distribution of the benefits of integration as well as the sharing of obligations is crucial.

The mandate and framework for cooperation among the Partner States is set forth in the Treaty. The regional integration envisaged in EAC is broad based. Article 5 (1) of *The Treaty states that "The objectives of the Community shall be to develop policies and programmes aimed at widening and deepening cooperation among the Partner States in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs for the mutual benefit."* The Treaty under Article 7 sets out the Operational Principles of the Community that shall govern the practical achievement of the objectives of the Community which, among others, include:people-centered and market-driven co-operation; the provision by the Partner States of an adequate and appropriate enabling environment , such as conducive policies and basic infrastructure; the principle of subsidiarity with emphasis on multi-level participation and the involvement of a wide range of stake- holders in the process of integration; the principle of complementarity; and the principle of asymmetry. The Partner States also undertake to abide by the principles of good governance, including adherence to the principles of democracy, the rule of law, social justice and the maintenance of universally accepted standards of human rights.

3.2 Overview of progress in the key stages of integration

3.2.1 Customs Union

Since the EAC Customs Union came into force in 2005, the region has registered increased trade, investment, enhanced measures to address NTBs and awareness on the benefits and opportunities of the Customs union to stakeholders[1]. The implementation of the Customs Union is the foundation of the EAC integration process and has demonstrated a progressive realisation of the intended objectives in the last eight years. Since its commencement, the region has registered growth in intra-EAC trade. By 2012 the total intra-regional trade were over $4 billion having risen from $2 billion in 2005 and to $5.5 billion in 2012 up from $4.5 billion recorded in 2011. The ratio of intra-EAC trade to total EAC trade has grown from 7.5% in 2005 to 11.5% in 2011. This means that the intensity of trade among Partner States is growing at a modest pace. The region has also started witnessing Partner States, which were net intra-EAC importers start to become intra-EAC exporters. For example, the United Republic of Tanzania registered a surplus budget in its intra-EAC trade in 2010.

3.2.2 Common Market

Common Market is the one stage of integration that promises tangible benefits to the general public through rights and freedoms including the freedoms to movement of goods and services across the region and the right of residence and establishment. The EAC Common Market Protocol came into force on 1st July 2010 and the timelines and timeframes provided for in the annexes to the Protocol. However, the implementation of the Protocol by Partner States fulfilling is lagging behind particularly with regard to harmonization of the respective national laws to conform to the Protocol.[2] However, the Partner States have established National Implementation Committees to expedite the implementation of the Protocol.[3]

3.2.3 Monetary Union

The Monetary Union Protocol was signed on 30th November 2013 during the 15th Summit. The signing of the Protocol by Community Heads of State marked a milestone outlining a ten-year roadmap toward monetary union. The Protocol sets out the process and legal and institutional framework for the establishment of a single currency, including macroeconomic convergence criteria. The Protocol complements the previous milestones in the EAC economic and financial integration, that is, the Customs Union Protocol, established in 2005 with the introduction of a common external tariff and gradual elimination of internal tariffs; and a Common Market Protocol signed in 2010, allowing free movement of goods, persons, labor, services, and capital. Use of a common currency eliminates the currency exchange fees from the cost of doing business between countries and also encourages competition and may result in lower prices for consumers. A larger regional market will lead to economies of scale, lower

[1] EAC Facts and Figures Reports –www.eac.int
[2] Report of the 15th Meeting, the Sectoral Council of Ministers responsible for EAC Affairs and Planning of 27th January 2012.
[3] Report on Status of implementation of NTBs, Vol 5, 2012 – www.trade.eac.int

transaction costs, increased competition, and greater attractiveness as a destination for foreign direct investment. It also promotes stability and efficiency in the economy and is expected to stimulate economic growth and may reduce the unemployment rates in the participating EAC Partner States. The ultimate objective of the Community in implementing the Protocol is to optimize the production of goods and services in a region.

A credible Monetary Union ought to be built around a credible fiscal union. Moreover, a credible Monetary Union and indeed, integration within the four pillars of Customs Union, Common Market, Monetary Union and Political Federation entail ceding some power from the national Partner States level to the regional centre. There are concerns about the use of a single currency centre on potential loss of national sovereignty for each of the individual EAC Partner States. Some even fear that the individual Partner States may not be able to pull out of a national economic crisis or reduce their poverty without the ability to control their own currency and volume of exports. Some critics worry that the participating Partner States will be forced to give tax breaks to compete with each other and that companies may have to lower wages for their employees and to lower prices on goods that they export.

3.2.4 Political Federation

Processes towards the EAC Political Federation, the ultimate stage of integration have been on for over a decade now. However, there had been no consensus on when a political federation would be attained. A decision on the appropriate model for East Africa needs to be made after consultations with as many stakeholders as possible in order to benefit from input from a diversity of stakeholders for wider stakeholder ownership. The two schools of thought on the political federation are still under discussion. Discussions are under way on the question of consolidating the three stages of integration with full implementation before embarking on a political federation[4]. Others argue that attainment of a political authority would reinforce implementation of the prior stages of integration and address the persistent challenges. Nevertheless, it is imperative to lay the foundation for the political federation through harmonization and development of regional benchmarks for good governance in the region.

The foregoing serves to highlight the broad status of integration. Thus, there is need for provision of adequate and sustainable resources to implement the various projects and programmes of the Community, as elaborated from time to time by specific decisions and directives of policy organs. The deepening and widening of regional integration calls for stringent governance systems and accountability measures so as to ensure that resources are allocated to priority areas.

[4] EAC (2010), "Report of Experts on Fears, Concerns and Challenges of the Political Federation," EAC.

3.3 EAC FUNDING AND FINANCING MECHANISMS

3.3.1 Financing Mechanisms

The EAC budget is funded by equal contributions by Partner States and receipts from regional and international donations and any other sources as may be determined by the Council.[5] The Treaty provides that other resources of the Community shall include such extra-budgetary resources, grants, donations, funds for projects and programmes, technical assistance and income earned from activities undertaken by the Community. Similarly the 4th EAC Development strategy 2011-2016 and various development strategies emphasize the necessity of pooling resources and exploring modalities for increasing EAC's resources base.

Article 71 (1. h) provides that the Secretariat, headed by the Secretary General, is responsible for the mobilisation of funds from development partners and other sources for the implementation of projects of the Community. In this regard, the Office of the Secretary General is able to perform this particular function through the Resource Mobilisation Office (RMO) which is mandated to mobilise resources for EAC projects and programmes. Specific functions of the RMO include the following:

i. Carrying out donor missions to market EAC and recruiting donors;
ii. Linking EAC with external donors and maintaining close and professional working relations with donors based on credibility and transparency;
iii. Reviewing project proposals and advising on compliance to guidelines
iv. Coordinating disbursements and management of donor funds;
v. Reporting on the implementation of activities which respond to the needs and expectations of the donors in terms of structure, content and timing;
vi. Project coordination in EAC.

3.3.2 Development Partners Support to the EAC

Article 130 (3) of the Treaty mandates the Secretariat to foster cooperative arrangements with like-minded organisations whose objectives have a bearing on the achievement of the objectives of the Community. To this end, the Secretariat has negotiated and signed collaborative arrangements with development partners through cooperation agreements and memoranda of understanding, with a diversity of organisations depending on their areas of interest. Other sources include grants, gifts or voluntary contributions provided that they are consistent with the policies, aims and objectives of the community.

[5] EAC Treaty, Article 132

Overdependence on donor funding for EAC programmes has been a big challenge with over 90% of the development budget being funded through development partners.

a) The EAC Partnership Fund

The EAC Partnership Fund is a basket fund mechanism where different development partners make a pledge and contribute to a common fund. The contributions support diverse EAC projects and programmes that are geared towards regional integration. It was created on 15th September, 2006 and is open to Development Partners interested in the development objectives of the Community and who contribute after signing a Contribution Agreements and regular Memoranda of Understanding (MoUs) signed with the EAC. The current members of the Fund in include Belgium, Canada, Denmark, Finland, France, Germany, Japan, Norway, Sweden, and United Kingdom. Other non-contributing members are European Commission and World Bank. The objectives of the Fund include to: promote implementation of the Treaty with a view to enhance regional integration and socio-economic development of the EAC through funding of activities for EAC's development; facilitate planning and accounting for Development Partners' funds by disbursing into a common basket fund; encourage Development Partners to jointly contribute to the Fund to ensure availability of funds for the Community's projects and programmes.

The establishment of the EAC Partnership Fund is as a result of the Treaty mandate and the consultation with development partners for effective management and utilisation of resources. The purpose of the fund was to encourage development partners to jointly contribute to a basket fund. The funds contributed are allocated to various priority programmes in the implementation of the Treaty to enhance policy harmonisation, regional integration and consequently economic development.

It is a fund where the principles of aid effectiveness as encapsulated in the *Paris Declaration of 2005* have been applied, with some measure of success as development partners to the fund sign bilateral agreements committing to contribute and accepting that their funds will be administered according to the EAC Financial Rules and Regulations. The development partners the contributions are accepted as grants. However, EAC still experiences challenges such as late disbursement of the funds and inadequate coordination of some of the activities implying that Paris principles have not been fully embraced.

b) The EAC Development Fund

Successful regional integration is cost-intensive especially with heavy priorities such as infrastructure development. The development fund is meant to address infrastructural development, development imbalances, investment promotions and other development activities in the EAC Partner States. Therefore, the specific objectives of the EAC Development fund are to: establish a legal and institutional framework for mainstreaming development support; support development of projects with a regional outlook; create a structural adjustment and support mechanisms for the partner states; create a sustainable funding mechanism of EAC integration agenda; and create instruments for attracting support from development partners.

c) The Regional Integration Support Programme

The Regional Integration Support Programme (RISP 2) continuation programme (Phase 1) established under the 10th European Development Fund (EDF) focal area is economic integration covering four Regional Organisations (ROs), the Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), Indian Ocean Commission (IOC) and Inter-Governmental Authority on Development (IGAD) as its primary beneficiaries. The overall objective of the Programme is to contribute to the integration agenda of the Eastern, Southern Africa and Indian Ocean (ESA-IO) region as a means to enhance economic growth of the countries of the region and raise standards of living of their respective regions. The specific objective is to enhance capacity of the ROs and stakeholders in Member/Partner States to create integrated markets.

3.3.3 Management of Community the Resources

Efficient management of the resources of the community is critical. Policy frameworks towards efficient management of community resources are in place. The EAC Financial Rules and Regulations[6], define the fundamental principles and conditions of prudent management and utilisation of resources of the Organs and Institutions of the Community as provided for under Article 135(1) of the Treaty. The East African legislative Assembly has the responsibility to approve the annual budget of the Community through appropriation.

Internally, the Secretary General, being the Accounting Officer of the Community has established a planning and budget Committee, charged with preparation, scrutiny of work plans, review performance consider reallocations and recommend supplementary budgets. The budgeting period commences with a pre-budget conference usually before 30th September of every year. This is done in consultation with the other organs and institutions of the community. It is at the budget Conference that sets priorities for a particular year, including the theme of the budget. The Budget preparation period has to fit into the Partner

[6] EAC Financial Rules and Regulations, 2012

States' budgeting process in order to be incorporated into the requirements within the relevant Ministries' budgets at the national level.

All funds received by the EAC are administered according to the rules and regulations for financial management of the Community. Moreover, investment, internal controls utilisations, internal audit and controls and procurement are based on the principles of integrity and transparency expected of the staff of the Community[7].

There are other policies for internal controls, audit, risk management committee and the Audit commissions provided for under Article 134 of the Treaty. The Audit Commissions is independent and undertakes auditing in accordance with international auditing standards as an impartial body that does not receive instructions from management. The Reports of the Audit Commissions are presented to the East African Legislative Assembly for debate as provided for in Article 134 of the Treaty. The policy instruments that guide resources management conform to the principles of aid effectiveness, accountability and good governance[8].

3.3.4 Aid Effectiveness

The Paris Declaration of 2005 sort to improve aid effectiveness by promoting democratic ownership of policies and programmes by partner countries and the use of domestic capacities and institutions for implementation by the development partners. Development partners were expected to minimise proliferation, harmonise procedures and align aid by using developing country systems. They were also expected to enhance coordination amongst themselves; and to ensure that aid programmes are coherent by reducing the number sectors in which each donor operates and to avoid duplication. In the EAC, the principles of aid effectiveness led to the establishment of the EAC Partnership Fund.

The Paris Declaration on Aid Effectiveness and the *Accra Agenda for Action* emphasize the importance of mutual accountability. Sector operations therefore have to analyse and address governance challenges and pay attention on how aid is disbursed, how donors exercise governance in sectors and possible incoherencies that may impact negatively on sector performance.

[7] EAC Staff Rules and Regulations, 2012
[8] EU common Position on Aid Effectiveness, 2011 and EU Diagnostic study on the governance systems of the Community, 2009

4.0 BUDGETING AND ACCOUNTABILITY PROCESSES AT THE EAC

4.1 Budgets as the Political and Economic Tool

Budgets are the single most important political and economic tools that indicate a government's plans and priorities. At the regional level, the budget is an indicator of the level of commitment of the partner members towards integration.

The EAC budgets are aligned to the strategic objectives articulated in the EAC Development Strategy[9] and are also based on priorities for each financial year. The budget is the outcome of pre-budget processes carried out by the Secretariat and Sectoral Committee on Finance, popularly known as the Finance and Administration (F&A) Committee that begin in August. These pre-budget processes culminate with the pre-budget meeting of the Ministers of the Partners States responsible for Finance held in May during which the financing decisions (taxes: VAT, customs duties, etc) are agreed upon. The budget is prepared taking into consideration and in response to the Summit directives and Council decisions.

Budgeting and operations of the EAC Secretariat and other Organs and Institutions of the EAC are based on the following four (4) key development pillars:

1. Consolidating the East African Community Customs Union.
2. Establishment of the East African Common Market.
3. Laying the foundation for the establishment of the East Africa Monetary Union.
4. Laying a foundation for the establishment of the East African Federation.

The EAC Budget estimates and priorities are usually based on the assumption that there would be continued and consolidated political support for the EAC; availability of adequate financial resources and timely remittances; continued financial support from Development Partners; political stability and good governance; conducive macro-economic and business environment in the region and global economic stability.

All Partner States contribute to the EAC budget equally.[10] The amount of contribution is determined by the approved budget and divided among the five Partner States.

[9] The EAC is now on its 4th EAC Development Strategic Plan of 2011/12 – 2015/16

[10] EAC Treaty, Article 132 (4)

The principles of mutual trust, political will and sovereign equality are central to budgetary contribution.

4.2 Budgeting Process Calendar, Participation and Approval

The budgeting process essentially begins with the pre-budget conference that takes place before 30th of September. The conference brings together representatives from the Partner States from the ministries responsible for Finance and for regional integration; representatives of EAC organs and institutions, amongst others. The pre-budget conference identifies the key priorities and the theme of the next financial year of the budget. The priorities identified are drawn from the EAC Development Strategy and also take into consideration the Summit and Council decisions.

The budgeting process is guided by the EAC Budget Act, 2008. The Act requires the Secretary General to prepare the budget of the Community and to submit it to the Council for consideration not later than 15th October in each financial year.[11] It further demands the Council to submit and table the EAC Budget for the next financial year before the Assembly not later than 30th April in each financial year.[12] The pre-budget conference has, therefore, to be held on a timely manner. In addition, the budget preparation period has to fit into the Partner States' budgeting process in order to be incorporated in the budget proposals of the relevant Ministries' budgets at the national level.

Budget making is always a negotiated process that requires the various stakeholders to be involved in determining the priorities. At the same time, with the EAC principle of being *people centred* and *market drive*, it is critical that the voices of the public be adequately represented in the budget making process. The pre-budget conference is a good framework for engagement of the other actors in the Community's integration process. However, representation of the non-state actors in the budgeting processes alone is inadequate to identify the inspirations and needs of the citizens with regard to the regional integration. Other opportunities provided through the dialogue forums have also been inadequate. The 27th Council of Ministers meeting acknowledged that a "more flexible, focussed and diversified methods of engaging civil society and the private sector must be pursued than currently envisaged through the Dialogue Framework."[13]

The EALA is represented in the pre-budgeting conference, but as an Organ it has limited powers and leeway to make changes on the proposed budget when they are submitted to the Assembly. This has been an area of contestation as the

[11] EAC Budget Act, 2008 Section 3 (1)
[12] EAC Budget Act, 2008 Section 4 (1)
[13] Report of the 27th Meeting of the Council of Ministers, 31st August 2013

Assembly has consistently insisted that Partner States should provide the resources and leave prioritizing to the Assembly with support from the Secretariat. This assertion is important since in the Westminster System the EAC Partners apply, the power of the purse belongs to the Assembly. However, this ideal is also scarcely upheld even at the Partner States Parliaments, and therefore, the EALA has a tall order to change the system and assert its authority.

4.2.1 Medium Term Expenditure Framework (MTEF) at the EAC

The Partner States adopted the Medium Term Expenditure Framework (MTEF) which helps to improve the link between policy, planning and budgeting at the national level. Consequently this budgeting standard (an international best practice) was also adopted by the EAC in its budget preparation process.

The MTEF approach ensures that the annual work plans and budget are aligned to the Development Strategy 2011 – 2016. The MTEF is expected to improve fiscal management by: increasing the predictability of the flow of resources; promoting consultation in decision making on resource allocation; promoting transparency and accountability and enhancing fiscal discipline. Aspects such as pre-budget conference, clear identification of priorities based on the planning documents or the strategic plan; budget projections covering medium term (3 years); amongst others, are aspects are the hallmark of MTEF.

Nevertheless, the budgetary increment for EAC has been capped at 10% making the budget proposals or changes modest and nominal. This limited allocation by the Partner States also leads to over-reliance on the Development Partners funding. The MTEF helped in streamlining donor support as they also engage in the budgeting period and pledge their commitment to programmes and projects over the medium term.

4.3 Accountability and Oversight Mechanisms

4.3.1 Auditors Commission

Article 134 (1) of the Treaty provides that there shall be an Audit Commission made up of the Auditor Generals of the Partner States whose function will be to audit the books of the Accounts of the Community. Article 134 (3) further provides that the Audit Commission shall submit its report to the Council, which shall cause the same to be laid before the Assembly within six months of the receipt for debate and for such other consultations and action as the Assembly may deem necessary.

To strengthen the audit function, the Community established the Audit and Risk Committee[14] as a technical committee on audit matters. The Committee derives its mandate from the Audit and Risk Committee Charter[15]. It assists the Council in ensuring: effectiveness of the process of corporate governance; compliance with legislation, regulatory requirements and internal policies and procedures; the adequacy of internal control system and risk management; and performance of the EAC internal audit function. The Committee is composed of five members, one from each Partner State. The Secretary of the Committee is the Head of Internal Audit who is an ex-officio member.

Prior to its establishment, the auditing function had lagged behind and as soon as this Committee was established, they reviewed Audit Commission reports dating back from 2008/09 and reviewed the governance structures, risk management strategies and internal controls of the EAC Organs and Institutions. More work is still required to strengthen internal controls, fiscal disciple and to apply the enforcement mechanisms when required.

4.3.2 East Africa Legislative Assembly

Article 49 of the Treaty bestows upon the Assembly oversight role that mandates it to debate and approve the Budget of the Community, consider annual reports on the activities of the Community, annual audit reports of the Audit Commission and any other reports referred to it by the Council of Ministers.

On Budgetary oversight, EALA continues to play a crucial role by providing direction on the EAC spending and allocation of resources. In accordance with Provisions of Article 49(2) (b) and 132 of the and Rules 73, 74, 75, and 76 of the Rules of Procedure of the Assembly, the annual estimates of Revenue and Expenditure of the East African Community in the form of budgetary proposals are presented to the Assembly for consideration and approval.

Through its budgetary function, the General Purpose Committee of EALA is mandated by the Rules of Procedure to analyse the budget proposals. The Committee may initiate investigations and/or studies, call for briefing and information in areas where the Committee deems fit. The General Purpose Committee has been instrumental in ensuring the resources of the Community are utilized to finance the priorities proposed by the Council of Ministers.

The Assembly has opportunity to debate the budget and allocate resources in line with the priorities of the Community although it is limited to the extent that they cannot revise the budget substantially (and upward) and this is a constant area of negotiation between the Council and the Assembly.

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[14] Audit and Risk Management Committee was established in August 2012 during the 25th Council Meeting.
[15] The Charter was approved by the Council of Ministers at its 20th Meeting.

It was noted that on its oversight role, EALA has little latitude on monitoring the performance of EAC Secretariat and other Organs and Institutions of the Community. For instance, the Secretariat is required to prepare quarterly reports on performance, but these are to be submitted to the Sectoral Council on EAC Affairs and Planning.[16] It is unclear whether EALA receives the quarterly reports and whether they debate on them. EALA is better placed to provide this oversight function, just like its equivalent National Assemblies at the national level.

4.3.3 EAC Governance Charter

In an effort to comply with the principles of transparency and accountability, the EAC has developed and adopted a number of Governance instruments, which include the EAC Governance Charter, Code of Conduct, Anti-fraud and Anti-corruption Policy and Confidential Reporting Policy. There are Sectoral Committees established to oversee and ensure implementation of the policy instruments cited above. These include the Audit and Risk Committee, Anti-Fraud Committee and the Internal Effective Performance Management Committee. The Committees are composed of multi-disciplinary members and they are formed with the objective of enhancing accountability, ethics and integrity among the employees of the Community. They also provide the standard financial management of community resources ensuring compliance with the policy instruments and the Risk management policies across the organs and institutions of the Community.

4.3.4 Engagement of civil society and private sector

Articles 127, 128 and 129 of the Treaty provide for establishment of structured dialogue framework for consultation between the private sector organisations (PSOs), Civil Society Organisations (CSOs) and other interests groups on the EAC integration. This is also in the context of a people-centred and market-driven integration as envisaged by the Treaty.

The EAC Consultative Dialogue Framework aims at providing an enabling environment for PSOs, CSOs and other interested groups to: participate in the EAC integration processes, articulate their interests and lobby their respective constituencies on the benefits and challenges of regional integration.

Through the engagement of CSOs it is expected that the voice of the citizen will be mobilised and visible in the decision making processes of the EAC. The

[16] 24th Extra Ordinary Meeting of the Council of Ministers (April 20-24, 2012)

Citizens of East Africa should demand for accountability from the Organs and Institutions of Community and also from the national governments in the implementation of regional policies and programmes.

While the framework for engagement provided conforms to the known governance principles of participation, inclusion, transparency and accountability there has been little success in getting the voice of particularly the poor and marginalised in the community.

5.0 PRIORITIES TO PROMOTE REGIONAL INTEGRATION

This section will analyze the budget priorities for the three consecutive years of 2010/11 – 2012/13[17] and looks into whether the budgetary allocations were in sync with the identified regional integration priorities.

The first sub-section specifically looks at Kenya's budget priorities and allocations towards EAC regional integration. The second sub-section analyses the overall EAC budget priorities and allocations.

Overall, the EAC's budget has been growing consistently over the years. However, it is apparent from the Council reports and the reports of the Finance and Administration Committee that Partner States remittances often delay. This has affected the timely delivery of programmes and overall performance of the Community against its set targets.

5.1 Kenya's Budgetary Contributions to the Integration

It is against this backdrop that the study intended to review how the Ministry responsible for integration in Kenya, the Ministry of East Africa Affairs, Commerce and Tourism (MEACT), allocates and disburses resources to the EAC. Whereas the Partner States contribute to the EAC budget equally it is the prerogative of each Partner State to ensure that their respective portions are budgeted for and approved at the national level. In addition, there are many national level programmes that are components of the decisions made at the EAC level.

Kenya is the leading economy in the Community and is also endowed with the region's largest port that serves a large hinterland through the northern corridor. Therefore, the onus is on Kenya to ensure that it dedicates adequate resources for regional integration. The country also needs to dedicate more funds towards harmonization and domestication of regional policies and standards, enactment of laws, removal on non-tariff barriers to trade and active engagement with the private sector and civil society, among others. These would upscale effective implementation and enhance movement of goods, services and factors of production in the region.

Creation of awareness and education on the benefits of integration and the opportunities that exist including economical means of doing business in East Africa are efforts that will enhance Kenya's progress and position in the regional integration. Budgetary allocations to some of these programmes and projects may not fall within the MEACT budget, therefore, the analysis of MEACT budget

[17] Also analysis covers FY 2013/14 and 2014/15 where data was available

alone may not give the full picture, but is a good indicator of the Government's commitment towards regional integration.

5.1.1 Kenya's Budget Allocations for Regional Integration

Kenya and the other East Africa Partners States in general use the Medium Term Framework to prepare its budget. This enables the government to align policies to plan and budget, and to provide the budget projections over the medium term (3 years).

The Ministry of East Africa Affairs, Commerce and Tourism is grouped in the General Economic and Commercial Affairs Sector under the MTEF. This implies that ceilings capped for this sector are then competed for across the two Ministries: that is, MEACT and the Ministry of Industrialisation and Enterprise Development.

Table 1: General Economic and Commercial Affairs Sector Recurrent and Development Allocations for FY 2010/11 to 2012/13 (In Millions)

	Actual Spending 2010/11 (In Millions)				Actual Spending 2011/12 (In Millions)				Actual Spending 2012/13 (In Millions)			
Subsectors	**Recurrent**	**Dev.**	**Totals**	**% to total**	**Recurrent**	**Dev**	**Totals**	**% to total**	**Recurrent**	**Dev**	**Total**	**% to total**
East African Affairs, Commerce & Tourism	3,704	967	4,671	**49**	4,133	1,443	5,576	**52**	4,526	1,117	5,643	**46**
Industrialization	1,972	2,101	4,073	**43**	2,145	2,040	4,185	**39**	3,179	2,282	5,461	**45**
KIRDI	569	172	741	**8**	540	472	1,012	**9**	543	564	1,107	**9**
TOTAL	**6,245**	**3,240**	**9,485**	**100**	**6,819**	**3,955**	**10,774**	**100**	**8,247**	**3,963**	**12,210**	**100**

Source: *MTEF Report for 2014/15 – 2016/17 General Economic and Commercial Affairs Sector*

The Table 1 above indicates that MEACT spent approximately 49%, 52% and 46% of the sector resources in 2010/11, 2011/12 to 2012/13 respectively. During the same period, the Ministry for Industrialisation spent approximately 43%, 39% and 45% indicating that MEACT spent more of the sector's resources.

Tables 2 and 3 below provide the MTEF budget allocations for the respective recurrent and development expenditure for the sector.

Analysis of the allocations against expenditures of the MEACT indicates that expenditures were generally lower than what had been approved. The spending for *recurrent budget* was lower than planned by approximately 7%, 3% and 1% and *development budget,* lower than planned by 24%, 3% and 18% in 2010/11, 2011/12 and 2012/13 respectively as shown in table 2 and 3. This also indicates that the absorption rate for the development budget is far much less than that of recurrent.

Analysis of whether the budget was growing on an annual basis also indicates that the MEACT recurrent budget spending increased by 11.6% from 2010/11 to 2011/12 and by 9.5% from 2011/12 to 2012/13 while for the same period, the development budget spending increased by 49% and 22.6% respectively. The increase in development spending was a positive indicator on the performance of the sector.

Ministry responsible for Industrialisation's recurrent spending grew by 8.8% and 48.2% in 2010/11 to 2011/12 and 2011/12 to 2012/13 respectively; while the development budget spending grew by 2.9% and 11.9% the same period respectively.

Table 2: MTEF Recurrent Budget (2010/11 to 2012/13)

Subsectors	Budget 2010/11 In Millions		Budget 2011/12 In Millions		Budget 2012/13 In Millions	
	Approved	Actual	Approved	Actual	Approved	Actual
East African Affairs, Commerce & Tourism	**3,981.50**	**3,703.80**	**4,257.80**	**4,133.40**	**4,562.40**	**4,525.70**
% change between approved & spent		**-6.97**		**-2.92**		**-0.80**
% change from actual spending of previous year				**11.60**		**9.49**
Industrialization	**2,061.30**	**1,971.70**	**2,351.50**	**2,145.20**	**3,300.30**	**3,178.60**
% change between approved & spent		**-4.35**		**-8.77**		**-3.69**
% change from actual spending of previous year				**8.80**		**48.17**
KIRDI	**443**	**569.2**	**552**	**540**	**541.6**	**542.9**
TOTAL	**6,485.80**	**6,233.38**	**7,161.30**	**6,827.30**	**8,404.30**	**8,300.37**
% change between total approved & spent		**-3.89**		**-4.66**		**-1.24**
% change from actual total spending of previous year				**9.53**		**21.58**

Source: *MTEF Report for 2014/15 – 2016/17 General Economic and Commercial Affairs Sector and Budget Estimates 2010/11, 2011/12 and 2012/13*

Table 3: Development Budget (2010/11 to 2012/13)

Subsectors	Budget 2010/11 In Millions		Budget 2011/12 In Millions		Budget 2012/13 In Millions	
	Approved	Actual	Approved	Actual	Approved	Actual
East African Affairs, Commerce & Tourism	**1,278.0**	**967.0**	**1,483.0**	**1,443.0**	**1,358.0**	**1,117.0**
% change between approved & spent		**-24.3**		**-2.7**		**-17.7**
% change from actual spending of previous year				**49.2**		**-22.6**
Industrialization	**2,931.0**	**2,101.0**	**2,394.0**	**2,040.0**	**2,806.0**	**2,282.0**
% change between approved & spent		**-28.3**		**-14.8**		**-18.7**
% change from actual spending of previous year				**-2.9**		**11.9**
KIRDI	**316.0**	**172.0**	**525.0**	**472.0**	**576.0**	**564.0**
TOTAL	**4,525.0**	**3,187.3**	**4,402.0**	**3,983.8**	**4,740.0**	**3,915.8**
% change between total approved & spent		**-29.6**		**-9.5**		**-17.4**
% change from actual total				**25.0**		**-1.7**

spending of previous year						

Source: *MTEF Report for 2014/15 – 2016/17 General Economic and Commercial Affairs Sector and Budget Estimates 2010/11 to 2012/13*

The EAC budget is prepared in US Dollars. Kenya's contributions to the EAC on the basis of the approved budget for the last four fiscal years is provided in table 4 below.

Table 4: Kenya's Contributions to the EAC

Fiscal Year	Kenya's Allocations to EAC		MEAC KSH budget In Millions	
	USD	KSH @85 per USD		
2011/12	6,733,340.0	505,000,500.0	5,576.0	
			9.0	
2012/13	7,075,144.4	530,635,830.0	5,643.0	**1.2**
			9.4	
2013/14	7,614,698.3	571,102,372.5	6,007.6	**6.5**
			9.5	
2014/15	8,378,107.6	628,358,070.0	6,019.3	**0.2**
			10.5	

Source: *Reports of the 26th, 27th, 28th & 29th Council of Ministers Meetings, MTEF Report for 2014/15 – 2016/17 and Budget Estimates 2010/11 to 2014/15*

Table 4 shows that MEACT consistently allocated about 10% of its total budget for disbursement to the East African Community. The proportion of allocations to the EAC against the MEACT total budget was 9.0%, 9.4%. 9.5% and 10.5% for the last successive four fiscal years respectively. On the other hand, MEACT budget changed minimally at 1.2%, 6.5% and 0.2% while keeping the proportion to EAC growing at 10% during the same period.

A review of the reports of meetings of the Council indicates that there are occasions where the contributions are disbursed late. It was noted that Kenya has brought forward arrears to the tune of USD 4,329,737 (Ksh.368million).[18] A significant amount of these arrears were for the Inter-University Council for East Africa (IUCEA). The Ministry of Higher Education was responsible for making these disbursements. This responsibility has now been taken up by the MEACT.

Kenya's commitment towards regional integration goes beyond the work of MEACT. A key Ministry whose projects directly contribute towards creating an enabling environment for increased trade and movements of goods and services is the Ministry of Transport. The Ministry is in the process of constructing a Standard Gauge Railway from Mombasa to Malaba and Kisumu and has consequently allocated Ksh.19.4billion (USD228million)[19] in the 2014/15 budget. If this project succeeds, it shall significantly increase the speed and volume of

[18] Report of the 26th Ordinary Meeting of the Council of Ministers.
[19] The National Treasury Budget Summary for the Fiscal Year 2014/15 accessed at www.treasury.go.ke

movement of goods from the Port of Mombasa to the hinterland while reducing the cost of transport. This is expected to in turn reduce the costs of goods, which has direct implication on the cost of living.

Other development projects being carried out along the Northern Corridor such as modernizing the Mombasa Port; development of One-Stop Border Post, and construction of bypasses, among others, have a direct implication on the cost of goods in the region and indicate the commitment of the Government towards regional integration. For the ongoing and new road constructions, Ksh.116.7bn (USD1.37bn) has been allocated in the 2014/15 budget.

5.1 Budget Analysis on the Set Regional Priorities

This subsection provides the analysis of the EAC budget allocation against the priorities areas for four fiscal years from 2010/11 to 2013/14.

It should be noted that the total EAC Budget has substantially increased from US$ 23.91 Million to US$ 124.3 Million over the four years period. Out of this, the Partner States' contribution to the regional budget increased from US$ 13.78 Million to US$ 33.67 Million. However, it is apparent from the Council reports and the reports of the Finance and Administration Committee that there are delays in Partner States remittances. This has affected the timely delivery of programmes and overall performance of the Community against its set targets.

Table 5 below provides an analysis of the budget allocations to prioritised regional integration activities and the proportions (in percentages) of these allocations against the total annual budget from FY2010/11 to 2013/14.

Table 5: BUDGET PRIORITIES OVER 4 YEARS (2010/2011 TO 2013/14)

Sector	Budget Allocation (USD) FY 2010/2011	Budget Allocation (USD) FY 2011/2012	Budget Allocation(USD) FY 2012/2013	Budget Allocation (USD) FY 2013/2014
Implementation of EAC Common Market Protocol	2,625,580 **(4.37%)***	10,274,605 **(9.37%)**	23,503,612 **(18.8%)**	33,074,156 **(28.14%)**
Conclusion of the EAC Monetary Union Protocol	1,329,100 **(2.17%)**	1,604,010 **(1.46%)**	9,592,730 **(7.7%)**	1,639,200 **(1.40%)**
Deepening Co-operation in Defence, Security and Political matters.	746,100 **(1.24%)**	1,634,135 **(1.49%)**		
Implementation of the EAC Institutional Review recommendations and Capacity Building.		3,851,188 **(3.51%)**		
Promotion of Agriculture and Food Security and implementation of Climate Change Action Plan.	537,360 **(0.9%)**	604,260. **(0.55%)**	2,874,848 **(2.3%)**	2,267,798 **(1.90%)**
Promotion of regional and multi-lateral trade.		3,102,500 **(2.83%).**		
Expansion of Regional Infrastructure facilities.	2,507,479 **(4.18%)**	9,423,390. **(8.59%)**	12,531,382 **(10%)**	18,507,594 **(15.74%)**
Implementation of EAC Industrialization, Investment	2,103,850 **(3.5%)**	169,990. **(0.15%)**		

Promotion, and Private Sector Development Strategies.				
Promotion of Sustainable use of Environment and Natural Resources, Tourism and Wildlife conservation.	64,540 **(0.1%)**	42,504,445 **(38.75)**		
Enhancing EAC visibility.	919,308 **(1.53%)**	1,564,190. **(1.43%)**		
Consolidating the Customs Union			8,501,450 **(6.8%)**	
Establishment of a Single Customs Territory				2, 257,650 **(1.92 %)**
Free Trade Area under the Tripartite EAC-COMESA-SADC Initiative				1,849,700 **(1.60%)**
Implementation of EAC statistics strategy	80,300 **(0.13%)**			
Harmonization of National Laws, policies and Education System	850,555 **(1.42%)**			
Extending Judicial services to cover Customs Union and Common Market issues	1,042,080 **(1.74%)**			
Totals Budget to Priorities	**12,806,252**	**74,732,713**	**57,004,022**	**57,338,448**
% of the Budget to the Priorities	**21.28%**	**68.13%**	**45.60%**	**50.70%**
% change of totals from previous year		**483.6**	**-23.7**	**0.6**

The percentages represent a percentage of the total budget for a particular financial year.

Sources: *Various Reports on the Meetings of the Council of Ministers in 2009/10 to 2013/14*

The budgeting and operations of the EAC are based on the following four key regional development pillars:

1. Consolidating the East African Community Customs Union.
2. Establishment of the East African Common Market.
3. Laying the foundation for the establishment of the East Africa Monetary Union.
4. Laying a foundation for the establishment of the East African Federation.

The budget analysis in table 5 above on set priorities indicates that the Community has maintained its focus on the four key development pillars. It also indicates that for the past four fiscal years, 2010/11 to 2013/14, *Implementation of the EAC Common Market Protocol* received the highest allocations of resources at 4.37%, 9.37%, 18.8% and 28.14% in proportion to the total budget in that period, increasingly progressively over the medium term.

The second priority area indicated by its share of budget is the *expansion of regional infrastructure facilities* which received the second highest allocations at4.18%, 8.59%, 10% and 15.74% respectively over the medium term from 2010/11 to 2013/14. Consolidating the Customs Union received a one-off significant allocation of 3.5% of the 2011/12 budget.

The *EAC Single Customs Territory (SCT)* whose progress is building up following the decision of the Council to set up a High Level Task Force to assess the requirements for operationalising the SCT[20] was allocated 1.92% of the FY2012/13 budget. It is expected that this will remain a core priority area with the onset of the implementation of the Single Customs Territory and may continue to get increased budget allocations.

The Monetary Union Protocol which is set to be ratified by all the Partner States by July 2014 and received consistent resourcing over the period under review of 2.17%, 1.46%, 7.7% and 1.4% from 2010/11 to 2012/13. The work and corresponding budgetary allocations to operationalise the Monetary Union are expected to grow both at the regional and national levels once the Partner States ratify the Protocol with Tanzania having led in ratifying the Monetary Union Protocol on 25th June 2014. [21]

It is noted that for the successive budgets in the four fiscal years from 2010/2011 to 2013/2014 prioritised implementation of the Customs Union and negotiation of the subsequent stages of integration, that is, the common market and the monetary union. For example, establishment of the Single Customs Territory and addressing NTBs are some of the activities that were given priority during the period under review. The decision by the Summit to implement the Single Customs Territory is yet another critical milestone of the EAC integration process. The Single Customs Territory is set to crystallize the gains of integration to be characterized by minimal internal border controls and more efficient institutional mechanism of clearing goods. The trends in budget allocation *vis a vis* priorities is progressive.

It is also noteworthy that the number of key priority areas have almost halved over the same period indicating that there has been better targeting and focus particularly in the areas that will enhance trade in the region. In 2010/2011 there were 12 priorities areas but as at 2013/2014 they were six priority areas but better resourced. This could be an indication of progressive improvement of the budget process and budget allocation.

It is important to also note that the core priority areas have increasingly received increased proportion of the total budget from 21.28% in 2010/11 fiscal year to 50.70% in 2012/13.

[20] Report of the 24th Extra Ordinary Meeting of the Council of Ministers held on 20th – 26th April 2012.
[21] EAC website: http://www.eac.int/index.php?option=com_content&view=article&id=1601:-tanzania-becomes-first-partner-state-to-ratify-eac-monetary-union-protocol&catid=146:press-releases&Itemid=194

Table 6: Global Budget Allocation

Sector	Budget Allocation (USD) FY 2009/2010	Budget Allocation (USD) FY 2010/2011	Budget Allocation (USD) FY 2011/2012
Personnel Emoluments	16,719,628 **(30.8%)***	17,500,729 **(29.19%)**	20,672,338 **(18.85%)**
Recurrent expenditure	10,114,063 **(18.6%)**	19,744,589 **(32.93%)**	15,991,087 **(14.56%)**
Development budget	27,423,600 **(50.6%)**	22,717,722 **(37.89%)**	73,016,894 **(66.57%)**
TOTALS	**54,257,291**	**59,963,040**	**109,680,319**
% change of Totals from the previous year		**10.5**	**82.9**

***The percentages represent a percentage of the total budget for a particular financial year.**
Sources: *Various Reports on the Meetings of the Council of Ministers in 2008/9 to 2011/12*

A significant percentage of the total budget funds development initiatives at the EAC as indicated in Table 6 above. It indicates that up to 50.6%, 37.89% and 66.57% of the total budget was allocated to development expenditure in the financial years 2009/10, 2010/11 and 2011/12 respectively. However, over 90% of the development budget is resourced through Development Partners and not from Partner States contributions. This situation needs to be addressed by the Partners States urgently as it predisposes the Community to the risk of unsustainable financing of the regional integration.

Table 7: Allocation to Organs and Institutions

Organ/ Institution	Budget Allocation (USD) FY 2009/10	Budget Allocation (USD) FY 2010/2011	Budget Allocation (USD) FY 2011/2012	Budget Allocation (USD) FY 2012/2013	Budget Allocation (USD) FY 2013/2014
East African Community Secretariat,	25,655,155 **(47.28%)***	26,836,651 **(44.76%)**	50,220,383 **(45.79%)**	68,339,098 **(49.41%)**	69,787,824 **(53.51%)**
East African Legislative Assembly(EALA)	8,573,761 **(15.80%)**	10,520,361 **(17.54%)**	11,679,682 **(1.65%)**	12,511,772 **(9.05%)**	13,089,982 **(10.04%)**
Lake Victoria Basin Commission,	12,238,553 **(22.56%)**	15,157,596 **(25.28%)**	44,491,150 **(40.56%)**	40,039,716 **(28.65%)**	30,376,272 **(23.29%)**
Defence Liaison Unit,	1,939,113 **(3.57%)**	910,244 **(1.52%)**			
East African Court of Justice,	2,868,613 **(5.29%)**	2,841,777 **(4.74%)**	3,289,104 **(3%)**	4,117,210 **(2.98%)**	4,279,489 **(3.28%)**
Inter-University Council for East Africa (IUCEA)			12,444,241 **(11.35%)**	10,105,618 **(7.31%)**	9,692,785 **(7.43%)**
Lake Victoria Fisheries Organization.				3,203,041 **(16.92%)**	3,203,042 **(2.46%)**
Customs and Trade	2,982,096 **(5.50%)**	3,696,411 **(6.16%)**			
Total	**54,257,291**	**59,963,040**	**109,680,319**	**138,316,455**	**130,429,394**
% change of Totals from the previous year		**10.5**	**82.9**	**26.1**	**-5.7**

***The percentages represent a percentage of the total budget for a particular financial year.**
Sources: *Various Reports on the Meetings of the Council of Ministers in 2008/9 to 2013/14*

With regard to the support to the EAC Organs and Institutions, the Secretariat has been the biggest recipient of funds. In the last five financial years beginning 2009/10 up to 2013/14, the Secretariat proportion of the budget was 47.28%, 44.76%, 45.79%, 49.41% and 53.51% respectively. These allocations are justifiable as the Secretariat serves as the executive organ of the Community. However, the amount allocated to it annually is not enough since it has a very wide mandate and its activities require considerable amounts of resources.

In the 2011/12 financial year, the Inter-University Council for East Africa (IUCEA) was able to make its independent budget estimates for the first time. This was as a result of an amendment to a legal instrument that gave IUCEA mandate to bring independent estimates to the Assembly for debate and approval.

5.2 Budget Absorption

The EAC has had challenges in budget absorption. This low absorptive capacity is partly a replica of the challenge also faced by the Partner States partly as a result poor resource disbursement in the first and second quarters of the year (July – December) after the reading of the annual budgets in June. This in turn leads to late to late disbursements to the EAC. The 28th Council cited late disbursement by Partner States, delayed and unpredictable disbursements from the development partners and also institutional challenges such as low human resource capacity as the main causes of low budget absorption and in turn low execution of projects in the Community.

For example, as at February 2014, with only a quarter of the fiscal year 2013/2014 remaining, EAC Secretariat, EALA, EACJ and LVBC; IUCEA; and LVFO had received only 73%, 42% and 32% of their budget allocations.[22]

On the other hand, while the EAC Organs and Institutions had received a total of USD 47,693,367 (37%) of the approved budget of USD 130,429,396, only USD 35,641,146 had been spent as at December 2013. Therefore by December 2013, the EAC the budget utilisation was 74% against the receipts but only at 27% utilization against the approved budget. Other challenges cited were long procurement processes and inadequate staffing due to delays in recruitment. This also contributed to low utilisation of the resources.

5.3 Budget Monitoring and Accountability

It is important to have independent and regular reviews that gauge the extent to which the resource mobilization, allocation, spending and accountability are in line with the vision and objectives of the Community as espoused in the Treaty; the EAC Strategic Plan; policies and plans that are regularly reviewed and

[22] Report of the 28th Extra Ordinary Meeting of the Council of Ministers held on 24th – 28th February 2014.

agreed upon by the various organs and institutions of the Community and approved by the Council and the Summit.

The EAC Organs and Institutions have not been major subjects of scrutiny by civil society organisations in particular and citizens in general as compared to the budget monitoring and social accountability processes that have been used by CSOs to check the national governments and to demand for accountability. On the other hand, EALA is expected to interrogate the audit reports and to provide recommendations to the EAC Organs and Institutions and also to follow up on the extent to which their recommendations are implemented. However, it is not clear to what extent the Committee of Accounts of the EALA, recommendations have been adopted and implemented. It is also noteworthy that while most documents of the EAC are available and accessible, the EALA reports are not as readily available to facilitate the independent monitoring and accountability process.

6.0 ANALYSIS OF THE OUTCOMES OF BUDGET UTILISATION ON PROMOTING TRADE AND CUSTOMS

This section highlights the key programmes, milestones and outcomes that deepened implementation of the Customs Union and enhanced trade in the region. Establishment of a Single Customs Territory and addressing NTBs were some of the priorities in the successive budgets. The decision by the 15th Summit to implement a Single Customs Territory from July 2014 is another critical milestone of the integration process. The Single Customs Territory is set to crystallize the gains of integration characterized by minimal internal border controls and a more efficient institutional mechanism in clearing goods.

6.1 Customs Union and Trade Promotion

Implementation of the Customs Union, promoting trade and investment in the EAC is a cost-intensive project. In the period under review, over 50% of the EAC budget was allocated to implementing various activities to promote trade (see Table 5 above). According to the performance reviews, most of the budgetary allocations were expended and in some cases, there were deficits.

The following are highlights of key projects implemented: -

i) **Establishment of the Single Customs Territory** is critical in order to give effect to implementation of the destination model of the EAC Single Customs Territory. During the period under review, a draft framework for the implementation of the model underpinned by the three pillars, that is, free circulation of goods, revenue management and legal and institutional framework was developed.

ii) **Trade Facilitation:** Studies were conducted towards enhancing trade facilitation and customs services through interconnectivity of customs systems. The *Study on the Interconnectivity of Customs Systems* was finalized within the period under review. Also procurement of equipment and information technology infrastructure and software solutions were commenced. The RADDEx 2.O Version, which enables exchange of transit trade data between customs administration via a central server at the Secretariat, was launched and a customs information technology regulations to reinforce the use of IT in customs was also developed.

iii) **Development and Operationalisation of Monitoring and Evaluation Framework for Customs Union:** The Study on Monitoring and Evaluation and developing an M&E instrument for Customs Union were finalized and adopted. The M&E Framework is essential for monitoring and assessing the impact of the Customs Union and the level of efficiency in service delivery. The scope of the instruments covers Customs efficiency measurements, trade performance and parameters for implementation of Customs Union instruments.

iv) **Review of Community Tariff and Rules of Origin:** The updated EAC Common External Tariff 2012 version was gazetted and came into effect on 1st July 2012. A review of the EAC Rules of Origin was undertaken to facilitate intra EAC trade. The draft revised EAC Rules of Origin were considered by Council and was agreed that further consultations and sensitization of stakeholders be undertaken. The Secretariat also developed a simplified regime of Rules of Origin for cross-border trade in East Africa.

v) **Development and Review of Customs Laws and Regulations.** The EAC Customs Compliance and Enforcement Regulations were adopted, and came into force in 2012. The regulations harmonised critical customs enforcement interventions in EAC including, Risk Management, Authorised Economic Operators, Post Clearance Audit, Cross-border surveillance, joint investigations and use and management of information. Work towards amending the EAC Customs Management Act commenced in order to align with the dynamic operating environment. An amendment of Section 112 of the Act was enacted by EALA to cater for continued preferential treatment under SADC and COMESA.

vi) **Establishment of One Stop Border Posts (OSBP) - Policy, Legal and Operational Instruments.** The One-Stop-Border-Post-Bill, 2012 was presented to EALA and was accordingly enacted. The new Act is waiting assent by the Heads of State. The Act has harmonised legal framework for administration and operationalization of One Stop Border Posts in EAC.

vii) **Capacity Building in Customs:** Quality Assurance Guidelines for EAC Customs Training Curriculum was developed Delegation of Powers to Review EAC Common External Tariff (CET) and Rules of Origin was done in order to enable fast decision-making and service delivery on the implementation of the Customs Union, the Summit extended the delegation of powers to the Council to amend EAC CET and Rules of Origin for three years with effect from December 2012.

viii) **Strengthening of Implementation of EAC Mechanism on Elimination of Non- Tariff Barriers**. Finalization of the Study on the Development of a Legally Binding Mechanism on Elimination of NTBs progressed well over the three-year period. Operationalization of EAC Trade Remedies Committee as part of the operationalization of the EAC Trade Remedies Committee, draft rules of procedure and criteria for the nomination of the members to the Committee were developed.

ix) **Compilation and Dissemination of Trade Statistics was also a priority from 2010 and continued into 2012.** As a strategy to improve both internal and external trade, the Community annually compiles and publishes a Trade Report highlighting EAC intra- trade and Customs revenue and investment performance in the Community, among others. The EAC Trade Report 2011 was finalized. Preparations for the draft EAC Trade Report 2012 commenced.

x) **Promotion of Local Artisans** (Jua Kali/Nguvu Kazi Artisans on Market Opportunities in EAC are held annually through Nguvu/ Kazi Artisans Exhibitions.

xi) **Finalization and Implementation of the External Trade Agreements:** This continued over the three-year period. The EAC continued to negotiate external trade agreements. These included regional negotiating positions in the EPA Clusters (Economic Development Cooperation (EDC); Rules of Origin; Agriculture; and Dispute Settlement, Institutional Arrangements and Final Provisions) harmonized; EU-EAC EPA Negotiations on Rules of Origin and Dispute Settlement, Institutional Arrangements and Final Provisions finalize and EAC – U.S. Trade and Investment Partnership. Regional positions on four EPA Clusters were harmonized.

xii) **Finalization of EAC Joint Export and Investment Promotion Strategy was also concluded in 2013.** The EAC Joint Export and Investment Promotion Strategy for the period was developed. In implementing the EAC Standards Quality Assurance Meteorology and Testing Act 2006**,** draft standards and regulations were developed. In total, (38) standards were developed and approved by East African Community policy-making organs. The sector contributed to development of COMESA-EAC SADC Tripartite (Free Trade Area) FTA Negotiations instruments Standards Committee that are also critical to implementing the EAC Customs union in view of the overlapping memberships.

xiii) **Follow-up on the Implementation of EAC Standards at Border Points:** As part of the follow-up on the implementation of harmonized standards at the regional entry points, monitoring missions are regularly undertaken and reports made on a quarterly basis.

Although a lot of work seems to be in progress, implementation of the customs union, promotion of investment and development is a dynamic process. Other factors, including governance, peace and security and global economic challenges will keep impacting on the customs union. This calls for evaluation of the tools, institutions, capacities and resources to ensure that they are aligned to the global regional and partner states dynamics.

7.0 ANALYSIS OF FINANCIAL CONTRIBUTION BY DEVELOPMENT PARTNERS

The EAC integration programmes and projects have largely been funded by a variety of development partners as seen in the table 8 below. Prior to the fiscal year 2012/13 the development partners support information was scattered in various institutions of the Community that are hosted within the Partner States. With introduction of a harmonised budget in 2012/13 through the MTEF budgeting process, the data on development partners is now more available for review and analysis.

Table 8 below, therefore, analyses the financial contribution of Development Partners to the EAC for FY 2012/13, 2013/14 and 2014/15 and priority areas funded. The priorities are generally geared towards facilitating regional integration and development. The table in particular marks out support focused on regional integration, trade and implementation of the Customs Union Protocol.

Table 8: Financial Contribution by Development Partners

S/N	Name of the Donor	Sector/ Department	FY 2012-2013	FY 2013-2014	FY 2014-2015
1	Partnership fund	Various Sectors, including trade facilitation, single customs territory, one border post	7,908,293	9,716,609	9,691,923
2	RISP	Various Sectors including processing of one border posts, trade facilitation, studies, removal of NTBs	6,336,238	5,177,195	3,354,400
3	TMEA	Various Sectors, implementation of the customs union, one harmonization of laws relating to customs union, common market, etc	2,738,456	348,850	-
4	AFBD	Infrastructure development, Transport & Works	32,810,016	35,389,192	20,289,735
5	USAID	Human Resources Financial Systems	3,489,295	6,615,333	4,580,160
6	GIZ	Monitoring & Evaluation, implementation of regional policies, trade, NTBs etc	1,075,550	-	30,400
7	IRCC	SG's office- fulfilment of statutory obligations and cooperation with others	384,804	1,500,551	508,240
8	World Bank	Various Sectors Financial, Corporate and Economic governance	14,926,150	13,849,504	14,926,084
9	European Union (EU)	Various Sectors (Peace and security, energy, capacity building trade and investment promotion etc)	2,748,201	1,169,685	3,177,051
10	Norwagian Aid (NORAD)	Various Sectors	2,659,621	2,161,171	1,312,910
11	FAO	Agriculture and Food	103,200		
12	JICA	Infrastructure	835,200		
13	UNCTAD	Civil Aviation	217,400		
14	Chinese Government	Industrial Development	50,000	183,600	299,200
15	Nordic Institute in Africa (NAI)	Industrial Development	49,631	45,200	19,400

16	COMESA – IDRC	Human Resources for Environment	179,740		340,721
17	ICP HIV & AIDS GROUP	Human Resources for Health Staff	876,800	841,588	990,041
18	UNFPA and IPPF	Health	497,844	545,572	656,831
19	African Peace Facility (APSA)	Peace & Security	1,401,444	2,956,175	2,932,235
20	Regional Political Integration (RPIHSSP) EU	Political Affairs and human security	907,897	136,700	
21	SIDA	Various Sectors	2,778,172	3,420,897	4,837,324
22	LVBC Partnership Fund	LVBC programs on Lake victoria and sustainable Devt of the basin	2,000,441	1,271,532	895,738
23	Norad/Sida (MERECP)	LVBC programs on Lake victoria and sustainable devt of the basin	3,543,555	1,411,823	1,216,179
24	Rockfeller Foundation	Health sector various	78,429		
25	Tripartite Climate Change Project	Environment		833,826	2,395,050
26	AGRA (Alliance for Green Africa)	Agriculture and Food security		187,350	168,283
27	DANIDA	Political Affairs and Electoral processes		230,000	
28	Civil Aviation	Civil Aviation			223,611
29	IUCEA Member Universities	IUCEA-Executive Secretary		238,300	
30	DAAD	IUCEA-Programme & Projects		461,650	106,780
31	EADB-EABC	IUCEA Executive Secretary			167,100
32	IUCEA-HQ Development Fund	IUCEA-Programmes and Projects		1,521,400	
33	UNIDO	Energy Sector			61,050
	Total Support from Development Partners		**88,596,377**	**90,213,702**	**73,180,446**

Sources: *Various Reports on the Meetings of the Council of Ministers in 2012/13 to 2014/15*

Table 9 below provides further analysis, ranking the financial development support for the past two financial years of 2012/13 and 2013/14; and also the percentage to totals. The ranking does not include FY2014/15 which is still underway.

Table 9 shows that Africa Development Bank was the highest contributor to the implementation of EAC programmes and projects, providing approximately 38.1% of total development partners' support. The World Bank Group was second, contributing approximately 16.1%, followed by the EAC Partnership Fund which provided approximately 9.9% of the total development budget support. RISP and USAID were next in rank providing 6.4% and 5.7% respectively.

The highest ranking development partners support largely fall in the category of loans rather than grants, nevertheless, they have been instrumental in supporting the large infrastructure programmes being undertaken by the region.

On the other hand, some of the lower ranking development partners have targeted the national level projects such as the Mombasa port support by Trade Mark East Africa; and others provided flexible funding for ongoing initiatives and projects and most of this has been grant support.

Table 9: Ranking of Development Partners Support in 2012/13 to 2014/15

S/N	Name of the Development Partner	FY 2012-2013	FY 2013-2014	Totals 2012/13 to 13/14	2 yrs % to total	2 yr rank	Expected FY 2014-2015	3yrs % to total
1	Partnership fund	7,908,293	9,716,609	17,624,902	9.9	3	9,691,923	10.8
2	RISP	6,336,238	5,177,195	11,513,433	6.4	4	3,354,400	5.9
3	TMEA	2,738,456	348,850	3,087,306	1.7	11		1.2
4	AFDB	32,810,016	35,389,192	68,199,208	38.1	1	20,289,735	35.1
5	USAID	3,489,295	6,615,333	10,104,628	5.7	5	4,580,160	5.8
6	GIZ	1,075,550		1,075,550	0.6		30,400	0.4
7	IRCC	384,804	1,500,551	1,885,355	1.1	11	508,240	0.9
8	World Bank	14,926,150	13,849,504	28,775,654	16.1	2	14,926,084	17.3
9	European Union (EU)	2,748,201	1,169,685	3,917,886	2.2	10	3,177,051	2.8
10	Norwagian Aid (NORAD)	2,659,621	2,161,171	4,820,792	2.7	9	1,312,910	2.4
11	FAO	103,200		103,200	0.1			0.0
12	JICA	835,200		835,200	0.5			0.3
13	UNCTAD	217,400		217,400	0.1			0.1
14	Chinese Government	50,000	183,600	233,600	0.1		299,200	0.2
15	Nordic Institute in Africa (NAI)	49,631	45,200	94,831	0.1		19,400	0.0
16	COMESA – IDRC	179,740		179,740	0.1		340,721	0.2
17	ICP HIV & AIDS GROUP	876,800	841,588	1,718,388	1.0	12	990,041	1.1
18	UNFPA and IPPF	497,844	545,572	1,043,416	0.6		656,831	0.7
19	African Peace Facility (APSA)	1,401,444	2,956,175	4,357,619	2.4	7	2,932,235	2.9
20	Regional Political Integration (RPIHSSP) EU	907,897	136,700	1,044,597	0.6			0.4
21	SIDA	2,778,172	3,420,897	6,199,069	3.5	6	4,837,324	4.4
22	LVBC Partnership Fund	2,000,441	1,271,532	3,271,973	1.8		895,738	1.7
23	Norad/Sida (MERECP)	3,543,555	1,411,823	4,955,378	2.8	8	1,216,179	2.4
24	Rockfeller Foundation	78,429		78,429	0.0			0.0
25	Tripartite Climate Change Project		833,826	833,826	0.5		2,395,050	1.3
26	AGRA (Alliance for Green Africa)		187,350	187,350	0.1		168,283	0.1
27	DANIDA		230,000	230,000	0.1			0.1
28	Civil Aviation			0	0.0		223,611	0.1

29	IUCEA Member Universities		238,300	238,300	0.1			0.1
30	DAAD		461,650	461,650	0.3		106,780	0.2
31	EADB-EABC			0	0.0		167,100	0.1
32	IUCEA-HQ Development Fund		1,521,400	1,521,400	0.9			0.6
33	UNIDO			0	0.0		61,050	0.0
	Total Support Development Partners	**88,596,377**	**90,213,702**	**178,810,079**	100.0		**73,180,446**	100.0

Sources: *Various Reports on the Meetings of the Council of Ministers in 2012/13 to 2014/15*

As shown in the table 9 above, the projected/allocated Development Partners' support for the 2014/15 will remain within the same funding range and therefore the ranking will remain fairly the same if the stated commitments are met

The overall increase in the EAC budget is attributed to the support from the development partners, whose contribution increased significantly from US$ 6.13 Million to US$ 90.33 during the period under review.

Nevertheless, there still exist the challenge of delays, unpredictability and lack of flexibility in donor funding. Delays in funding could be due to different fiscal calendars of the Community and development partners. Unpredictability is also attributed to donor reviews of policies towards funding certain sectors every financial year. The economic down turn in Europe also caused others donors to delays in remittances or to change their commitments in the period under review.

It was noted that the differences in the fiscal years between the EAC and development partners imply that if some of the donor funds are disbursed or are released late in relation to the EAC budget processes, they may not be appropriated in time and, therefore, cannot be in the budget and can only be appropriated through a supplementary budget.

8.0 ALTERNATIVE FINANCING OPTIONS FOR EAC INTEGRATION

8.1 Review of EAC Alternative Financing Dialogues

The Partner States budget contribution to the EAC is determined on the basis of the principle of equitable distribution of the benefits of integration and cooperation. The Decision serves to reinforce confidence-building measures to avoid the eventuality of building hegemony in the Community that would later monopolize the benefits of integration. These principles were also informed by reasons and lessons of the collapse of East African Community in 1977.

However, the growth of the regional integration programmes, and the fact that Partner States contribution largely to the recurrent expenditure while the development partners provide over 90% of the development funds, means that an alternative and sustainable funding mechanism must be put in place to support integration activities.

The Council of Ministers at their 11th Extraordinary Meeting held on 23rd May 2005, directed the Secretariat to prepare proposal on modalities of Sustainable Financing Mechanism of the EAC. In addition, the 9th Summit directed the Secretariat to undertake a study on other budget funding modalities for consideration by the Summit. The proposals that emerged from the study were discussed in 2008 and 2010, but since the views were divergent and it was difficult to build consensus, a team of Experts from ministries of finance and ministries responsible for EAC, Revenue Authorities, Planning Authorities, and National Bureau of Statistics was established to interrogate further the proposals and their implications.[23]

8.2 Alternative Financing Practices by Other Regional Communities

Various regional integration communities use different approaches to mobilise their contributions towards the regional integration. The analyses below provide the experience of how other Regional Economic Communities have dealt with the situation.

8.2.1 West African Economic and Monetary Union

The West African Economic and Monetary Union (WAEMU) funds its Union's institutions, organs, programmes by computes each partners contributions and projects through the one percent (1%) on the value of imports from outside the Union. This inevitably means that the larger economies contribute higher amounts to the Unions. According to the Treaty of WAEMU, Article 49, the

[23] Report on the 29th Extraordinary Meeting of the Council of Ministers held on 23rd – 28th April 2014.

resources of the union are subject to the *principle of financial solidarity* among the member states, which implies that no Member State can claim additional benefits from the Union based on its financial contribution.

While this "no claim to additional benefits" is emphasised in the Treaty, in practice it is difficult to avoid the larger contributors from trying to gain more.

8.2.2 European Union Own Sources of Revenue

The European Union, on the other hand, applies three approaches to raise the Union's own revenue which include: traditional own resources, VAT based own resources and GNI based own resources.

Traditional own resources are taxes raised on behalf of the EU which are in form of customs duties on imports from outside the EU and sugar levies. These taxes are collected by countries where the import occurs for remittance to the EU. Collecting countries are only allowed to deduct administration expenses at the rate of 25% of the total taxes collected.

VAT based own resources are taxes on EU citizens derived as a proportion of VAT levied in each member country. In order to arrive at the amount of VAT resource to be levied on each member country, the VAT base of each EU country is harmonized and then a standard percentage is levied on the harmonized VAT.

GNI based own resources is obtained by levying a standard percentage on the GNI of each EU country. This comprises the largest contribution to EU funding and is particularly important in achieving the balanced budget requirement. Member countries are required to make monthly own resources' payments to the Commission as they are collected. However, monthly installments of VAT and GNI based returns are based upon the budget estimates made for that year, subject to later correction.

Other sources of revenue account for about 1% of the total revenue. These include: surplus from the previous budget[24], taxes on EU staff salaries, contributions from non-EU member countries to certain programmes, interests on deposits or late payments and fines on companies for breach of various laws, among many other sources

This menu of revenue mobilisation mechanisms used by the European Union depicts the advanced nature of its systems. It requires good information communication and technology; high level of connectivity of the ICT; similar or harmonised systems operating in all revenue collection points and processes.

[24] If there is a surplus, it is applied to the budget for the following year, thereby reducing contributions by the EU countries to the budget

8.3 Proposed Alternative Financing for EAC

The Team of Experts[25] held several meetings and while they agreed on a hybrid of equal contributions of 50% and assessed contributions of 50% they could not reach a consensus on the basis of assessment. However, on further desk research the Secretariat proposed the 1% on value of importation from outside the EAC to be adopted during the 27th meeting of the Council of August 2013.

The Council directed that the Partner States consult further on the proposal of 1% of the value of imports from outside EAC and that a comprehensive paper on all other alternative financing mechanisms be prepared and submitted by the Secretariat.[26] This proposal was also submitted to the Summit held on 30th November 2013.[27]

The Summit directed the Council to present a report on alternative financing mechanism, including the 1% of imports from outside EAC, with the principles of financial solidarity and equity to its 12th extra-ordinary meeting in April 2014.[28]

During the 29th extraordinary meeting of the Council of Ministers held in April 2014, the Secretariat proposed a hybrid financing mechanism that would take into consideration the principle of *equity*, where by 20% would be equal proportion and 80% would be based on the 1% of the value of imports from outside EAC while applying the principle of *financial solidarity.* It was noted however, that the principle of equity requires that a countries with ability pay more but that this should be accompanied with some benefits such as enjoying larger quota and more say on the economic and financial matters of the Community.

Having not built consensus on the 1% of the value of imports from outside EAC, it was proposed that the Team of Experts analyse various options exploring the principle of equity (as opposed to equality) and its implications.

It was also noted that there was need for the Community to discuss and agree on the *principles* of alternative financing mechanisms and consider the modus of operandi at a later date.

In addition, it was observed that Partner States had not adequately consulted stakeholders on the financing mechanisms options.

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[25] Formed by the Sectoral Council of Finance and Economic Affairs.
[26] Report on the 27th Ordinary Meeting of the Council of Ministers, 31st August 2013.
[27] As part of the progress report on implementation of the directives of the 9th Summit.
[28] Report on the 29th Extraordinary Meeting of the Council of Ministers held on 23rd – 28th April 2014.

8.4 Challenges in Determining the Preferred Alternative Financing Mechanism

The fear that a Partner States that contributes more is likely to become a hegemony in the Community, is real as it has happened in most integration arrangements such as the EU and in SADC.

The EAC study proposed that the budget for the EAC integration process be financed from 1% on the value of imports from outside the EAC region. The study enumerated the advantages of this option which included the fact that: i) it is easy to administer; ii) it is a more predictable source of financing; iii) it would significantly increase the revenues for the EAC Secretariat, Organs and Institutions, as well as for financing of Community-wide socio-economic projects; and iv) it would reduce or eliminate dependence on development partners.
On the downside, the financial burden particularly to the leading economies needed further interrogation and convincing. A hybrid of equal contributions of 50% and assessed contributions of 50% was considered a compromise proposal. However, consensus was not reached on the basis of assessment for the 50% contribution.

Whichever alternative is agreed upon, the proposed option will have a far reaching implications. It will require amendment of Article 132(4) of the Treaty which provides for equal contributions by Partner States. The Partner States would be obliged to make the necessary amendment of the Revenue Authority Acts so as to pave way for the Revenue Authorities to develop new modalities for real-time collection and remission of funds to the EAC especially if the 1% on the value of imports is adopted.

If any of the alternative financing proposals on the table is adopted and implemented by the Partner States, Kenya which is the bigger economy in EAC would be expected to contribute more but may not receive increased benefits, as there is a strong sense that the financing modality adopted should take into account the principle of equity as well as the principle of solidarity.

9.0 CHALLENGES, RECOMMENDATIONS AND WAY FORWARD

9.1 Highlight of Key Challenges

The current financing mechanism for the EAC Budget is not sustainable. There are persistent challenges including delays in disbursement of funds by both Partner States and Development Partners, thus affecting the implementation of the projects and programs. Moreover, the Community is increasingly dependent on support from development partners, a fact that is likely to compromise the ownership of the integration processes. Contribution from development partners in financing the EAC Budget has increased from 25.63% in 2007/8 to 72.67% in 2011/12, and then reduced to 64.1% in 2012/13 and 69.2 in 2013/14. Partner States' contribution largely funds recurrent expenditure.

Key challenges range from the global financial crisis that has reduced commitments by the development partners. This global trend has also affected the Partner States in that every year, a ceiling in set at either 0% increment of the budget or 10% at most.

Internally, inadequate staffing capacity, limited financial resources, long decision-making process, delays in remittance of funds from the Partner States and Development Partners to the Organs and Institutions of the Community continue to constrain the pace of implementation of prioritized programmes and projects.

On implementing the Customs Union Protocol, despite the fact that the East African Community Customs Management Act is a Community law directly applicable in all EAC Partner States there still number of challenges in its implementation. Time and again, Partner States apply for stay of application or Duty Remission Scheme from the Common External Tariff (CET) on grounds of protecting their national industrial sectors or consumers[29]. Further, the link between the coordination and monitoring roles of the EAC vis a vis enforcement by the national authorities are not clear. This has led to conflicting interests at national and regional levels, adding that the appeals system not yet working properly in spite of existence of appropriate provisions under the existing laws.

Resources allocation based on the priority areas has been a challenge the fact that the EAC integration is in all sectors. This is more so because each stage of integration complements the other. However, the oversight role of EALA [30]should be enhanced with more research and assessments to facilitate efficient allocation of resources.

[29] East African Community Partner States signed a protocol establishing the EAC Customs Union.

[30] East African Legislative Assembly, Rules of Procedure for the Assembly, 2001

The EAC internal governance systems are weak. Internal controls and audit sections are poorly resourced and the fact that Audit section falls within the office of the Secretary General is not ideal for independence of the function[31]. Although the Governance Charter provides for various mechanisms for implementation and enforcement of the instrument, relevant committees are yet to be established to operationalize the governance charter.

9.2 Recommendations

a) The EAC Partner States should commit more funds to the programmes of the community including operationalization of the EAC Development fund that would cater for development related programmes. As a leading economy, Kenya has the responsibility to lead in this, and a decision on the alternative financing option should be made as a matter of urgency.

b) There is need to finalise the institutional review process that would pave way for a new structure for the community that is capable of sustaining the pace of integration, regulate and coordinate implementation of key milestones such as the customs union, common market and the monetary union. Effective implementation of these milestones requires fully-fledged institutions at the regional level.

c) The EAC should shift the focus to implementation of the priority projects in infrastructure, especially in rail transport, energy, ports and harbors as well as inland waterways, and the critical road network required to hasten movement of goods. The Summit Retreat on infrastructure agreed on a clear set of priority projects in this sector, as well as a decision to receive updates on implementation every two years is a step in the right direction if this high level commitment is nurtured and sustained.

d) There is need to operationalize, fully, the EAC governance Charter that would put in place internal systems for implementing the Governance Charter.

e) Although the Dialogue Framework for engagement with Civil Society, private sector and other interested groups is in place, there is need to sensitise and share information with these sectors to encourage them interest them on their role in the integration agenda.

9.3 Way forward

Although removal of NTBs has been a menace since commencement of the customs union, there is renewed determination to eliminate NTBs, including a

[31] Report of the 26th Meeting of the EAC Council of Ministers, November 2012

growing willingness to innovate in this area through the development of a binding legal mechanism, use of cargo tracking systems, single window schemes among others.

The underpinning of a functioning Customs Union is the elimination of Non Tariff Barriers. The Council has decided to tackle this challenge head-on. A study on the development of a legally binding enforcement mechanism[32] on the elimination of identified Non Tariff Barriers (NTBs) is underway. The goal of the study is to prepare an enforcement mechanism. The East African Legislative Assembly is expected to legislate the Non Tariff Barriers Enforcement Mechanism Bill into law, which will be the tool for addressing NTBs in the region. In addition, the Council has decided to immediately operationalize the Trade Remedies Committee that will deal with trade related disputes at the operational level.

The Customs Union is a cradle for attainment of a functioning Common Market and its consolidation has been a priority strategic focus as stipulated in the previous and current EAC Development Strategy. In addressing some challenges, the establishment of the Common Market Score Card has been designed to measure performance of each Partner State against implementation commitments in the Common Market Protocol is timely.

At the regional level, the Council has also designed a Monitoring and Evaluation Framework to constantly review the status of implementation of the provisions of the Protocol and take necessary policy interventions where and when deemed appropriate to expedite the pace of implementation of the Protocol.

There are efforts to establish a single market for financial services in line with the provisions of the Common Market Protocol. The EAC Secretariat in collaboration with the World Bank and other Development Partners has established the EAC Financial Sector Development and Regionalization Project (FSDRP). The project has six components namely: Financial Inclusion and Strengthening Market Participants; Harmonization of Financial Sector Laws and Regulations; Mutual Recognition of Supervisory Agencies; Integration of Financial 11 Market Infrastructure; Development of Regional Bond Market, and lastly Capacity Building. This projects seeks to streamline the internal governance mechanism as well as harmonise those of the partner states to ensure effective implementation of the Monetary Union and Common Market Protocol

[32] Draft Report of a study on the development of a legally binding enforcement mechanism for the Customs Union - Council of Ministers Reports.

10.0 CONCLUSION

The alternative financing proposal will form a key agenda in the Council of Ministers meeting and the Summit to be held in November 2014, civil society and other non-state actors have an opportunity to engage in this dialogue and to present their position on the same.

The President of the Republic of Kenya, Uhuru Kenyatta, is the current Chair of the Summit, and it is during the 2014 Summit to take place in November, 2014 that the Alternative Financing Option decision is likely to be agreed upon. It is important that Kenya CSOs also engage in this dialogue and take a position on the alternatives the can promote resources mobilisation towards regional integration.

Civil Society also need to engage more in monitoring the EAC resources and programmes to ensure that all programmes and implementation are people centred, and take particular focus on the poor, marginalised and excluded in the community.

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