

Fast-tracking East African Integration

Assessing the Feasibility of a Political Federation by 2010

Thomas Nzioki Kibua and Arne Tostensen

R 2005: 14

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E-mail: cmi@cmi.no

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Price: NOK 50

ISSN 0805-505X

ISBN 82-8062-131-8

This report is also available at:

www.cmi.no/publications

Indexing terms

Regional co-operation

East Africa

Kenya

Tanzania

Uganda

Project number

25026

Project title

Assessing the Feasibility of Fast-tracking East African Integration

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Preface and acknowledgements

This report was commissioned by the Norwegian Ministry of Foreign Affairs. But the analysis and the views expressed are those of the authors and should not be construed to reflect the views or policies of the Norwegian government, the EAC or any of the East African partner governments.

The authors would like to thank all those who contributed by generously making themselves available for interviews or in other ways providing information and viewpoints, especially the staff of the EAC secretariat in Arusha. Special thanks are due to secretaries Farida Semambo and Dolorosa Mbelle of the Norwegian embassies in Kampala and Dar es Salaam, respectively, for their invaluable assistance in making interview appointments on our behalf and thus greatly facilitating our work in carrying out this consultancy. Our heartfelt thanks also go to Angela Gichohi of the Institute of Policy Analysis and Research (IPAR) for assisting us in numerous ways while undertaking this assignment.

Nairobi and Bergen, October 2005

Thomas Nzioki Kibua and Arne Tostensen

Acronyms and abbreviations

AU	African Union
CET	Common External Tariff
CMI	Chr. Michelsen Institute
COMESA	Common Market of Eastern and Southern Africa
EADB	East African Development Bank
EAC	East African Community
EACJ	East African Court of Justice
EALA	East African Legislative Assembly
ECOWAS	Economic Community of West African States
ESAMI	Eastern and Southern African Management Institute
EC	European Commission
EU	European Union
GDP	Gross Domestic Product
GNP	Gross National Product
IMF	International Monetary Fund
IPAR	Institute of Policy Analysis and Research
IUCEA	Inter-University Council of East Africa
KANU	Kenya African National Union
NARC	National Rainbow Coalition (Kenya)
NTB	Non-tariff Barriers
SADC	Southern African Development Community
Sida	Swedish International Development Co-operation Agency

Executive summary

1. This report was commissioned by the Norwegian Ministry of Foreign Affairs, to whom most of the recommendations are addressed. The analysis and the views expressed are those of the authors and should not be construed to reflect the views or policies of the Norwegian government, the EAC or any of the East African partner governments.
2. The long history of collaboration between the three East African states with its ups and downs has left a legacy – for good and bad. This legacy has a bearing on the contemporary dynamics of collaboration in several respects. The processes and experiences leading up to the collapse of the Community in 1977 still linger in the minds of politicians and civil servants. On the negative side a certain amount of scepticism remains on the part of Tanzania and Uganda vis-à-vis Kenya on account of the widespread perception that Kenya benefited disproportionately from regional co-operation at the expense of the other partners.
3. Although there is no denying that a historical legacy exists, the current situation is fundamentally different from that obtaining nearly 30 years ago. The thrust of the new Treaty assumes an entirely different orientation, largely reflecting the changing trends of political and economic reform in the past two decades. Governance issues have moved higher up on the agenda. In the economic sphere the role of the state has been reduced and changed in nature. The state is currently seen rather as a facilitator through the creation of an enabling environment conducive to economic growth. The private sector is given a greater role in production and distribution without undue interference by the state.
4. The regional integration project has progressed considerably. The major achievement is the conclusion of a customs union protocol which entered into force at the beginning of 2005. In other fields the rate of progress has also been impressive, albeit variable.
5. Notwithstanding notable progress in a range of fields, the Heads of State of the three partner countries have expressed concern that the rate of progress was too slow. Consequently, they appointed a committee to look into the possibility of fast-tracking the integration process. The committee's report was submitted on 26 November 2004. The present report assesses the realism and feasibility of the recommendations and time schedule suggested by the fast-track committee. Our findings are based on perusal of documents and personal interviews with 63 respondents representing a variety of stakeholders.
6. Essentially, there are two approaches to regional integration. One is associated with the late president of Ghana, Kwame Nkrumah, who considered paramount political institutions as useful vehicles for bringing about integration in other spheres. At the other extreme is the functionalist approach whereby regional integration is promoted piecemeal through gradual steps to building a web of functional relations in trade, investment, infrastructure, culture, etc. In this building-block approach the political superstructure, such as a political federation, would be considered the logical culmination of the integration process from below. Both of these differing strands of thinking appear to be alive in East Africa today, although the faith in building blocks takes the upper hand.
7. A federation is defined as a compound polity combining constituent units (currently Kenya, Tanzania and Uganda in the case of East Africa, and later possibly also including Rwanda and Burundi) and a general government, each possessing powers delegated to it by its people through a constitution, each empowered to deal directly with the citizens in the exercise of a significant portion of its legislative, administrative, and taxing powers, and each directly elected by its citizens.
8. A major reason why federal arrangements fail to produce stability and prosperity can be found in the distribution of costs and benefits among the constituent units. Sovereign territorial states enter into co-operative arrangements and have expectations of gain. Over time these

expectations must be fulfilled, at least in part. Although short-term losses are weighed against long-term benefits, the net long-term benefits must be positive. Otherwise a co-operative venture would surely die or soon become moribund.

9. The fast-track committee recommended its own second, middle-of-the-road option: overlapping and parallel processes of integration. It discarded the compression of the stages of integration and shied away from immediately establishing the 'political kingdom' in the form of a political federation. The first preparatory phase would address the institutional framework and financial inputs required to move to the next phase. The second transitional phase (2006-2009) would comprise the implementation of the customs union, the common market and the monetary union – the substance of economic integration. A measure of success in these substantive elements in the economic sphere was in turn regarded as the foundation of a political federation. Other substantive components include progress in infrastructure, science and technology, constitutional and financial issues. The launching date for the political federation was set at 1 January 2010, at which time a federal president is expected to be sworn in.
10. The committee's review of the situation highlighted both achievements and challenges in a remarkably frank and self-critical fashion. It noted and lamented the lack of a politically accountable authority at the regional level; the lack of clearly defined roles for the East African Legislative Assembly and the East African Court of Justice in contributing to the integration endeavour; the practice that EAC secretariat staff prepare EAC budgets on the basis of ministerial ceilings in national budgets; the tardiness of some partner states in remitting their contributions; the unduly complex and time-consuming procurement procedures; the lack of sanctions mechanism when commitments are not honoured, implementation is slow due resistance by high-level bureaucrats, when partners states backtrack on decisions taken, etc.
11. It also cited as a source of concern that currently donors contribute 27 per cent of the EAC secretariat's budget. Given that the secretariat is overstretched and poised to expand in the future to handle an increasing number of tasks, it is mandatory that better financing arrangements be instituted to avoid even greater donor dependency.
12. The three partner countries ratified the customs union protocol on 30 November, 2004 which is to be implemented over a five-year term which started in January 2005. The objectives spelled out in the protocol include the liberalisation of the intra-regional trade regime on the basis mutual benefit, promotion of efficiency in production within the Community, and the promotion of economic development and industrial diversification. The protocol provides for the establishment of a common external tariff (CET), trade remedies and the prevention, investigation and suppression of custom offences, and collection of customs duty by adopting a uniform standard of valuation of goods.
13. During the initial implementation period of the custom union, several problems have been encountered: (a) non-tariff barriers such as customs, immigration, administrative procedures and regulations and licenses, have not been fully eliminated and negatively impact on trade and co-operation; (b) the protocol does not encompass the private sector in the process of implementation; (c) the issue of dynamic gains/losses from trade liberalisation has not been clear since the inception of the customs union; (d) the protocol does not incorporate the impact of imperfect competition; (e) key issues such as protection of manufacturing sectors, disharmony in tax subsidies and unstable macro-economic environments remain unresolved; (f) the exemption regime under the East Africa Community Customs Management Act 2004 seems to have created controversy relating to the CET structure on grains such as wheat, barley, non-governmental organisations, agricultural and horticultural inputs; (g) the CET structure is not consistent with the tax structures in the individual partner countries, and (h) membership in multiple regional trading blocs has yet to be resolved. As long as these problems remain unresolved, it is difficult to adhere strictly to the implementation time-scale.
14. After the customs union, the partner states are expected to progress to a common market, which entails improved macro-economic policy synchronisation and co-ordination, especially the fiscal regimes. Furthermore, a pre-requisite for achieving common market status is the easing of

border-crossing by citizens of the partner states and the harmonisation and maintenance of uniform employment/labour policies, programmes and legislation. The fast-track report highlighted that there were delayed negotiations on the protocol on free movement of persons, the structure of legal and administrative of partners varied considerably, and there is currently no framework that can facilitate labour migration or movement of persons, goods, and services. It is therefore prudent to conclude that given the dynamics and the complexity of achieving a common market, the 2007 deadline is over-ambitious.

15. The views expressed by various stakeholders unambiguously lead to the conclusion that: (i) a customs union and a common market are definitely beneficial for the region and hence a common market goal should be supported, enhanced and nurtured over a much longer time than prescribed in the fast-track report; (ii) a lot of commendable progress has been made, especially with regard to the customs union protocol but the time frame is definitely not realistic; (iii) there exists asymmetry in both the political and economic realms of the three countries; (iv) there is need to take time and deliberately work on economic policy convergence modalities as well as building a common institutional framework to facilitate and co-ordinate market integration; (v) there are transitional elements, issues and perceptions associated with a faster integration process which need to be identified and addressed; (vi) discussion about the implementation of the customs union and the protocols for the common market are left to government bureaucrats who do not have authority to make real decisions; (vii) there is lack of well researched and analysed empirical evidence on key issues to inform decisions, leaving critical decisions to be made on the basis of perceptions; and (viii) a longer time frame is necessary, say 20-25 years, to achieve a functional and sustainable common market with the full realisation of a customs union in 15 to 20 years; and (ix) there are transitional issues, e.g. differences in the pace of implementation of agreed activities, which must be solved.
16. A monetary union has the following characteristics: (i) a single or several currencies fully convertible at immutably fixed exchange rates; (ii) an arrangement whereby monetary policy is determined at the union level, allowing no national autonomy in monetary policy; and (iii) a single exchange rate policy with a common pool of external reserves of the members. In essence, it is situation whereby a single monetary policy prevails and inside which a single currency or currencies are perfect substitutes. Our interviews with stakeholders revealed that, although some progress has been made, there still exist practical legal and institutional challenges and impediments that would require a much longer time to resolve. It is not feasible, therefore, to achieve a monetary union by 2009.
17. A political federation entails a given division of responsibility between the components or tiers of government. Its precise nature is a matter of constitutional design resulting from negotiation between stakeholders. The very design of a federation may be critical for its survival, particularly how it addresses the distribution of cost and benefits in the short and long run.
18. All stakeholders acknowledged the lack of popular ownership of the process towards a political federation. Second, in the immediate future the forthcoming elections in Tanzania and Uganda are likely to slow down the regional process because the political systems of the partner countries remain orientated towards domestic constituencies and issues. Third, the view is often voiced that all partner countries have – to varying degrees – democratic deficits or internal security problems. The recent decision to adopt a multi-party system in Uganda is offset against the constitutional amendment to allow the incumbent president to stand for yet another term. The ongoing constitutional wrangling in Kenya is a source of concern. In Tanzania, the Zanzibar issue continues to mar the political struggle. Northern Uganda is still a war zone and ethnic skirmishes have erupted in Karamoja and Marsabit. Against this backdrop, most respondents see the establishment of a political superstructure in the form of a federation as premature. Rather, each partner country is called upon to bring its own house in order before creating a superstructure which would be resting on a shaky foundation.
19. Our interviews revealed with great clarity that hardly anybody saw the 1 January 2010 target date for a political federation as a feasible proposition. At one extreme a respondent indicated

- 2050 as a more likely date, others considered 2025 as a reasonable time frame, and some just added five or ten years to the fast-track committee's target date.
20. Almost without exception the interviewees subscribed to the gradual building block approach and favoured starting with measures that would build legitimacy from below by removing existing impediments to regional interaction and thus improving the lives of the citizens of East Africa. In their view, only then would the integration project gain the necessary credibility. They saw the demonstration of tangible benefits for various constituencies as the litmus test of success, not a political superstructure remote from the grassroots.
 21. The EAC secretariat is small but effective, although at times it gets bogged down in meetings and administrative tasks that divert attention from priority tasks. Capacity is overstretched, dangerously close to overloading. It is clear that whatever its staff complement, the secretariat must be fundable by the partner states.
 22. The newest development in the interface between the EAC and the donor community is the planned EAC Development Fund. The basic idea is to pool resources provided by the EAC partner states and the development partners in order to finance programmes and projects. On a smaller scale a consultancy fund existed previously. The intention now is to increase the volume of the fund and broaden its scope. Apart from increasing the pool of resources available for developing the EAC, the Fund is also intended to forestall the inconsistencies, overlaps, and even incompatibilities, of projects and programmes with the EAC's overall agenda. As such the proposed Fund could become a much needed vehicle for better co-ordination of donor support and better alignment with the priorities established by the EAC, which would entail enhanced dialogue between the two parties. There is little doubt that the administrative transaction costs could also be brought down through this mechanism.
 23. Draft rules and regulations have been worked out for the Fund. They provide for a committee to oversee the management of the Fund, consisting of one representative of the EAC appointed by the Secretary-General; one representative of each of the EAC partner states; and one representative from each development partner who has contributed to the Fund. The committee is to take decisions by consensus. Contributions are to be made as grants. The draft regulations also provide for rules governing procurement, accounting and auditing, which would serve to allay most donor concerns about possible misuse. The Fund is an excellent initiative and we recommend donors to make contributions for its capitalisation. However, the danger of donor dependency must be addressed.
 24. Donor support is not only about the provision of money. Equally important is institutional development to enable the EAC to handle the increasing inflow of funds in a planned, transparent and accountable manner. As the process of integration evolves the commensurate institutional needs will continue to grow.

1. Introduction

The peoples of East Africa have since time immemorial interacted in various ways – through inter-marriage, trade, etc. Existing borders were drawn by the former colonial powers in total disregard of the settlement patterns of the day. But these borders have continued to be porous to this day. Indeed, some population groups are oblivious of the existence of such boundaries.

Formal East African co-operation dates as far back as the end of the 19th century when construction commenced on the ‘Uganda Railway’ from the coastal town of Mombasa to its completion in 1901 when it reached Kisumu on the shores of Lake Victoria. Through the years the spheres of co-operation were expanded to include customs arrangements, culminating in the formation of the East African High Commission in 1948, which lasted until the independence of Tanzania in 1961. At that point in time the High Commission was superseded by the East African Common Services Organisation and the East African Community (EAC) in 1967. Ten years thereafter the EAC collapsed. After much bickering over the assets and liabilities, a Mediation Agreement was arrived at in 1984.¹

The collapse of the Community in 1977 is widely attributed to three main factors: (a) the inequitable distribution of costs and benefits among the partner states; (b) the ideological differences between the partner states; and (c) the personality clashes between the heads of state of the partner countries after Idi Amin’s 1971 military coup in Uganda.

The Philip Commission that set the stage for the formation of the EAC in 1967 was cognisant of the equity issue. Great care was taken to allocate the Community’s common services institutions so as to redress existing disparities. Thus, Kenya hosted the headquarters of the East African Railways and the East African Airways, while Tanzania was allocated the Harbours Corporation and the headquarters of the Community itself in Arusha. The East African Development Bank and the East African Post and Telecommunications Corporation were located in Uganda. Furthermore, the 1967 Treaty provided for a transfer tax system designed to protect industries in Tanzania and Uganda against their Kenyan competitors.

The three partner states appeared to part ideological ways in the late 1960s. In 1967 Tanzania adopted the *Arusha Declaration*, which ushered in a socialist era, emphasising self-reliance and eschewing foreign investment. Much in the same vein, under President Milton Obote, Uganda opted for the *Common Man’s Charter*, which, in effect, established an ideological axis between Tanzania and Uganda. Kenya, on the other hand, had laid down its ideological precepts in Sessional Paper No. 10 of 1965 on *African Socialism and Its Application to Planning in Kenya*, which, despite the term socialism, set the stage for an open, liberal economy welcoming foreign investment. The sceptical view of foreign investment taken by Tanzania and Uganda caused potential investors in the region to cast their eyes on Kenya. The relatively better infrastructure and industrial base in Kenya, inherited from colonial times, also favoured an inflow of investment. Thus, old disparities and new ideological dispositions combined to reinforce inequalities.

The ideological axis between Tanzania and Uganda was broken when Idi Amin deposed Milton Obote in the January 1971 military coup. President Nyerere of Tanzania refused to sit at the same

¹ For a good overview of developments after 1961 see Korwa G. Adar and Mutahi Ngunyi, ‘The Politics of Integration in East Africa Since Independence’, in Walter O. Oyugi (ed.), *Politics and Administration in East Africa*, Nairobi: Konrad Adenauer Foundation, 1992.

table as Idi Amin, whom he regarded as a 'treacherous army leader'. From then onwards the EAC Authority, consisting of the three heads of state, never met. This was disastrous for the Community, whose Authority was to take decisions by consensus, and eventually led to its collapse.

Following a seven-year hiatus after the Community's collapse in 1977, moves were made to revive the erstwhile co-operative venture, leading at first to the Nairobi Communiqué of 1991, and two years later, to an agreement re-establishing the EAC Secretariat in 1996. These events were all precursors to the resuscitation of East African co-operation in a new guise and with a new vision when in November 1999 a Treaty formally re-launched the East African Community. With its subsequent ratification by the three partner states the Treaty entered into force in July 2000.

The long history of collaboration between the three East African states with its ups and downs has left a legacy – for good and bad. This legacy has a bearing on the contemporary dynamics of collaboration in several respects. The processes and experiences leading up to the collapse of the Community in 1977 still linger in the minds of politicians and civil servants. On the negative side a certain amount of scepticism remains on the part of Tanzania and Uganda vis-à-vis Kenya on account of the widespread perception that Kenya benefited disproportionately from regional co-operation at the expense of the other partners. It does not matter much whether these perceptions reflect reality or whether they are a figment of the imagination of the individuals holding them. Perceptions take on a reality of their own, on the basis of which people continue to think and act. To the extent that the perceptions are unfounded they need to be dispelled through new experiences.

To a much lesser extent the previous ideological differences between 'socialist' Tanzania and Uganda and 'capitalist' Kenya also remain a reality. At the same time, the 'statist' mode of thinking is still pervasive in much of the civil service of the partner countries, particularly in those of Tanzania and Uganda, but also in Kenya's to some degree. There is reason to believe, however, that with the newfound common platform in a liberal conception of the state and a market-driven economy, the old mindset is bound to wane and eventually disappear. It would be a mistake, however, to presume that by-gones are by-gones.

Although there is no denying that a historical legacy exists, the current situation is fundamentally different from that obtaining nearly 30 years ago. The thrust of the new Treaty assumes an entirely different orientation, largely reflecting the changing trends of political and economic reform in the past two decades. Governance issues have moved higher up on the agenda, with new emphases on democratisation, broader participation and human rights observance. In the economic sphere the role of the state has been reduced and changed in nature. The state is currently seen rather as a facilitator through the creation of an enabling environment conducive to economic growth, e.g. by harmonising policies and building infrastructure. The private sector, on the other hand, is given a greater role in production and distribution without undue interference by the state. The era of the 'interventionist' state is over.

The pertinent question is often being asked whether the new EAC stands a better chance of success than its predecessor. After all, it is claimed with a cynical slant, most of the problems remain the same and many of the personalities involved have only been recycled. It is asserted, furthermore, that the 'statist' or 'interventionist' mode of thinking is so ingrained in at least some of the civil services of the partner countries that the ostensible policy reorientation is merely superficial. Moreover, the old discord re-emerges in new guises. On this basis the prediction is made by some observers that the integration process is likely to be slower than expected and that fast-tracking is not feasible. The extreme pessimists and cynics claim that ten years down the line the EAC will either have ground to a halt or collapsed yet again.

How can these pessimistic arguments be countered and the factors underpinning them be obliterated? First, whereas there may be some merit to the argument that many regional problems remain the same as before, a closer examination reveals that the international environment has changed dramatically. Globalisation has left an imprint on the economies of the collaborating states, both in terms of challenges and opportunities. Above all, there is a growing realisation that these challenges must be met and the opportunities exploited. This can be done more effectively on a regional footing, which would add weight in international fora and markets.

Second, some old leaders are admittedly still at the helm but it is closer to the truth that a change of leadership generation has occurred. This observation applies to politicians as well as civil servants. Notwithstanding the 'recycling' of some politicians and civil servants, the sheer demography of East Africa has produced a new generation of actors at all levels and in all spheres of society. This augurs well for movement ahead. All current heads of state assumed office after the collapse of the old EAC in 1977, even though they no doubt carry those painful experiences with them. As a result, when stepping down they have a particular interest in leaving a different legacy by turning the new EAC into *their* success story. Couched in negative terms, they have a strong incentive to prevent the failure of the EAC a second time around; that would be too severe a loss of face.

Third, while it might be true that old contradictions are extant, there is reason to believe that some lessons have been learned from history. The gradual treaty-making process, involving consultation with a wide array of stakeholders, attests to that. Whenever views have diverged ample time has been allowed for their resolution, rather than glossing over them or sweeping them under the carpet. This approach has caused some delay but it has been considered prudent to proceed in this manner rather than force through quasi-solutions that would only prove untenable later.

Fourth, in the mid-1960s when the old EAC Treaty was negotiated the approach was far from participatory. The old EAC was predominantly an inter-governmental affair of the three partner states, generally excluding the private sector and civil society. By contrast, the process leading up to the adoption of the Treaty involved all major stakeholders deliberating on a widely circulated draft treaty document. It should be recalled that the private sector has been a principal driving force behind the resurrection of the EAC because the confines of the nation-states are found to constrain the markets.

Fifth, although remnants of 'statist' thinking linger, the political and economic reform processes that have evolved since the 1980s have dispelled much of the previous faith in the omnipotent capabilities of the state. Drawing on the substance of these reforms, the private sector is no longer as subdued as it once was. Similarly, civil society organisations have become vocal in criticising government policies and are asserting themselves in public affairs. The state will simply not be allowed to take the driver's seat like it used to do. These developments are encouraging for the new dynamism of a regional venture like the EAC.

As a precursor to the new EAC the East African Co-operation had been in operation for several years. This gradual approach suggested caution and recognition of the need for adequate time in deliberating on thorny issues among the stakeholders. The evaluation commissioned to assess the results of the 1997-2000 period was quite clear in its findings.² It concluded on a positive note that the implementation of the work programme had been quite successful, commendable, and encouraging, laying a good foundation for the signing and ratification of a full treaty. The bottom line was that the opportunity cost of non-integration was high.

² See Economic and Social Research Foundation, CODA Consulting Group and Economic Policy Research Centre, *Final Draft of the Evaluation Report of the Implementation of the East African Co-operation Development Strategy 1997-2000*, 14 November 2000, mimeo.

The Treaty creates a region of 93 million people with a combined GNP of more than US\$ 30 billion. Aggregate industrial output is double that of Zimbabwe but only 8 per cent of South Africa's. Although a comparatively small free trade area East Africa has considerable potential for growth. The signing of the Treaty signalled a renewed political commitment to regional integration.

Five years on, the regional integration project has progressed considerably. The major achievement is the conclusion – after protracted negotiations lasting four years – of a customs union protocol which entered into force at the beginning of 2005. In other fields the rate of progress has also been impressive, albeit variable.

Notwithstanding notable progress in a range of fields, the Heads of State of the three partner countries have been impatient and expressed concern that the rate of progress was too slow. Consequently, they appointed a committee to look into the possibility of fast-tracking the integration process. Its terms of reference were to examine ways and means “to expedite and compress the process of integration so that the ultimate goal of a Political Federation is achieved through a fast track mechanism.” The committee set about its task on 21 September 2004 and submitted its report by the tough deadline of 26 November 2004.

The authors of the present consultancy report have been asked to assess the realism and feasibility of the recommendations and time schedule suggested by the fast-track committee (see appendix 5: Terms of reference). In doing so, we have perused a large number of documents, academic writings and newspaper reports. Above all, we have interviewed altogether 63 respondents in the three partner states, representing a wide range of stakeholders from the civil service, the private sector, the academic world, and civil society (see appendix 4: Persons consulted). Interviews have also been conducted with staff of the EAC secretariat in Arusha. Our analysis, findings and recommendations are based on the above information sources.

2. Approaches to regional integration

A considerable literature has accumulated on the subject of regional integration, federalism, federal political systems and federations.³ From this body of literature there emerge two contrasting approaches to regional integration. One is associated with the late president of Ghana, Kwame Nkrumah, who is famous for his pan-Africanist dictum: “Seek ye first the political kingdom and everything else shall be delivered onto you.”⁴ The underlying thinking was that paramount political institutions would be used as vehicles for bringing about integration in other spheres. Nkrumah saw a loose confederation of economic co-operation as deceptively time-delaying. His top-down approach reflected impatience to forge ahead with haste and banked on political pushes doing the trick.

At the other extreme is the functionalist approach whereby regional integration is promoted piecemeal through gradual steps to painstakingly building a web of functional relations in trade, investment, infrastructure, culture, etc. In this building-block approach the political superstructure, such as a political federation, would be considered the logical culmination of the integration process from below. Both of these differing strands of thinking appear to be alive in East Africa today, although the faith in building blocks takes the upper hand by far, if judged by the responses of our interviewees.

Paradoxically, Africa is at the same time experiencing contradictory pressures – on the one hand, for economic and political integration towards larger regional entities and federations with supra-national systems of governance, and, on the other hand, towards disintegration of existing state formations resulting from secessionist movements based on ethnicity or other sources of social identity. These contradictory processes are very much present in East Africa too. We shall return to them in the section on the political federation below.

It is not intuitively evident what a federation is. Therefore, we would like to suggest a definition which is broad enough to be applicable in the East African context. “A federation is a compound polity combining constituent units [currently Kenya, Tanzania and Uganda in the case of East Africa, and later possibly also including Rwanda and Burundi] and a general government, each possessing powers delegated to it by its people through a constitution, each empowered to deal directly with the citizens in the exercise of a significant portion of its legislative, administrative, and taxing powers, and each directly elected by its citizens.”⁵ The design of federations can take a variety of forms, depending on the size and nature of the constituent parts. The original design is often a determining factor of success or failure. Hence, great care must be put into the design effort to achieve success.

In designing federations the challenge of *asymmetry* between the constituent units is a recurring phenomenon. In the case of East Africa the colonial borders introduced cleavages which subsequently evolved into economic structures that currently appear to be difficult hurdles to overcome. Similarly, cultural differences between countries and within countries may also be seen as cleavages that impede progress towards integration. Nevertheless, it remains true that the commonalities between the East African partner states outweigh the differences and cleavages. It is

³ For an overview, see Ronald L. Watts, ‘Federalism, Federal Political Systems, and Federations’, in *Annual Review of Political Science*, 1998, pp. 117–137.

⁴ Kwame Nkrumah, *Africa Must Unite*, London: Heinemann, 1963.

⁵ Ronald L. Watts, ‘Federalism, Federal Political Systems, and Federations’, in *Annual Review of Political Science*, 1998, p. 121.

on the basis of that acknowledgement that further integration can be built. It should be noted, however, that the EAC is not unique in terms of asymmetries. It is rather a common feature of most regional organisations, both in Africa and elsewhere. African cases in point include SADC and ECOWAS.

Whatever the differences and similarities, however, federal arrangements are meant precisely to provide compromise solutions that can accommodate difference, while at the same time facilitate interaction and deeper integration. Various instruments may be designed to redress asymmetries and promote cohesion, e.g. structural funds and tax transfers. Even so, it must be recognised that federal arrangements are no *panacea*. For example, at independence the Nigerian federation comprised three constituent states. After the devastating Biafra war in the mid- and late-1960s when the Igbo-dominated part of the federation unsuccessfully tried to secede, the fragmentation of Nigeria has continued unabatedly to the point that it now consists of nearly 40 states. Nonetheless, these attempts to accommodate sub-federal political ambitions have not contributed much to stability.

One major reason why federal arrangements fail to produce stability and prosperity can be found in the distribution of costs and benefits among the constituent units. Sovereign territorial states enter into co-operative arrangements and, as a matter of course, they have expectations of gain. Over time these expectations must be fulfilled, at least in part. Although short-term losses are weighed against long-term benefits, the net long-term benefits must be positive. Otherwise a co-operative venture would surely die or soon become moribund. Moreover, it is often not enough for all partners to reap net benefits in the long run. After all, it is a rare occurrence that partners incur net losses over time; if so, the design of the co-operative would be flawed at the outset. Any partner would monitor whether the other partners benefit *more*, even if all of them benefit *some*. A systematically skewed distribution of costs and benefits over time represents the greatest threat to regional co-operation/integration. If regional disparities are allowed to persist – or worse, to widen – the weaker partners are likely to see such arrangements as a raw deal even if their net benefits are positive. Correspondingly, the stronger partners may feel that they are carrying a disproportional burden, for example by subsidising the weaker ones. Thus, weaker and stronger partners might want to opt out, but for differing reasons. Either way, the collaborative venture might collapse.

If the issue of distribution of costs and benefits is not addressed in a manner that is considered legitimate and fair by all parties concerned, the likelihood of a breakdown is high. Even *perceptions* at variance with reality must be taken into account, because people think and act on the basis of perceptions whether they are based on facts or not. There is no escaping the fact that asymmetries do exist between the East African partner states, and from them stem challenges related to the distribution of cost and benefits. Most analysts and observers are agreed that the failure to deal adequately with these issues was the main reason (along with others, of course) why the erstwhile EAC collapsed in 1977. Lest the same happen yet again, it is imperative that mechanisms of redistribution be integral parts of the design of all integration measures. The fact that the principle of asymmetry has already been built into the customs union protocol is indicative of a capability for learning from history, which augurs well for the design of other initiatives.

Apart from addressing the vexing question of distribution of costs and benefits among partners, it is also challenging to allocate tasks and responsibilities in a federal set-up. In Europe, the principle of *subsidiarity* has been propounded. Although difficult to operationalise, it simply means that responsibilities should be assigned to the lowest tier of a federal structure that can adequately perform them. The underlying rationale is avoidance of top-heavy bureaucracies overburdened with multiple tasks that can be more efficiently and more responsively geared towards the needs of the citizens if handled at lower tiers of government. All three East African partners are currently evolving policies of devolution or implementing such policies. They differ in design and operation. Whatever their nature and multiple tiers, the existing structures of local government and sub-

national governance could probably be retained within an East African federation. The real challenge is to allocate responsibilities between the envisaged federal level and those best performed at the national level and down the hierarchy. This is the design task assigned to the drafters of a constitution for the contemplated political federation. Experiences elsewhere suggest that whatever constitution is adopted eventually, struggles over administrative competence between levels are likely to persist. For example, ever since the American constitution was adopted in the 18th century legal and political bickering between state and federal levels has permeated American politics. In the East African context – once the constitution of an East African federation is crafted and eventually adopted – the East African Court of Justice would presumably be given powers to adjudicate in matters regarding the respective jurisdictions of the national and federal levels.

3. Fast-tracking the East African integration process

Despite notable progress since the resuscitation of East African co-operation and the signing of the Treaty in 1999, the Heads of State of the three partner countries nevertheless felt at the Nairobi Summit in August 2004 that the rate of progress was too slow. As a result, they found it expedient to appoint a committee to consider ways and means “to expedite and compress the process of integration so that the ultimate goal of a Political Federation is achieved through a fast track mechanism.” The committee submitted a comprehensive report on 26 November 2004.

This section will highlight the findings and recommendations of the fast-tracking committee and provide the gist of its deliberations.

The committee considered three fast-tracking options:

1. Compression of the current stages of integration: (a) customs union; (b) common market; (c) monetary union; and (d) political federation;
2. Overlapping and parallel processes of integration;
3. Immediate establishment of an East African federation.

When deliberating over these options the committee reviewed a number of relevant issues – including past experiences – considered pros and cons, risks and hurdles. It pointed out that a sound foundation is needed for a political federation to be sustainable, including a solid economic base and support by the populations of East Africa. With regard to the latter, the committee recommended that a referendum be held in order to sensitise the people about the benefits and merits of a federation and to allow the popular view to be expressed.

On the basis of thorough deliberation of the issues mentioned above, the committee recommended the second middle-of-the-road option: overlapping and parallel processes of integration. It discarded the compression of the stages of integration and shied away from immediately establishing the ‘political kingdom’ in the form of a political federation. The preferred second option implied leaving the implementation schedule for the customs union unchanged, i.e. five years from the beginning of 2005 through 2009. It also entailed a “consolidated and planned approach in the form of negotiating templates” in order to fast-track the process towards a political federation. The committee acknowledged that the success of this approach would partly depend on the design and implementation of the strategic interventions envisaged and partly on the involvement of a wide range of stakeholders such as the private sector, professional associations, civil society and the people at large.

The strategic interventions were envisaged in three phases. The first preparatory phase would address the institutional framework and financial inputs required to move to the next phase. The second transitional phase (2006-2009) would comprise the implementation of the customs union, the common market and the monetary union – the substance of economic integration. A measure of success in these substantive elements in the economic sphere was in turn regarded as the foundation of a political federation. Other substantive components include progress in infrastructure, science and technology, constitutional and financial issues. The launching date for the political federation was set at 1 January 2010, at which time a federal president is expected to be sworn in. The third consolidation phase (2010-2013) will complete the process towards federating East Africa by establishing an electoral system for the election of a federal government. The guiding principle underlying all phases is that the establishment of a political federation should not have to await the falling into place of all the pieces in the integration puzzle. Rather, the fast-track committee seems

to subscribe to the notion that not all integrative measures are pre-requisites for a political federation to be established. Only essential elements will have to be put in place. Remaining programmes would continue to be implemented even after the establishment of a federation, thus further consolidating its foundation.

The committee was cognizant of the financial implications of its recommendations and time schedule. It proposed, therefore, that an estimated 1 per cent of customs revenue or 0.25 per cent of the value of all imports into the partner states be channelled into a pool for the financing of activities during the transition.

The committee's voluminous report (378 pages including appendices) first considered East African integration in historical context and summarised developments since the signing of the Treaty in 1999. A sectoral review highlighted both achievements and challenges in a remarkably frank and self-critical fashion. For example, the committee noted and lamented: the lack of a politically accountable authority at the regional level; the lack of clearly defined roles for the East African Legislative Assembly and the East African Court of Justice in contributing to the integration endeavour; the practice that EAC secretariat staff prepare EAC budgets on the basis of ministerial ceilings in national budgets; the tardiness of some partner states in remitting their contributions; the unduly complex and time-consuming procurement procedures; the lack of sanctions mechanism when commitments are not honoured, implementation is slow due resistance by high-level bureaucrats, when partners states backtrack on decisions taken, etc.

It also deplored the practice that the EAC secretariat had become a forum where technocrats from partner states negotiate to advance national positions instead of adjusting those positions to regional requirements and standards. Such practices are time-consuming and wasteful, and hardly in the spirit of regional co-operation. Moreover, the committee regretted that the respective ministers in charge of community and regional affairs are predominantly ministers of foreign affairs whose mandates divert attention from regional matters. Finally, it also cited as a source of concern that currently donors contribute 27 per cent of the EAC secretariat's budget. Given that the secretariat is overstretched and poised to expand in the future to be able to handle an increasing number of tasks, it is mandatory that better financing arrangements be instituted to avoid even greater donor dependency. This refreshing self-critique served as a point of departure for the committee's recommendations.

Before arriving at the above-mentioned option of overlapping and parallel processes of integration, the committee examined the pros and cons of each option. With regard to the third option of federating immediately, the point was made that a political federation might serve to avoid or minimise divided loyalties between national and regional interests. However, greater emphasis was put on three other factors militating against a hurried federation. First, the historical legacy of the defunct East African Community of yesteryear lingers in the minds of politicians and civil servants, indeed in the consciousness of ordinary folks. Second, attempts elsewhere to federate through declarations by political leaders have failed, e.g. in the Sene-Gambia, Egypt and Libya, Pakistan and Bangladesh. Third, even though the idea of an East African federation has been around for more than four decades, the partner countries have been more preoccupied with consolidating their internal structures and processes than with creating larger political arrangements. Many would argue that they are all still trying to grapple with internal challenges of that nature at the expense of regional concerns.

In the course of its work, the committee solicited views and perceptions from stakeholders throughout the region. From consultations emerges a clear picture of an East African people overwhelmingly in favour of a federation. However, they were united in their call for a people-centred federation based on a bottom-up approach rather than a top-down declaration by the

political elites of the three partner countries. Expectations of tangible benefits affecting their daily lives also emerged as central themes. Notwithstanding enthusiasm and expectations, certain apprehensions and concerns were also noted. Most of these concerns centred on imbalances and disparities between the partner states, often with reference to historical experience. Hence, it was felt that modalities should be put in place to ensure equity.

The evolution of a common market with free movement of all factors of production including labour and the right of establishment anywhere within the borders of the community produced fears of unemployment or displacement of labour; loss of protection and market shares; loss of land; and adverse social and cultural impacts.

4. The customs union and the common market

The treaty for the establishment of the East African Community was signed in 1999 and entered into effect in 2000. It envisaged the establishment of a single market and investment area in the region and the harmonisation of policies to promote cross-border trade and investment, ease cross-border movements of goods and persons, development of infrastructure, and enhancement of technological and human resource development.

Prior to the signing of the Treaty a number of achievements were realised in accordance with the 1997-2000 development strategy. They include:

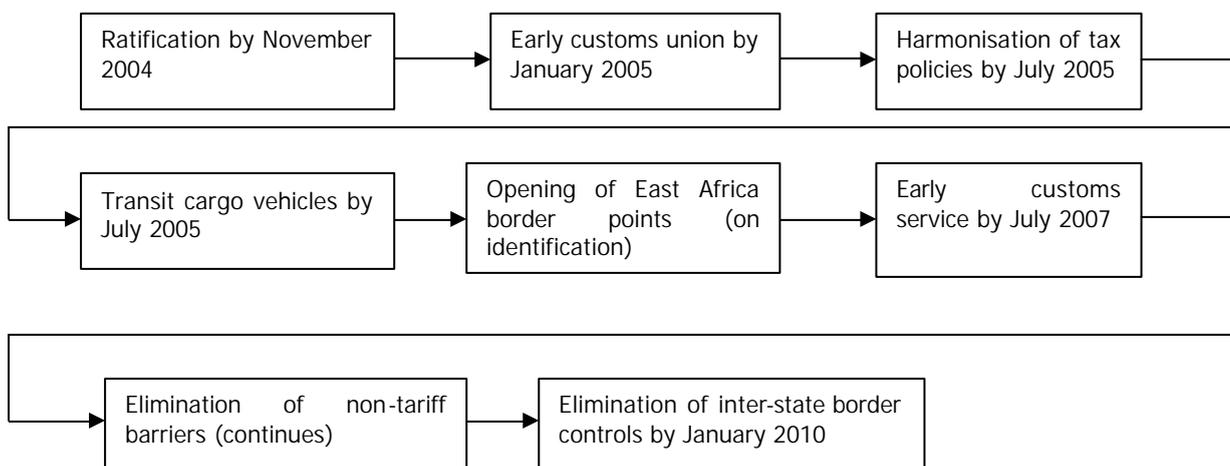
- 1 Confidence-building by setting up a defence liaison office at the EAC secretariat, and the signing of a Memorandum of Understanding on Foreign Policy Co-ordination;
- 2 Harmonisation of policies, such as convertibility of currencies, reading of budget statements on the same day and time, implementation of preferential tariff discount, harmonisation of standards of goods and services, mutual recognition of health certificates issued by national bodies for goods traded in East Africa;
- 3 Easing of cross-border movement of persons and goods through an East African passport, allowing a seven-day grace period for personal motor vehicles, establishing immigration desks for East Africans at international airports, re-introducing interstate passes and withdrawing of visa charges for students;
- 4 Infrastructure development by implementing projects in telecommunications, roads, civil aviation, posts, meteorology, energy, and other related areas.

A second development strategy covering the period 2001-2005 was prepared, focusing mainly on the establishment of a customs union and later on a common market and the enhancement of cooperation for mutual benefit of partner states. The most significant milestone of the second development strategy is the establishment of the East African Community Customs Union.

The customs union

The three partner countries ratified the customs union protocol on 30 November, 2004 which is to be implemented over a five-year term. They also agreed to resolve the problem of multiple memberships in regional blocs and to remove non-tariff barriers. A timeline was fixed for the implementation of the protocol, as depicted in Figure 1 below.

Figure 1: Timeline for the implementation of the customs union



The signing of the protocol for the establishment of the EAC customs union was the most significant starting point for the practical phase of the Community. Its implementation started in January 2005. The objectives spelled out in the protocol include the liberalisation of the intra-regional trade regime on the basis mutual benefits, promotion of efficiency in production within the Community, and the promotion of economic development and industrial diversification. The protocol provides for the establishment of a common external tariff (CET), trade remedies and the prevention, investigation and suppression of custom offences, and collection of customs duty by adopting a uniform standard of valuation of goods.

During the initial implementation period of the custom union, several problems have been encountered. The principal ones are:

- (i) While internal tariffs have been largely eliminated in line with the protocol, non-tariff barriers (NTBs) such as customs, immigration, administrative procedures and regulations and licenses, have not been fully eliminated and they continue to increase the cost of doing business in the region and have negatively impacted on trade and co-operation;
- (ii) The customs union protocol does not encompass the private sector in the process of implementation and private/public sector partnerships have not been enhanced;
- (iii) The issue of dynamic gains/losses from trade liberalisation has not been clear since the inception of the customs union;
- (iv) The customs union protocol does not incorporate the impact of imperfect competition which can increase gains in some countries at the expense of the others;
- (v) Key issues such as protection of manufacturing sectors, disharmony in tax subsidies and unstable macro-economic environments remain unresolved;
- (vi) The exemption regime under the East Africa Community Customs Management Act 2004 seems to have created controversy relating to CET structure on grains such as wheat, barley, non- governmental organisations, agricultural and horticultural inputs;
- (vii) The CET structure is not consistent with the tax structures in the individual partner countries, and
- (viii) The issue of membership in multiple regional trading blocs has yet to be resolved. This configuration is potentially disruptive because it overburdens the civil services and creates contradictory situations that are untenable in the long run.

As long as these problems remain unresolved, it is difficult to strictly adhere to the implementation time-scale outlined in Figure 1.

The East African common market

Article 5(2) of the EAC Treaty provides that after the customs union, partner states will progress to a common market. The smooth functioning of a common market entails improved macro-economic policy synchronisation and co-ordination, especially the fiscal regimes. Furthermore, the Article suggests that a pre-requisite for achieving common market status is the easing of border-crossing by citizens of the partner states and the harmonisation and maintenance of uniform employment/labour policies, programmes and legislation. So far, achievements made towards a common market protocol include:

- (i) Easing the movement of people through the introduction of the East African passport, adoption of a single immigration entry, special passes for border communities, progress in developing a protocol on the free movement of persons, labour, services and the right of establishment and residence, and harmonisation of labour policies and legislation, and

- (ii) Harmonisation of economic policies through liberalisation of the exchange rate and interest rates, similar investment incentives, endeavours to harmonise fiscal policy, and joint capital markets development policy.

However, there are great disparities in the trading patterns of the three countries as shown in Appendix 3. This realisation poses potential challenges to the integration process.

The fast-track report highlighted that there were delayed negotiations on the protocol on free movement of persons in the treaty and the development strategies, the structure of legal and administrative of partners varied considerably, and there is currently no framework that can facilitate labour migration or movement of persons, goods, and services. It recognised such problems and challenges as expressions of nationalistic chauvinism of losing “what is ours”, unequal development of human resources, non-recognition of different development of human resources, lack of harmonised labour regimes, and the need to undertake an impact analysis of the common market protocol on the economies of East Africa. In view of these challenges, the report gave the timeline of implementation of common market activities as shown below in Table 1.

Table 1: Timeline for the implementation of a common market

Activity	Time of completion
Temporary permits to be ready within three months	March 2005
Task force to design the East African passport	March 2005
Internationalise the East African passport	December 2008
Issuance of East African ID by Uganda and Tanzania	December 2006
Formation of task force on free movement of persons, labour, services, goods and the right of establishment and residence	January 2005
Initiate negotiations of free movement of persons, labour, services, goods and the right of establishment and residence	January 2005
Initiate negotiations on the common market	January 2005
Conclude protocol on the free movement of persons	December 2006
Conclude negotiations on the common market protocol	December 2007
Harmonisation of entry/work permits and amendments common laws	July 2005
Harmonisation of commercial laws, etc.	December 2007
Allow personal vehicles a 90-day stay in partner states	January 2005
Allow return cargo by transporters	January 2005

It is noted that the fast-track report does not adequately address the issue of labour mobility which is critical in achieving common market status and crucial in determining the long-term success or failure of the EAC. The varying levels of labour productivity and unemployment rates raises fundamental issues. Because differences in productivity will not disappear overnight, however, adopting uniform standards may lead to rising unemployment in low-productivity countries which will go against the initial impetus of spearheading integration. Thus, developing acceptable protocols for this requirement is likely to pose the most serious challenge to the entire process of integration.

Overall, the main challenge to achieving the common market goal is that the three countries differ in their structure, economic development and institutional setting. Each country has pronounced its own reforms without due consideration to their impact of the other states. This challenge is reminiscent of the conclusion of Philip Ndegwa that the benefits accruing from the original common market formed in the 1960s was not equally shared. He argued that:

The best way to achieve full integration is to proceed on a sectoral basis. Countries intending to form a Common Market should start by having a Common Market in one industry, and so on until a full market is formed. This approach is advocated on the grounds that the system is flexible and that it is easier to reach agreement in negotiations. This approach has much to support it where there are large national differences and where countries have wide range of industries, which could benefit from abolition of tariffs.⁶

It is therefore prudent to conclude that given the dynamics and the complexity of achieving a common market, the 2007 deadline is over-ambitious.

Stakeholders' views

Interviews with a reasonable sample of stakeholders revealed that the majority of them had not read the report. However, they were privy to the subject and were able to give intelligent analyses of the proposals contained therein. Below is a summary discussion of their positions and/or perceptions.

Civil servants and technocrats

This group felt strongly that the creation of a custom union and a common market are noble goals. However, they find the time-scale given to achieve them unrealistic because there are many outstanding issues that need thorough analysis, discussion and negotiation. The issues centre around the short-term distribution of integration benefits and concomitant costs; the need to cushion against implementation shocks arising from existing country-specific tax laws and commitments; the fear that the process is highly politically motivated and lacks both the pre-requisite technical inputs and without being people-focused; and the prioritisation and sequencing of the various building blocks. They take the view that the time frame is not the most important thing and that the cornerstone of successful integration is careful sequencing of dealing with issues of macro-economic convergence, harmonisation of revenue collection and security and concentration on regional projects in the areas of infrastructure, energy and human resource development. For this group of respondents, it is evident that they fear the unknown, have a status-quo syndrome, are slow and conservative, are hanging on with the memories/problems of the previous community and suffer from bureaucratic inertia. Hence, they would wish to take a more cautious approach and hope that, perhaps, 10 to 15 years are needed before the full realisation of a common market.

Business community

This group is generally positive and is pushing to reap short-term interest and benefits. Businesspeople are supportive of integration not because they have long-term business horizons but rather because they are worried about what they are likely to lose immediately. The Kenyan business community, especially manufacturers, want total and quick liberalisation because they are advantaged and more competitive than their counterparts in Tanzania and Uganda. On the other hand, the business communities in Tanzania and Uganda do not think that the time scale for the establishment of the customs union and the common market are realistic. They feel that Kenyans would exploit the situation and dominate the market from a position of strength.

EAC secretariat staff

This is the most progressive group. They appreciate the inadequacy of the institutional framework for implementing the customs union and common market protocols. They know that there are many

⁶ Philip Ndegwa, *The Common Market and Development in East Africa*, Nairobi: East African Publishing House, 1968.

unresolved and unforeseeable issues that militate against the speedy implementation of the various protocols. In addition, they identify the key obstacles to the speedy implementation of the various protocols and the crafting of the remaining protocols as including conflicts between various institutions responsible for community affairs and parent national ministries; a multiplicity of country-specific organisational and technical drawbacks; lack of a central authority to ensure quick decisions and timely implementation of the same; and the existence of national technocrats who are die-hard “nationalists”. They would wish to push for deeper integration in the areas of legal and constitutional framework, an enhanced role for the private sector, mechanisms for rapid resolution of trade issues, co-ordinated infrastructural development, a common foreign policy and clear rules on the admission of new members. The secretariat respondents concur with the view that, notwithstanding their total support for the integration process, the time-line proposed is not feasible and should be extended by at least 10 years.

Diplomats and donors

There is overwhelming agreement among the diplomats and donors who were interviewed in Nairobi, Kampala and Dar es Salaam that the integration time-line is not feasible and that more background work needs to be undertaken before a strict deadline can be made. Basing their judgement on the experience of the European Union countries and their understanding of the considerable economic and political differences that exist within the East African countries, they were of the view that at least 15 years were required to achieve a fully functional customs union and that another 10 years would be necessary to achieve a common market. They suggested that the best way forward would be to encourage the enhanced participation of the private sector and to support regional economic and infrastructural development programmes and institution-building initiatives.

Academics

All respondents from academia said that the time plan for the achievement of the various aspects of integration is unrealistic. They felt that the integration programme was an “elite project” and people with “vested political interest” were driving the fast-track proposals. They felt that there was a lack of analytical understanding of the political and economic situation obtaining in the three East African countries and that the political pronouncements were not backed by adequate economic analysis and financial commitment. The respondents generally felt that unless the process was based on serious analysis and recommendations, any resultant common market would most likely be fragile and non-sustainable. It was acknowledged that a building-block approach would be more appropriate and that having a definite time-line was not a feasible option.

Fast-track committee members

The three members of the fast-track committee (one from each country) were unanimous that: (i) they produced the report to respond to a “political decision”; (ii) the integration ideal is noble and should be vigorously but cautiously pursued; (iii) the time-scale for the realisation of both the customs union and the common market was not feasible; (iv) there were numerous political and economic divergences among the three countries; (v) the ordinary politicians and technocrats were not sufficiently enthusiastic about the project because they “have something to lose”; and (vi) there are many building blocks that need to be worked on in order to lay a solid foundation for market integration.

Overall assessment

The views expressed by various stakeholders clearly and unambiguously lead to the conclusion that: (i) a customs union and a common market are definitely beneficial for the region and hence a common market goal should be supported, enhanced and nurtured over a much longer time than prescribed in the fast-track report; (ii) a lot of commendable progress has been made, especially with regard to the customs union protocol but the time frame is definitely not realistic; (iii) there exists asymmetry in both the political and economic realms of the three countries; (iv) there is need to take time and deliberately work on economic policy convergence modalities as well as building a common institutional framework to facilitate and co-ordinate market integration; (iv) there are transitional elements, issues and perceptions associated with a faster integration process which need to be identified and addressed; (v) discussion about the implementation of the customs union and the protocols for the common market are left to government bureaucrats who do not have authority to make real decisions; (iv) there is lack of well researched and analysed empirical evidence on key issues to inform decisions, leaving critical decisions to be made on the basis of perceptions; and (viii) a longer time frame is necessary, say 20-25 years, to achieve a functional and sustainable common market with the full realisation of a customs union in 15 to 20 years; and (viii) there are transitional issues, e.g. differences in the pace of implementation of agreed activities, which must be solved.

Thus, while some programme activities are being implemented successfully and a determined political push is needed and necessary, a gradual building-block approach with clearly defined priority areas (such as the abolition of paper/visa requirements at border points, seamless transportation services, regional road network and infrastructural and institutional development) and a longer time frame (beyond 2010) is considered by an overwhelming majority of respondents to be the most optimal process towards market integration.

5. The monetary union

According to the 2001-2005 EAC development plan the successful implementation of a monetary union will overcome the country-specific weaknesses and lead to greater macro-economic stability, greater regional integration, and rapid economic growth.

A study by the IMF defines a monetary union in relation to the following characteristics: (i) a single or several currencies fully convertible at immutably fixed exchange rates; (ii) an arrangement whereby monetary policy is determined at the union level, allowing no national autonomy in monetary policy; and (iii) a single exchange rate policy with a common pool of external reserves of the members. In essence, it is situation whereby a single monetary policy prevails and inside which a single currency or currencies are perfect substitutes.⁷ In a related study, Chipeta and Mkandawire explain a monetary union as the use of a common currency and the existence of permanently fixed and rigid exchange rate relationships between currencies; a common fiscal and monetary policy; a central management of the common pool of foreign exchange reserves, external debts and exchange rate policy; the existence a regional monetary authority which is the sole issuer of a full currency; harmonisation of domestic credit that can be achieved by imposition of the central monetary authority; and a common development bank that can assist to finance regional and national projects.⁸

An assessment of the attainability of a monetary union should be based on the above ideals. The fast-track report raised several key issues which must be dealt with in order to accelerate the achievement of a monetary union. They included: (i) the need to change the central banks into one bank as a regional monetary authority and create a common currency for all the countries; (ii) the need for convergent and similar macro-economic policies such as inflation targets, GDP growth rates, fiscal deficit, balance of payments, exchange rates and financial sector stability; (iii) recognition that strong dependence of foreign aid is a great impediment to achieving this goal, since it poses questions of sustainability of the balance of payments, foreign exchange reserves, stable exchange rate, and interest rates; and (iv) such common market conditions which are to be achieved prior to the monetary union, (e.g. free movement of persons, labour, capital, and services) may be difficult to achieve. Notwithstanding these challenges, the fast-track report suggested the following road map:

Table 2: Road map for the monetary union

Activity	Time of Completion
Submit to design the ministers of finance as the interim monetary authority	April 2005
Establishment of the East African Monetary Policy Committee	April 2005
Submission by the monetary policy co-ordination committee of the draft proposal for an East African Central Bank Bill	December 2005
Submission of the draft bill to the Council	March 2006
Submission of the draft bill to the Summit	April 2006
Submission of the draft bill to the three parliaments by the minister of finance	October 2006
Passage of the bill by each of the parliaments	December 2007
Issue of new East African currency	December 2009

⁷ International Monetary Fund (Africa Department), *Monetary Union among Members of the East Africa Community: Preconditions and Policy Directions*, Washington D.C.: IMF, 2004.

⁸ Chipeta, C. and M.L. Mkandawire, *Monetary Harmonization in Southern Africa*, Nairobi: African Economic Research Consortium, Research Report No. 30, 1994.

It is noted that although there are regular meetings of central bank governors and technocrats, it has not been possible to adhere to the roadmap proposed for the attainment of a monetary union. In addition, our interviews with stakeholders revealed that, although some progress has been made in some areas (e.g. currency convertibility, liberalisation of the financial sector and close liaison of the capital markets), there still exist practical legal and institutional challenges and impediments that would require a much longer time to resolve. It is not feasible, therefore, to achieve a monetary union by 2009.

The achievement of this goal faces serious challenges. The first one is whether macro-economic policies should be implemented gradually or by shock therapy. Approaches to a monetary union entail (i) a shock approach which means a quick move towards a monetary union with a corresponding (ii) strong pressure for structural and institutional adjustment, and (iii) a gradualist approach that gives room for lags and allows compatibility of member countries so as to achieve both the objectives and instruments.⁹

Second, Masson and Pattillo stipulate that the key aspects of monetary integration include harmonisation of fiscal and monetary policies, as well as money and capital markets. Thus, economic integration that relegates the monetary aspects to the background while establishing a custom union, as a first step, is bound to face the problem of foot-dragging when it finally decides to return to the territory of monetary integration.¹⁰ Third, the varying exchange rate regimes present a policy dilemma to the proponents of a monetary union.¹¹

Finally, a study by the IMF on monetary union among East African partner states concludes that, (i) the EAC countries are diverse, conditions vary over space and time and essentially, the conditions of attaining a monetary union are not yet fulfilled; (ii) the achievement of the convergence criteria is not a “sufficient condition for monetary union” and there are concerns centred around the necessary institutional and policy frameworks; and (iii) achieving a monetary union should be seen as a long-term project rather than being rushed.¹² Therefore, successful implementation of a monetary union entails having a common legal and institutional framework, mechanism for the eventual effective design and implementation of the exchange rate policies and member states should draw a timeline setting out the various institutional changes that need to be undertaken.

⁹ Sheriffdeen, A., *Monetary Union in Practice: Lessons from European Union*, 1992.

¹⁰ Masson, Paul and Catherine A. Pattillo, *Monetary Union in West Africa (ECOWAS): Is Desirable, how could it be Achieved?* Occasional Paper No. 204, Washington D.C.: IMF, 2001.

¹¹ Kenya embraces a managed floating exchange rate regime, while Uganda's and Tanzania's exchange rate regimes are purely market driven.

¹² International Monetary Fund (Africa Department), *Monetary Union among Members of the East Africa Community: Preconditions and Policy Directions*, Washington D.C.: IMF, 2004.

6. Political federation

In our above definition of a federation we stressed the point that it is a *compound* polity and that there is a defined division of responsibility between the components or tiers of government. However, the precise nature of that functional and jurisdictional division is a matter of constitutional design resulting from negotiation between stakeholders. It was also emphasised that the very design of a federation may be critical for its survival, particularly how it addresses the distribution of cost and benefits in the short and long run. Furthermore, empowerment by the citizens through direct elections was seen as a legitimising pre-requisite to make it sustainable.

The fast-track report dealt with all these issues and discussed them in some detail. While acknowledging the intricacies of the design question, it went some way in making tentative suggestions as to the exclusive and concurrent functional and jurisdictional responsibilities of the federal and national tiers, respectively. It also discussed modes of representation, consultation, policy-making, and conflict resolution within the federation. In charting the way forward the fast-track committee suggested that a 15-member commission be set up to draft a constitution for the East African federation with all the intricacies it would involve.

Within a federal dispensation defining the roles of the East African Legislative Assembly (EALA) and the East African Court of Justice (EACJ) is among the challenges to be addressed. At present the relationship between EALA and the national assemblies is problematic. There is regular exchange of information, including EALA reports submitted to the respective ministries of foreign affairs. But the national assemblies rarely debate EALA reports or other regional affairs for that matter, largely because domestic politics is inward-looking. To enhance interaction successful attempt have been made to create inter-parliamentary liaison committees in substantive areas as informal constructs. EALA members are elected for a five-year term and may be re-elected once. The first five-year term will expire in November 2006. The number of sitting days per year is 60. Although EALA is mandated to legislate across the board, so far only one substantive bill has been enacted into law: the EAC Customs Management Act 2004.

A judiciary is required in any modern polity. So far the EACJ has lived a marginal existence, largely because of its restricted mandate. It is to adjudicate in cases involving disputes over the interpretation of the Treaty. To date the EACJ has not heard a single case and in the view of some lawyers it has become an 'endangered species'.¹³ The lack of demand for adjudication so far is partly a reflection of the still low level of integration. However, with more regional legal instruments beyond the Treaty itself the number of cases brought before the EACJ is likely to increase. Thus far there is only the EAC Customs Management Act and as the implementation of the customs protocol progresses one might see disputes arising. Unless the jurisdiction of the EACJ is broadened to include adjudication in commercial disputes and/or human rights cases, it runs the risk of becoming totally moribund.

The East African heads of state at the extraordinary summit in Dar es Salaam on 29-30 May 2005 considered the report of the fast-track committee and reiterated their support for the principle of acceleration and fast-tracking the federation. However, they also noted that a strong federation would only be possible if it was owned by the people of East Africa. Hence, they underscored the need for wider consultations with all key stakeholders to obtain more views and comments on the best way forward to the political federation stage. The summit thus directed the council of ministers

¹³ *Standard*, 20 August 2005.

to form national consultative mechanisms and to collect views from the people of East Africa and report back to the summit the outcome of the consultations in twelve months.¹⁴ While the heads of state concurred with the thrust of the committee's proposals to fast-track integration, it is interesting to note that, in effect, they applied brakes to slow down the speed somewhat in the interest of increased popular ownership. There is reason to believe that among the reasons for the 12-month consultation period were also the upcoming general elections in Tanzania and Uganda, slated for November 2005 and March 2006, respectively. During this time the political establishments of those countries will be preoccupied with national issues.

It is also noteworthy that the heads of state agreed to appoint ministers solely responsible for EAC affairs – though resident in the capitals, not in Arusha as proposed by the committee – as a means of expediting the regional integration process. They also agreed to establish a post of deputy secretary-general of the EAC to oversee and co-ordinate the fast-tracking process towards a federation.

The National Assembly of Kenya debated and approved the fast-track committee report on 3 May 2005, despite the fact that only a small number of MPs were in attendance. The report was never tabled in the Ugandan parliament and only approved by the executive branch. In Tanzania the Bunge debated the report and rejected it.

Stakeholders' views

We solicited the views of a range of stakeholders as listed in appendix 3. Although there are nuances of view within each of the categories of respondents, we find it useful to group them as follows by collective characteristics and broad commonality of view: (a) civil servants and technocrats; (b) business community; (c) EAC secretariat staff; (d) diplomats and donor representatives; (e) academics; and (f) fast-track committee members.

Civil servants and technocrats

Among this group of interviewee there are distinctions between sectors and generations. It is unsurprising that respondents tend to see their own sectors as particularly important and to give high priority to their sector-specific projects. Regardless of sector affiliation, the younger civil servants tend to see the old guard as cautious and conservative, steeped in the legacy and stereotypes of the past. The historical spectre of the 1977 collapse lingers in their minds. The younger ones tend to be less risk-averse because they do not have personal experiences of past problems with integration efforts. The belief in the East African integration project is firm for young and old alike and across sectors. They may even like the fast-track idea in principle but they differ somewhat with regard to modalities and tempo.

Notwithstanding these differences, civil servants generally find the committee's time schedule for a political federation too optimistic. On occasion, they make caustic remarks about politicians whom they see as lacking in commitment and will. One senior civil servant even characterised the political federation time table as "utter rubbish". Another saw statements of political intent as mere "hot air". Many see the fast-track initiative as politically driven by people who are looking for political gains. The majority of politicians are nationally orientated. Politics is where the votes are and thus far no votes are to be had from an East African platform. Consequently, parochial issues take precedence over EAC issues which are hardly present at all in election campaigns.

¹⁴ Third Extraordinary Summit of Heads of State of the East African Community, Joint Communiqué, Dar es Salaam, 30 May 2005.

The technocrats attach more importance to the contributions made by many building blocks *en route* to a political federation. Still, they do not see enough evidence that political declarations are translated into concrete measures. Since there is lack of serious political commitment there is no other option than a step-by-step approach, even if political pressure can be useful at times to the extent it is actually exerted. But generally bureaucrats are wary of politicians. As one respondent put it: "Let the parts lead to the end result [i.e. federation]. Get the economics right first, then politics will follow. But don't fast-track politics!" Some are also hesitant that institutional development is amenable to fast-tracking. Normally, institution-building is a meticulous process. Most acknowledge, nonetheless, that the building-block approach is not purely technical in nature; essentially it is political. As a result, the civil servants are prepared for an uneven stop-go process in which three steps may be taken forward only to be followed by two steps back again, etc. Being involved on a sector basis they often have first-hand experience with the challenges involved in thrashing out the nitty-gritty details of integration efforts. That is probably why they are sceptical to a premature political federation before its economic foundation is solid.

It seems that the majority of the bureaucrats and technocrats of the civil services of the partner states are by and large satisfied with the progress made so far and would prefer to continue relentlessly along the same path; establishing a premature political federation would only divert attention from the building blocks. Or worse, forcing on the political federation might lead to a backlash and a new collapse, leading to despondency and distrust from which it would be even more difficult to recover than the events of 1977.

To summarise, the civil servants have noted good progress and they feel the direction is right. On the other hand, they see the need for more education and sensitisation among the general population about East African integration. Finally, they think the time horizon needs to be longer; the time frame is not most important but rather the priorities and the sequencing of measures. A political federation is not feasible by 2010 – probably not even necessary by that early date.

Business community

The business community is impatient and stress practical measures on the ground as a means of fast-tracking East African integration. It subscribes solidly to the piecemeal building block approach. The three chambers of commerce and industry have already been federated as one contribution to the overall integration process! Politicians and technocrats alike are often seen as impediments to faster integration. The frequent postponement of meetings is indicative of lack of serious commitment on the part of politicians. The mindset of the civil service is claimed not to be conducive to the integration effort because it is risk-averse. Civil servants have been taught to uphold rules and regulations, not to produce results.

Businesspeople take an interest in a political federation only in so far as it contributes to creating an economic policy environment conducive to growth and cross-border investment and trade. To the extent a political federation can be used as a vehicle for removing impediments to intra-regional economic activities the business community embraces the idea.

The political superstructure is considered secondary to the many small and large building blocks towards one single market of all factors of production: economic integration is paramount. As one representative of the business community expressed it: "To us political integration is neither here nor there." Another put it in graphic terms: "One cannot start building the roof of a house in mid-air without the foundation and walls it is supposed to rest upon." In the opinion of the business community a political federation by 2010 is not feasible and may not even be necessary for promoting business ventures, even though it is recognised that a political push may be critical in moving the business agenda forward.

EAC secretariat staff

EAC secretariat staff work close to the integration process on a daily basis and can thus be expected to encounter the many challenges involved. It is particularly noteworthy therefore, that also this group of respondents find a political federation by 2010 unrealistic. EAC staff do recognise that it is good to be ambitious and that time frames and targets are useful to strive towards. But if the targets are over-ambitious they do not serve that laudable purpose. Most of them are reasonably confident that the implementation of the customs union is progressing well, despite hiccups now and then. They see the protocol negotiations over the free move of persons, capital, and the rights of establishment and residence as a far greater challenge. These involve very sensitive matters and bring to the fore a host of disparities within the region. And some put the time period needed for a monetary union to be implemented at minimum ten years from the decision date. By implication, if the political federation is to complete the integration project, the 2010 date is not advisable. Some solace is taken in the increasing international recognition of the EAC and in its formal recognition as a grouping within the AU.

There is also concern that the forthcoming elections in Tanzania and Uganda will delay the appointment of the commission to draft the EAC constitution. Similarly, there is uncertainty about the implications of the outcome of those electoral processes. The presidential candidate of the incumbent party in Tanzania, Jakaya Kikwete, is set to win but one is uncertain about his regional orientation towards COMESA vs. SADC. In short, there is some unease about the volatility of the political dynamics in the partner countries. This may, in turn, impact on the feasibility of the 2010 deadline for the political federation.

Another source of concern is the state of awareness of East African affairs among the general population. One staff member voiced the view that few realise that sensitising the population is a very long haul indeed, because it is difficult to fast-track the change of attitudes and perceptions. The ministries that the heads of state directed to consult are ill equipped for the task because they do not have a clue about how civil society works. The task of creating a new identity as East African as opposed to Kenyans, Tanzanians and Ugandans is daunting and will require a long time to come to fruition. At present no notion of East African-ness exists among the populace. Rather, nationalism and ethnicity are far more prevalent. Still, EAC staff members believe the community can be used as a vehicle for defeating nationalist thinking.

Although the secretariat feels overstretched and badly in need of reinforcement, staff also take a certain pride in moving so fast that the rest of the organisation can hardly keep up. At times, however, complaints are heard that the secretariat is so bogged down in meetings and nitty-gritty planning that it hardly finds time to think strategically. Nevertheless, the staff feel that the strategic direction is correct, although they may have reservations about the realism of the time schedules suggested by the fast-track committee.

Diplomats and donor representatives

The diplomatic and donor community observe the integration project from the outside, while also being participants by virtue of their financial and other support. Overall, the donor community takes a sympathetic attitude to regional integration, even though it may have some reservations about certain aspects. These reservations stem largely from experiences from the donors' home bases, which to varying degrees are relevant to the situation at hand in East Africa. On occasion, some donors may express views which are considered inappropriate and tantamount to undue interference. For instance, Tanzania took strong exception to the 'advice' offered by the EC Head of

Delegation to the effect that the country should pull out of SADC and rejoin COMESA.¹⁵ Although the remark was not intended to question Tanzania's national sovereignty to determine foreign policy its meaning was construed differently in the circumstances.

One diplomat ventured the view that the premature establishment of a political federation might create more problems than it would solve. It would be important for the partner countries to get their own houses in order first before moving to the federal level. Pending a political federation, whatever the time frame, the practical and economic programmes could move ahead, albeit at a slow pace. He felt that the EALA should be given more and clearer authority, though short of federal powers. Another diplomat found it hard to grasp what role EALA really has; its legitimacy is in doubt because there are no accountability mechanisms. In the case of the Kenyan members of EALA the anomaly exists that they were appointed by the KANU government while NARC is currently the incumbent coalition. As a result, the latter's trust in Kenya's EALA members is limited.

The donor community is concerned about the overlap and duplication of effort inherent in multiple memberships in regional organisations. In the case of Tanzania, simultaneous membership in SADC and EAC, both with a common external tariff, is inconsistent and logically impossible. Otherwise, multiple memberships are capacity-demanding with scores of meetings without clear priority. The progress of the EAC project, with which this report is concerned, suffers as a result.

From the point of view of the EAC as a recipient of donor funds, co-ordination of donor policy positions and practices is very important. It would be a great advantage if the donors could agree on a common assistance strategy whereby their contributions could become truly complementary rather than partly competitive. Most donors subscribe to this view but it is slow in being acted upon. The proposed development fund could provide the needed vehicle for greater donor co-ordination.

Academics

Similar to most other groups of respondent the academics subscribe to the building-block approach to integration. They find the concept of political federation to be sound and a noble goal but do not consider the political environment to be ripe yet. There is no successful precedent anywhere in the world where a political federation has preceded economic integration. Most of the respondents in this category focused on the building blocks in the economic sphere: make sure first that the customs union work; then move on to ensure that economic policies converge; and thereafter focus on cross-border investment to create a single investment area. Parallel to the above major sub-projects of integration, all academics found it sensible to forge ahead with sectoral programmes in infrastructure, social sectors, management of common resources, etc. One respondent asked the following question and answered himself in the same breath: "Are we better off moving slowly and more thoroughly or forging ahead faster and more superficially. I prefer the former option; the latter may create a lot of dust, but we are still left with the same potholes."

Cognizant of historical experiences, however, the academic community was preoccupied with the distribution of costs and benefits among the partner states. They all considered it critical to redress disparities of the past and to institute mechanism for their prevention in the future.

In order to move to the federal stage, all academic respondents underscored the need for harmonisation of political systems, e.g. the election cycles. At present there are democratic deficits in some countries and internal problems of stability in others. The unresolved conflict in northern Uganda was seen as a destabilising factor. Similarly, the Zanzibar problem in Tanzania is living

¹⁵ *East African*, 16–22 May 2005.

proof that unions are not easy to forge. Although Uganda voted overwhelmingly in favour of a multi-party system in the 28 July 2005 referendum, the recent change of the constitution to allow the incumbent president to stand again for a third term has raised concern in the partner states, particularly in Tanzania.¹⁶ The ongoing constitutional wrangles in Kenya suggest that governance problems are rife there as well. All is not well in the human rights field either.¹⁷ And the spectre of corruption is lurking everywhere.

One respondent pointed out that there is a disjuncture between national electoral politics and East African thinking. In national politics there is a rise of ethnicity and parochialism leading to inward-looking electorates and the withdrawal of local communities. Centrifugal and centripetal forces seem to be operating at the same time. The former is producing smaller sub-national units such as the increasing number of districts in Uganda.¹⁸ The latter includes moves towards larger units such as the East African federation. It is hard to say which of these forces are stronger but it seems that the centrifugal tendencies have the upper hand at the moment.

Most academics concede that the East African federation is an elitist project, even though they find it appealing as such. So far the grassroots hardly have an inkling what a federation is about. The academics echo the concerns of all other categories of interviewee that the process of integration is not yet owned by the peoples of East Africa. The avant-garde of politicians and civil servants are so far ahead of the rank and file that they lose contact with reality. The fast-track report only served to legitimise and endorse political decisions already made. Even though the gap is too wide at the moment the academics do think that a political push is necessary in bridging it. Political will is important, but one respondent warned against the danger of exaggerating how much a federation can do.

None of the academics finds the 2010 date for a political federation feasible. For starters, in the next 6-8 months Tanzania and Uganda will be preoccupied with domestic elections. This will no doubt cause loss of momentum and delays in many arenas and effectively suspend regional activities. In principle, had domestic politics not been so singularly orientated towards parochial issues, the election campaigns might have provided excellent opportunities for creating an East African consciousness. But no politician seeking re-election would be so foolhardy as to promote East African policy issues. Besides, there are many imponderables in politics; "it's not a military parade" as one respondent phrased it. Indeed!

At the regional level the EALA is in place. But its members are not directly elected and the accountability and reporting mechanisms are deficient. At the moment the EALA country chapters report to their respective National Assemblies' Foreign Affairs Committees but none of the reports has been debated by the National Assemblies. There appears to be a delinking of regional and national parliamentary arenas.

Fast-track committee members

It is significant that even the members of the fast-tracking committee themselves are in doubt about the feasibility of establishing a political federation by 2010. It should be recalled that the fast-track report was a collective product involving compromise. The dates and time tables were put in to accommodate pressure from the heads of state, not because all the committee members really believed in their realism. The committee members interviewed see the difficulties encountered in the economic sphere as the main hurdles. The implementation of the customs union protocol was

¹⁶ *Sunday Monitor*, 31 July 2005; *Sunday Standard*, 24 July 2005; *Citizen*, 17 August 2005.

¹⁷ *East African*, 7-13 March 2005.

¹⁸ *New Vision*, 8 August 2005.

seen as a milestone and the test case of a political federation because the behaviour of the partner states during the implementation phase would be indicative of real political commitment. A second test case of a political federation is the negotiations for a protocol on the free movement of labour and rights of establishment and residence; a political federation is not feasible without free movement across borders. Besides, one of the fundamentals of a federation is involvement of populations, and East Africa is still far from that goal.

Overall assessment by respondents

Our interviews revealed with great clarity that hardly anybody saw the 1 January 2010 target date for a political federation as a feasible proposition. Some were even astounded by the very question. At one extreme one respondent indicated 2050 as a more likely date, others considered 2025 as a reasonable time frame, and some just added five or ten years to the committee's target date. One centrally placed bureaucrat suggested processes in four consecutive stages, each of five years' duration:

2005-2010 Implementing the customs union protocol;
2010-2015 Laying the ground for a common market;
2015-2020 Preparing for the monetary union;
2020-2025 Towards the East African Federation.

Almost without exception the interviewees subscribed to the gradual building-block approach and favoured starting with measures that would build legitimacy from below by removing existing impediments to regional interaction and thus improving the lives of the citizens of East Africa. Only then would the integration project gain the necessary credibility. They saw the demonstration of tangible benefits for various constituencies as the litmus test of success, not a political superstructure remote from the grassroots.

7. Conclusion

To summarise, all our respondents are supportive of the integration process currently under way in East Africa. Without exception they see great potential in the deepening of integration for enhancing production and trade across borders. In turn, an economic growth process is a prerequisite for poverty reduction and holds great promise for alleviating the drudgery of the daily lives of East Africans in years to come. Most interviewees are agreed that great achievements have been made in an array of fields, the most notable one being the conclusion of the customs union protocol and the operationalisation of the Lake Victoria Basin Commission. In other words, the direction and substance of integration is not in question.

However, in the same breath hardly any of our respondents considered as realistic the time frame proposed by the fast-track committee. Even the heads of state, at whose behest the fast-tracking committee was formed in the first place, appear to have had some reservations when they directed more consultations to be held with key stakeholders. Without being unduly pessimistic, let alone cynical, the majority of the stakeholders subscribes to the building-block approach to integration. They favour the implementation of an array of measures, not in a haphazard manner but in a coherent, complementary and sequential fashion guided by the development strategy of the EAC.

Most stakeholders saw major challenges in negotiating a protocol on the free movement of persons, labour, services, goods and the right of establishment and residence. As a result, a more realistic time horizon would be needed. The same applies to the monetary union.

On the political front, all stakeholders acknowledge the lack of popular ownership of the process towards a political federation. Raising awareness among the general population is very time-consuming. Second, in the immediate future the forthcoming elections in Tanzania and Uganda are likely to slow down the regional process because the political systems of the partner countries remain orientated towards domestic constituencies and issues. Third, the view is often voiced that all partner countries have – to varying degrees – democratic deficits or internal security problems. The recent decision to adopt a multi-party system in Uganda is offset against the constitutional amendment to allow the incumbent president to stand for yet another term. The ongoing constitutional wrangling in Kenya is a source of concern. In Tanzania, the Zanzibar issue continues to mar the political struggle. Northern Uganda is still a war zone and ethnic skirmishes have erupted in Karamoja and Marsabit. Against this backdrop, most respondents see the establishment of a political superstructure in the form of a federation as premature. Rather, each partner country is called upon to bring its own house in order before creating a superstructure which would be resting on a shaky foundation.

8. Recommendations

In the context of the present report we find it justified to address recommendations both to the donor community, Norway in particular as the commissioning body for this study, and to the EAC as its partner.

EAC constraints and absorptive capacity¹⁹

Chapters 3-10 of the EAC Treaty deal with the administrative organs and institutions of the Community, most of which are assigned tasks of policy-making, guidance, oversight, adjudication, and control. The main executive burden is placed on the secretariat in Arusha. The relevant Articles 66-73 list its principal officers and enumerate its functions. But they are silent on the size of the staff complement required to discharge its functions. It is understood that staffing will expand as responsibilities multiply so that the staff establishment at any point in time will be commensurate with the tasks at hand.

In this regard, regional organisations are prone to three pitfalls. First, the tasks and responsibilities may expand much faster than the recruitment of additional personnel to keep pace. In such a scenario bottlenecks appear, slowing down progress. At present there is no doubt a capacity constraint at the EAC secretariat. One of the most common reasons why executive staff recruitment tends to lag behind is the inability or unwillingness of the partner states to foot the bill. The degree to which members agree to expand the staff complement in tandem with the expansion of tasks and responsibilities is, in effect, a good proxy measure of their commitment to the regional venture. The fast-track committee states that currently some 27 per cent of the EAC secretariat budget is covered by donors. This is a source of concern, especially since the secretariat is set to expand. To the extent that the committee's proposal is feasible, income derived from customs duties could solve the problem.

Second, the reverse situation might arise, i.e. that the secretariat takes on too large a project portfolio in a misguided eagerness to perform well in all areas. The inclination of member states to designate national projects as regional ones tends to reinforce such tendencies. Another culprit might be the donor community, only too willing to move along and provide the funding. The bureaucracy of the secretariat might thus expand too fast, breeding complacency to the point of becoming a top-heavy, bloated structure that places a financial burden on the organisation, without much to show for itself in terms of achievements. Despondency might result. It is definitely not our impression that such a description applies to the EAC secretariat at present.

Third, the regional venture might become so popular with the donor community that its secretariat becomes overpopulated with expatriate advisors and seconded staff. In the short and medium term the result could easily be loss of control over its own agenda. In the long run such donor dependency would clearly not be sustainable. Although there are some expatriate advisers at the EAC secretariat at present, they are not so numerous that they are able to control the agenda. Still, the proportion of the budget that is donor-funded is worrisome.

¹⁹ One of the authors of the present report undertook a related study four years ago. This section draws on that earlier report because the issues raised remain relevant. See Arne Tostensen, *Supporting East African Integration: Assessing the Potential for Norwegian Support to the East African Community*, Bergen: Chr. Michelsen Institute, 2001.

Given the relative youth of the EAC, it is premature to judge which one of these pitfalls – or any of them at all – is more likely. But there is reason to be vigilant against such tendencies from the very start. The solution lies in an appropriate balance between tasks and capacity. There are at least two methods of guarding against the pitfalls.

First, strict adherence to the subsidiarity principle would go a long way towards fending off attempts by partner states to ‘ride on the regionality wave’. Whenever project proposals are tabled they should be subjected to a regionality test and be rejected outright if they do not pass it. Challenges that can be handled at lower tiers of government should not be hoisted up to the regional level, just because funding is might be ‘easier’ at that level.

Second, to prevent an overloaded project portfolio at the secretariat level the execution of projects should be delegated as far as possible to other actors. The autonomous regional organisations immediately suggest themselves. Currently there are only three of them: East African Development Bank; Inter-University Council for East Africa; and Lake Victoria Fisheries Organisation. Others not formally affiliated to the EAC, such as the East African Business Council, the East African Law Society, and the East African Tourism Council, could be entrusted with similar tasks. Otherwise, a plethora of private sector companies and civil society organisations stand prepared to take on similar implementation tasks. Thus the secretariat could restrict itself to overseeing and guiding activities.

In tune with the redefined role of the state, the EAC as an inter-governmental organisation should confine its role principally to the harmonisation of policies, facilitation of activities, co-ordination of plans, and generally to providing an enabling environment for productive actors to thrive. It should seek to forestall developments towards becoming a grand agency of project execution.

The EAC secretariat is small but effective as far as we could judge, although at times it gets bogged down in meetings and administrative tasks that divert attention from priority tasks. The staff are committed to the objectives of the Community. But capacity is overstretched, dangerously close to overloading. It is clear that whatever its staff complement, the secretariat must be fundable by the partner states.

The posture of the donor community

The donor community is generally sympathetic to the regional integration project, although some may have reservations about modalities and priorities. Furthermore – notwithstanding the absorptive capacity constraints on the part of the EAC – donors also face administrative shortcomings. A case in point is Norway. However, using the capacity of all three embassies in Dar es Salaam, Nairobi and Kampala appears attractive, with the Dar embassy in the driving seat. It should be recalled that some of the autonomous regional organisations entrusted with project execution are based in Tanzania (East African Law Society) or Uganda (Inter-University Council for East Africa), or their chairs rotate between the partner states.

Another politic option would be to ‘piggyback’ on other donors, either by delegating the management of specific projects or by participating in donor consortia led by other donors. It should be noted that Sida is the lead donor in the Lake Victoria Initiative consortium of donors. Similar arrangements are conceivable in other sectors.

Apart from involvement in regional projects funded from NORAD’s regional budget votes, the bilateral country programmes should be regarded in the context of regional complementarity. ‘Tilting’ country programmes to regional priorities is a good method of integrating country-specific interventions with regional objectives in a complementary fashion. For instance, construction of a

stretch of road that forms part of a regional transport corridor might be financed and managed at the country level. Similarly, installing hydroelectric power generation capacity at the country level could contribute substantially to a regional power market in line with the East African Power Master Plan, of which a regional distribution grid would be an integral part. The examples could be multiplied. When negotiating country programmes care should be taken to include in the delegations' instructions that the regional dimension be accommodated.

In the same vein, the EAC member states should be encouraged to infuse their national budgets and programmes with a regional dimension.

It is also prudent to remind oneself that regional integration can only function well if the country-specific preconditions are in place. It would be a delusion to think that regional interventions can be a substitute for interventions at the country level.

The EAC Development Fund

The newest development in the interface between the EAC and the donor community is the planned EAC Development Fund (recently renamed the Partnership Fund). In that regard, a concept paper was presented at the consultative meeting of the EAC and its development partners in Arusha on 4 November 2004.²⁰ The basic idea is to pool resources provided by the EAC partner states and the development partners in order to finance programmes, projects and other activities to further the socio-economic development of the region. On a smaller scale a consultancy fund existed previously. The intention now is to increase the volume of the fund and to broaden its scope. Apart from increasing the pool of resources available for developing the EAC, the Fund is also intended to forestall the inconsistencies, overlaps, and even incompatibilities, of projects and programmes with the EAC's overall agenda. As such the proposed Fund could become a much needed vehicle for better co-ordination of donor support and better alignment with the priorities established by the EAC, which would entail enhanced dialogue between the two parties. There is little doubt that the administrative transaction costs could also be brought down through this mechanism.

The EAC would like to see this Fund as a form of basket funding without conditionalities attached by the donors, or earmarking for specific projects and programmes. As such one might say that the Fund could be compared to budget support at the national level. From the point of view of budgeting, a Fund would make much sense if adapted to the EAC budget cycle, i.e. from July through June.

Draft rules and regulations have been worked out for the management of the Fund. They provide for a committee to oversee the Fund, consisting of one representative of the EAC appointed by the Secretary-General; one representative of each of the EAC partner states; and one representative from each development partner who has contributed to the Fund. The committee is to take decisions by consensus, which means, in effect, that any member has a veto right. The draft regulations state that contributions are to be made as grants and also provide for rules governing procurement, accounting and auditing, which would serve to allay most donor concerns about possible misuse.

We find the proposed Development Fund an excellent initiative and would warmly recommend to the donors that they make contributions on a continuous basis for its capitalisation. However, in the medium and long term the danger of donor dependency must be addressed. The proposal of the fast-track committee to use a percentage of customs revenue to finance the budget of the EAC is relevant in this regard; a proportion of that revenue could be put into the fund. It would be in the

²⁰ Ahmada R. Ngemera, *Concept Paper on the Proposed Establishment of the EAC Development Fund*, Arusha, EAC-Development Partners Consultative Meeting, 4 November 2004.

interest of the donor community and the EAC alike to prevent the donor proportion of the Fund becoming too large. When establishing the Fund, an understanding could be worked out between the donor community and the EAC to the effect that the proportion of donors' contributions does not go beyond a specific percentage. One might even contemplate a time schedule according to which the share of EAC money would increase as the share of donor contributions declines correspondingly.

Although a Development Fund with basket funding is appealing and preferable, its establishment should not preclude donor funding on a programme-by-programme basis – even though it may in some measure undermine the very intention of pooling: better planning, donor co-ordination and reduction of transaction costs. Some donors, whether for domestic political reasons or otherwise, are disinclined to pool their aid with other donors. Unless the EAC is prepared to forego donor money offered outside the Fund facility, it should allow earmarking for specific projects, provided they are included on EAC's priority list. That would only increase to total amount of available external resources for regional integration purposes.

Donor support is not only about the provision of money. Equally important is institutional development to enable the EAC to handle the increasing inflow of funds in a planned, transparent and accountable manner. The absorptive capacity constraints facing the EAC secretariat have already been alluded to as an immediate concern. A first next step might be to undertake a thorough institutional diagnosis of the secretariat with a view to defining the needs more precisely. There is dire need for institution-building in a wide range of institutions being set up at the regional level. As the process of integration evolves the commensurate institutional needs will continue to grow.

Appendix 1: Demographic indicators for East African countries in 2005

Countries	Kenya	Tanzania	Uganda
Population (millions)	33.8	36.8	27.3
Population growth rate	2.56	1.83	3.31
0-14 years	42.5%	44%	50.1%
15-64 years	55.2%	53.4%	47.7%
65 years and over	2.3%	2.6%	2.2%
Median age	18.19	17.62	14.97
Life expectancy at birth	47.9	45.2	51.59
Fertility rate (births per woman)	4.96	5.06	6.74
Infant mortality rate	61.8	98.54	67.83
Birth rate	40.13	38.16	47.39
Death rate	14.65	16.71	12.8
Net migration rate	0.08	-3.11	-1.49
Prevalence of HIV (% of population aged 15-49)	6.7	8.8	4.1
People living with AIDS (millions)	1.2	1.6	0.53
HIV/AIDS-deaths ('000)	150	160	78
Literacy rate (adult males, aged 15 and above)	90.6	85.9	79.5
Literacy rate (adult females, aged 15 and above)	79.7	70.7	60.4
Surface area (sq. km) ('000)	580.4	945.1	241.0

Source – *The World Factbook, Kenya, Tanzania and Uganda, website;*
<http://www.cia.gov/cia/publications/factbook/geos/ke.,tz., ug.html>

Appendix 2: Selected macro-economic indicators for East African countries

Country	Year	GDP (US\$million)	Growth Rate	Inflation	Exchange Rate/1	Budget Deficit/2	Public Debt as a % of GDP	Poverty/4
	2000	9,833	-0.2	10.81	76.2	-2.9	54.0	56%
	2001	9,995	1.1	13.47	78.6	-7.7	53.4	
Kenya	2002	10,098	1	20.47	78.7	-1.3	51.9	
	2003	14,828	2.8	9.8	76.13	-4.3	49.6	
	2004	16,542	4.3	11.62	77.34	-0.8	43.4	
	2000	5,800	5.5	2.8	1644.5	-9.7	58	38%
	2001	5,800	5.1	2.0	1755.7	-2.2	62	
Uganda	2002	5,900	6.7	-0.3	1797.6	-5.7	62.2	
	2003	6,300	4.7	7.8	1935.3	-11.2	73.9	
	2004	7,600	5.7	3.7	1727		73.9*	
	2000	9100	5.7	5.9	800.4	-1.2	48.1*	36%
	2001	9300	6.1	5.2	876.4	-1.5	55	
Tanzania	2002	9400	6.3	4.6	966.6	-9.7	92.0	
	2003	9200	7.1	4.4	1063	-5.1	74.5	
	2004	9700	6.3	7.8	1060		79.2	

/1 The exchange rate per US dollar

/2 as a percentage of GDP

/3 Percentage below the poverty line

4/Refers to the percentage below the poverty line

* Estimates

Sources: *Economic Surveys Various Issues (Kenya)*; *Bank of Tanzania* www.bot-tz.org; *Bank of Uganda* www.bou.or.ug

Appendix 3: Exports and imports of East African countries, 2001 (Million US\$)

	Kenya			Tanzania			Uganda		
	Exports	Imports	Trade Balance	Exports	Imports	Trade Balance	Exports	Imports	Trade Balance
Total	2301	3631	-1330	764	1636	-872	334	1009	-675
1. Share of Industrial Countries	41	42	-1	53	38	15	76	28	48
European Union	32	27	8	37	25	12	65	22	43
United States	8	8	0	3	4	-1	5	3	2
Japan	1	5	-4	12	4	8	4	3	1
Other	-	2	-2	1	5	-4	2	0	2
2. Developing Countries	58	57	1	47	62	-15	25	72	-47
Africa	36	10	26	19	23	-4	8	57	-49
East African Community	23	1	22	10	7	3	2	49	-47
South Africa	1	7	-6	1	13	-12	1	7	-6
Asia	12	18	-6	23	25	-2	9	11	-2
Europe	1	1	0	2	1	1	7	1	6
Middle East	7	26	-19	3	12	-9	2	3	-1
Western Hemisphere	0	2	-2	1	1	0	0	0	0
3. Intra Trade	393.4	16.13	377.26	36.7	171.9	-135.2	45.2	385.1	-339.7
Tanzania	98.9	7.44	91.46	-	-	-	N/A	N/A	N/A
Uganda	294.5	8.69	285.8	N/A	N/A	N/A	-	-	-
Kenya	-	-	-	36.7	171.9	-135.2	45.4	385.1	-339.7

Source: World Bank Estimates (2005), in: McIntyre M.A., "Trade Integration in the East African Community, An Assessment for Kenya", IMF Working Paper, No. 05/143
The World Factbook, (2005) Kenya, Tanzania and Uganda, website;
<http://www.cia.gov/cia/publications/factbook/geos/ke.tz., ug.html>

Appendix 4: Persons consulted

Abuka, Charles A., Assistant Director, Research Department, Bank of Uganda, Kampala, Uganda
Anyang' Nyong'o, Peter, Minister of Economic Planning and National Development, Nairobi, Kenya
Amani, Haidari K.R., Executive Director, Economic and Social Research Foundation (ESRF), Dar es Salaam, Tanzania (member of the EAC fast-tracking committee)
Bagamuhunda, Kenneth, Director of Customs, East African Community Secretariat, Arusha, Tanzania
Banda, Dazydelian L., Professor, Eastern and Southern African Management Institute (ESAMI), Arusha, Tanzania
Baregu, Mwesiga L., Professor, Dept. of Political Science and Public Administration, University of Dar es Salaam, Dar es Salaam, Tanzania
Bundi, Justin, Clerk, East African Legislative Assembly, Arusha, Tanzania
Carpenter, Douglas, Counsellor (economics), Delegation of the European Commission, Dar es Salaam, Tanzania
Cheluget, Kipyego, Deputy Secretary General (Projects & Programmes), East African Community Secretariat, Arusha, Tanzania
Chemengich, Margaret, consultant, Nairobi, Kenya (member of the EAC fast-tracking committee)
Dalen, Kjell Harald, Ambassador of Norway to Kenya, Nairobi, Kenya
Gariyo, Zie, Technical Advisor, Uganda Debt Network, Kampala, Uganda
Gjøs, Tore, Ambassador of Norway to Uganda, Kampala, Uganda
Ikiara, Gerrishon K., Permanent Secretary, Ministry of Transport, Nairobi, Kenya
James, David L., Chief Credit Officer, East African Development Bank, Kampala, Uganda
Kadeshe, Peter L., Deputy Director, Macro-economic & Financial Programme, Bank of Tanzania, Dar es Salaam, Tanzania
Kalanje, Mariot M., Management Consultant (former Executive Director), Tanzania Chamber of Commerce, Industry and Agriculture, Dar es Salaam, Tanzania
Kamajugo, Richard K., Assistant Commissioner Trade, Customs and Excise Dept., Uganda Revenue Authority, Kampala, Uganda
Kanga, Maurice J.P., Economic Secretary, Ministry of Finance, Kenya
Kassami, C.M., Permanent Secretary, Ministry of Finance, Planning and Economic Development, Kampala, Uganda
Kiguta, Peter N., Director General (Customs & Trade), East African Community Secretariat, Arusha, Tanzania
Kikwai, Susan, Acting Managing Director, Investment Promotion Centre, Nairobi, Kenya
Kilato, Isaack H., Director, Economic Policy, Bank of Tanzania, Dar es Salaam, Tanzania
Kitillya, Harry M., Commissioner General, Tanzania Revenue Authority, Dar es Salaam, Tanzania
Lam, Amanda Sunassee, Trade & Private Sector Expert, Ministry of Finance, Dar es Salaam, Tanzania
Latif, Razi, Programme Officer (rural development), Delegation of the European Commission, Dar es Salaam, Tanzania
Lyakurwa, William, Executive Director, African Economic Research Consortium, Nairobi, Kenya
Magoola, Kalyebbi B., Assistant Commissioner Modernisation, Uganda Revenue Authority, Kampala, Uganda
Makoffu, Mary N., Economist (Social Sector), East African Community Secretariat, Arusha, Tanzania
Maliyamkono, T. L., Professor, Eastern and Southern African Universities Research Programme (ESAURP), Dar es Salaam, Tanzania

Masya, Japhet, consultant (former clerk of the Parliament of Kenya), Nairobi, Kenya

Mazrui, Salma, Chief Executive Officer, Kenya Private Sector Alliance (KEPSA), Nairobi, Kenya

Mjema, G.D., Director, Economic Research Bureau (ERB), University of Dar es Salaam, Dar es Salaam, Tanzania

Mwakibolwa, G.B., Deputy Director, International Economics Department, Directorate of Economic Policy, Bank of Tanzania, Dar es Salaam, Tanzania

Mwebesa, Chris, Chief Executive, Nairobi Stock Exchange, Kenya

Muhakanizi, Keith J., Acting Deputy Secretary General to Treasury, Ministry of Finance, Planning and Economic Development, Kampala, Uganda

Muiruri, Peter G., Information and Public Relations Officer, Kenya National Chamber of Commerce and Industry, Nairobi, Kenya

Mutanda, Noella, Public Relations Officer, Investment Promotion Centre, Nairobi, Kenya

Nalo, David S.O., Permanent Secretary, Ministry of Planning and National Development, Nairobi, Kenya

Ng'eno, Nehemiah K., Permanent Secretary, Ministry of Trade and Industry, Nairobi, Kenya

Nordin, Kikki, Councillor, Embassy of Sweden, Nairobi, Kenya

Nyella, Johnson J., Senior Economist, Monetary and Financial Affairs Dept., Bank of Tanzania, Dar es Salaam, Tanzania

Nyangito, Hezron, Acting Executive Director, Kenya Institute of Public Policy Research and Analysis (KIPPRA), Nairobi, Kenya

Nyinguro, Philip O., Senior Lecturer, Dept. of Political Science and Public Administration, University of Nairobi, Nairobi, Kenya

Okidi, John Alphonse, Executive Director, Economic Policy Research Centre (EPRC), Kampala, Uganda

Paukku, Jorma, Ambassador of Finland to Tanzania, Dar es Salaam, Tanzania

Poloji, Dickson, Policy Analyst, Kenya Association of Manufacturers (KAM), Nairobi, Kenya

Rudaheranwa, Nichodemus, Senior Research Fellow, Economic Policy Research Centre (EPRC), Kampala, Uganda

Ruhangisa, John E., Registrar, East African Court of Justice, Arusha, Tanzania

Rutega, Simon S., Chief Executive Officer, Uganda Securities Exchange, Kampala, Uganda

Rydland, Inge Herman, Minister Counsellor, Norwegian Embassy, Dar es Salaam, Tanzania

Sajjabi, M.D., Economist (Fiscal & Monetary), East African Community Secretariat, Arusha, Tanzania

Semboja, Joseph, Executive Director, Research on Poverty Alleviation (REPOA), Dar es Salaam, Tanzania

Spitzer, Hanno, Head of Division for Development Co-operation, Embassy of the Federal Republic of Germany, Dar es Salaam, Tanzania

Ssali, Simba, Senior Lecturer, Dept. of Political Science and Public Administration, Makerere University, Kampala, Uganda

Thewa, D.D., Deputy Director Real Sector, Directorate of Economic Policy, Bank of Tanzania, Dar es Salaam, Tanzania

Tulya-Muhika, Sam, Director, International Development Consultants Ltd., Kampala, Uganda (member of the EAC fast-tracking committee)

Tumusiime, Godfrey, Director General, East African Development Bank, Kampala, Uganda

Tumusiime-Mutebile, Emmanuel, Governor, Bank of Uganda, Kampala, Uganda

Urassa, Oswald M., Finance and Operations Manager, Dar es Salaam Stock Exchange, Dar es Salaam, Tanzania

Wagatharia, Micugu, Vice President, Kenya National Chamber of Commerce and Industry, Nairobi, Kenya

Wangwe, Samuel, M., Policy Advisor on Co-ordination of Reforms, President's Office, Dar es Salaam, Tanzania

Wambugu, Philip W., Transport Economist, East African Community Secretariat, Arusha, Tanzania

Appendix 5: Terms of reference

Study on the Future Development of the East African Community (EAC)

Background and purpose

Norway has supported regional and sub-regional co-operation in Africa for many years and views the regional organisations as important partners in development for poverty alleviation and the quest for peace and security on the continent. While having broad based relations with SADC, AU, Nepad and IGAD Norwegian involvement with EAC has so far been limited to support to the EALA, to the Lake Victoria Management programme and to short term activities. Following recent developments in EAC, particularly the commencement of the customs union and the appointment of the Fast Track Committee, Norway is in a process of analysing the basis for a broader partnership with EAC.

Purpose of the study

The purpose of the study is to contribute to a better understanding of the potential for and realism in stronger integration among the East-African countries. The report shall provide a critical view on the technical challenges ahead and the political support for further integration and draw up various scenarios for the development of EAC. The study will form part of the background for discussions on future co-operation with EAC and will be shared with interested partners.

The consultant shall

1) Assess the support for the concept of the Federation of East Africa among the Heads of State and governments of the three member states. The consultant shall also assess of the technical and bureaucratic challenges in establishing the Federation.

2) Assess the realism of the time frames set for concluding the protocols on Free Movement of Person, Labour, Services and Rights of Establishment and Residence, the Common Market and the Monetary Union. The potential problems of overlapping trade arrangements should be taken into account as well as the technical tasks involved. The political support and the interests of the business community should be analysed.

Scope of work and timeframe

The study will be based on a desk review of relevant available documents and interviews with relevant persons in the region. The consultant will visit all the three capitals and the EAC headquarter in Arusha.

The study will start 1st August 2005.

A draft report shall be submitted by CMI to the Regional Department of the Norwegian Ministry of Foreign Affairs with a copy to Norad not later than 30 August. The final report shall be submitted by 15 October 2005.

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SUMMARY

This report assesses the feasibility of the time schedule proposed by the so-called fast-track committee towards the establishment of an East African political federation by 2010. The long history of collaboration between the three East African states with its ups and downs has left a legacy for good and bad. Notwithstanding the historical legacy, the current situation is fundamentally different from that obtaining nearly 30 years ago. The regional integration project has progressed considerably. The major achievement is the conclusion of a customs union protocol. In other fields the rate of progress has also been impressive, albeit variable. The fast-track committee recommended a middle-of-the-road option: overlapping and parallel processes of integration. It discarded the compression of the stages of integration and shied away from immediately establishing a political federation. The launching date for the political federation was set at 1 January 2010. After the customs union, the East African Community (EAC) would progress to a common market and the harmonisation of employment/labour policies and legislation. None of the respondents saw the 2010 target date for a political federation as a feasible proposition and subscribed instead to a gradual building-block approach. All member states have democratic deficits and internal security problems. The EAC secretariat is small but effective. Capacity is overstretched, dangerously close to overloading. The donors were recommended to contribute to the planned EAC Development Fund and to engage in institution-building efforts.

ISSN 0805-505X
ISBN 82-8062-131-8

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