

OVERVIEW OF THE EAC COMMON MARKET PROTOCOL

By Magaga Alot, Corporate Communications Expert, EAC

EAC Headquarters, Arusha, 30 June 2010: The Protocol on the Establishment of the East African Community Common Market of the EAC Partner States, Tanzania, Burundi, Kenya, Rwanda and Uganda, is a 65-page document containing 56 Articles on the details of the establishment of the Common Market, its principles and operations. The Annexes, six (6) in all at the moment, are part and parcel of the Protocol and run into several hundred pages more. The Annexes are crucial and are mainly the Schedules elaborating the terms, conditions and timeframes of the progressive implementation of the Common Market.

Introduction and general

The Protocol for the Establishment of the EAC Common Market was signed in Arusha, Tanzania, on 20th November 2009 by H.E. Jakaya Mrisho Kikwete, President of the United Republic of Tanzania, H.E. Pierre Nkurunziza, President of the Republic of Burundi, H.E. Mwai Kibaki, President of the Republic of Kenya, H.E. Paul Kagame, President of the Republic of Rwanda and H.E. Yoweri Kaguta Museveni, President of the Republic of Uganda. The Protocol was rapidly ratified by all the five EAC Partner States and the Instruments of Ratification deposited with the Secretary General of the East African Community, Amb. Juma Mwapachu, in time for the launching tomorrow, 1st July 2010, of the operations of the Common Market.

The Protocol for the Establishment of the EAC Common Market is the culmination of 4 years of highly inclusive negotiations launched in 2006. Due to the intervening negotiations of the admission of Rwanda and Burundi into the Community, and other pre-occupations, the negotiations of the Common Market proceeded in earnest beginning 2008. The negotiations underlined the importance the EAC Partner States attach to regional integration as a means to their faster economic growth and development. The negotiations of the Common market Protocol were conducted under an atmosphere of a positive orientation and the give and take attitude that prevailed throughout the process. There was a commonly shared sense of need to realize Common Market at a time when the EAC integration process has been intensifying.

Milestone in the EAC integration process

The Common Market is however not a new phenomenon for East Africa. The East African region operated a Common Market under the former East African Community (1967-1977) which was very successful and collapsed only on account of misunderstandings that arose among the Member States but which should be avoided this time round to ensure that the new Common Market is a better, stronger and sustainable process that will meet the challenges of a new complex and fast evolving world economic and social order.

The Protocol is a statement of intention, strong, solemn intention, by the Partner States to build a solid regional economic bloc that will be buttressed by the Customs Union arrangement already in place since 2005, the Monetary Union which the Partner States intend to put in place in 2012 and thereafter Political Federation of the East African States. As the Secretary General of the East African Community has stated, "the launching of the Common Market is a milestone that epitomizes strong

political will and firm commitment by all EAC stakeholders to deepening and widening integration”.

The Partner States recognize that that they have much to gain through co-operation among them in the enlarged and integrated EAC market. EAC today has a population of 130 million with a combined Gross Domestic Product (GDP) of \$ 70 billion. In addition, the EAC Partner States are endowed with abundant natural resources which they are aware they can maximize on prudently and effectively through joint development than through the pursuit of separate development. The Common Market is considered a critical stage in the integration process, the essence and centrepiece of the Community itself. Indeed, with the launch on 1st July 2010, the East African Community is now strictly speaking the East African Common Market. The Customs Union, already realized and the Monetary Union and Political Federation that are being pursued as well as other programmes in the development of infrastructure and other productive and social sectors will only serve to reinforce the East African Common Market.

Preamble of the EAC Common Market Protocol

The Protocol for the Establishment of the EAC Common Market declares in the Preamble that the EAC Partner States Tanzania, Burundi, Kenya, Rwanda and Uganda, having established a Customs Union (in 2005), now intend to establish a Common Market with the objective of accelerating economic growth and development. This will be pursued in the context of widening and deepening cooperation among the Partner States in the economic and social fields. Under the Common Market the Partner States will realize free movement of goods, persons, labour, services and capital; and the rights of establishment and residence. The Partner States also reaffirm the importance of the development of the social dimensions in the Community and desire to ensure economic and social development in promoting employment and improving the standards of living and working conditions of the people of East Africa.

Objectives of the Common Market

The objectives of the Common Market are set out in Article 4 of the Protocol. These are to accelerate economic growth and development of the Partner States through the free movement of goods, persons and labour, the rights of establishment and residence and the free movement of services and capital. The Partner States will also strengthen, coordinate and regulate the economic and trade relations among them in order to promote accelerated, harmonious and balanced development within the Community; expand and integrate economic activities and realize equitable distribution of the benefits among the Partner States; promote common understanding and cooperation among the nationals of the Partner States for their economic and social development; and enhance research and technological advancement to accelerate economic and social development.

The Freedoms and Rights

The Protocol for the Establishment of the Common Market provides basic freedoms and rights to be exercised by East African citizens within the territory of the Common

Market Area. The EAC Common Market Protocol enumerates these freedoms and rights as free movement of goods; free movement of persons; free movement of workers; right of establishment; right of residence; free movement of services; and free movement of capital. The Exercise of these freedoms and rights shall be progressive over a course of time beginning 1st July 2010 when the Common Market Protocol becomes operational. The progressive implementation of the Common Market will be defined in the relevant Schedules which have been provided as Annexes to the Protocol and are integral part of the Protocol that will be managed in accordance with the relevant laws of the Community, including domestication of the laws by the EAC Partner States.

Scope of Co-operation

The scope of co-operation under the Common Market is wide as provided in Article 5 of the Protocol to apply to any activity undertaken in cooperation by the Partner States to achieve the free movement of goods, persons, labour, services and capital and to ensure the enjoyment of the rights of establishment and residence of their nationals within the Community. The Partner States agree to eliminate tariff, non-tariff and technical barriers to trade; harmonize and mutually recognize standards and implement a common trade policy for the Community; and ease cross-border movement of persons and adopt an integrated border management system.

The Partner States also undertake to remove restrictions on movement of labour. To this extent, they will harmonize their labour policies, programs, legislation, social services and provide for social security benefits as well as establish common standards and measures for association of workers and employers. Not necessarily immediately, but the Partner States will work towards establishment of employment promotion centres and eventually adopt a common employment policy. They will also remove restrictions on the right of establishment and residence of nationals of other Partner States in their territory in accordance with the provisions of the Protocol. Under this strategy they will also remove all restrictions to movement of services and service suppliers and harmonize standards to ensure acceptability of the services traded. The Partner States also commit under the Protocol to eliminate restrictions on free movement of capital as well as ensure convertibility of currencies and, at any rate, promote investments in capital markets (stock exchange) , eventually leading to an integrated financial system for the East African region.

The Partner States undertake, among others, to ensure protection of cross border investments; co-ordinate and harmonize their economic, monetary and financial policies; ensure fair competition and promote consumer welfare; co-ordinate their trade relations to govern international trade and trade relations between the Community and third parties. They will also co-ordinate and harmonize their transport policies and develop their transport infrastructure modes; co-ordinate and harmonise their social policies; integrate environmental and natural resources management principles in the activities relating to the Common Market. Further, the Partner States undertake to ensure the availability of relevant, timely and reliable statistical data for purposes of the Common Market; promote research and technological development within the Community; co-operate in the promotion and protection of intellectual

property rights; promote industrial development for the attainment of sustainable growth and development in the Community; and to develop and promote agriculture and ensure food security in the Community.

Free Movement of Goods

The free movement of goods between the Partner States as provided in Article 6 shall be governed by the Customs Law of the Community as specified in Article 39 of the Protocol on the Establishment of the East African Community Customs Union. Also providing legal basis of the operations of the Common Market are the East African Community Protocol on Standardisation, Quality Assurance, Metrology and Testing; the East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006 which have been enacted and are in operation. The provisions of the Common Market Protocol also permit the incorporation of the protocols that may be concluded in the areas of cooperation on sanitary and phyto-sanitary and technical barriers to trade; and, as in the inimitable lingo of the drafters of the Protocol, “any other instruments relevant to the free movement of goods”.

Free Movement of Persons

Under Protocol, Article 7, the Partner States guarantee the free movement within their territories of persons who are citizens of the other Partner States. The Partner States undertake to ensure non-discrimination of the citizens of the other Partner States based on their nationalities. Hence, the entry of citizens of an East African Partner State into the territory of another Partner State shall be exercised without a visa requirement. With such entry, the citizens of East Africa will enjoy free movement of persons and will be allowed to stay in the territory and to exit (at will) without restrictions.

To facilitate such entries and exits, Partner States undertake on reciprocal basis to keep opened and manned their border posts for 24 hours, that is on 24/7 basis. The Partner States shall also, (but only) in accordance with their national laws, guarantee the protection of the citizens of the other Partner States while in their territories. Hence, the free movement of persons shall not exempt from prosecution or extradition, a national of a Partner State who commits a crime in another Partner State. All in all, the free movement of persons shall be subject to limitations imposed by the host Partner State on grounds of public policy, public security or public health and subject to necessary notifications between the concerned Partner States. The movement of refugees within the Community shall be governed by the relevant international conventions.

Standard Identification and Travel Documents

East African citizens' identification and standard travel documents as provided under Articles 8 and 9 grant that the Partner States shall establish a common standard system of issuing national identification documents to their nationals which shall be the basis for identifying the citizens of the Partner States within the Community. A citizen of a Partner State who wishes to travel to another Partner State shall use a

valid common standard travel document. The Partner States which have agreed to use machine - readable and electronic national identity cards as travel documents may (immediately or continue to) do so; while progress is made towards eventual convergence to a common standard identity and travel document for East African citizens.

Free Movement of Workers

Under Article 10, the Protocol guarantees the free movement of workers, who are citizens of the other Partner States, within their territories. The Protocol provides that discrimination of the workers of one Partner State or another based on their nationalities, in relation to employment, remuneration and other conditions of work and employment is not permitted. The Free Movement of Workers entitles a worker to: apply for employment and accept offers of employment actually made; move freely within the territories of the Partner States for the purpose of employment; conclude contracts and take up employment in accordance with the contracts, national laws and administrative actions, without any discrimination; stay in the territory of a Partner State for the purpose of employment in accordance with the national laws and administrative procedures governing the employment of workers of that Partner State; enjoy the freedom of association and collective bargaining for better working conditions in accordance with the national laws of the host Partner State; and enjoy the rights and benefits of social security as accorded to the workers of the host Partner State.

Further, such a worker shall have the right to be accompanied by a spouse and a child. A spouse who accompanies the worker shall be entitled to be employed as a worker or to engage in any economic activity as a self employed person in the territory of that Partner State. A child who accompanies the worker shall be entitled to be employed as a worker or to engage in any economic activity as a self employed person in the territory of that Partner State subject to the national laws of that Partner State. The freedom is also extended to dependents of the worker. Indeed the Protocol accommodates beyond child and dependent qualifications by providing that the Partner States shall facilitate a citizen of another Partner State who seeks employment in the territory of that Partner State to receive the same assistance as would be accorded to a citizen of that Partner State who seeks employment. To this extent, the Partner States shall, “within the framework of a joint programme, encourage the exchange of young workers amongst the Partner States”.

Also related, under Article 11, the Protocol provides that in ensuring free movement of labour, the Partner States undertake to: mutually recognise the academic and professional qualifications granted, experience obtained, requirements met, licences or certifications granted, in other Partner States; and harmonize their curricula, examinations, standards, certification and accreditation of educational and training institutions; and Article 12 they will harmonize their labour policies, national laws and programmes to facilitate the free movement of labour within the Community. To this extent, they harmonize their national social security policies, laws and systems to provide for social security for self-employed persons who are citizens of other Partner States.

Most significantly, however, the Protocol emphasizes that the provision on free movement of labour and services shall not apply to employment in the public service unless the national laws and regulations of a host Partner State so permit. Also, the free movement of workers shall be subject to limitations imposed by the host Partner State on grounds of public policy, public security or public health.

Right of Establishment

The Right of Establishment is guaranteed under Article 13 of the Protocol where it is provided that nationals of the other Partner States, will in exercise of right of establishment without discrimination on the basis of their nationalities be entitled to take up and pursue economic activities as a self employed person. Such nationals are also permitted to set up and manage economic undertakings, in the territory of another Partner State; and within the provisions that apply to spouse, child and dependent to join a social security scheme of that Partner State in accordance with the national laws of that Partner State. These rights shall also apply as they generally relate to companies and firms.

The Partner States shall ensure that all restrictions on the right of establishment based on the nationality of companies, firms and self employed persons of the Partner States are removed, and shall not introduce any new restrictions on the right of establishment in their territories, save as otherwise provided in this Protocol. Companies and firms established in accordance with the national laws of a Partner State and having their registered office, central administration or principal place of business and which undertake substantial economic activities in the Partner State shall, for purposes of establishment, be accorded non discriminatory treatment in other Partner States. The right of establishment shall be subject to limitations imposed by the host Partner State on grounds of public policy, public security or public health.

However, it is emphasized in the Protocol that the provisions on right of establishment shall not prejudice the application of national laws and administrative procedures and practices providing for special treatment for third parties accorded by individual Partner States on grounds of public policy, public security or public health. The Partner States shall remove the administrative procedures and practices, resulting from national laws or from agreements previously concluded between the Partner States, that form an obstacle to the right of establishment; and progressively remove any administrative procedures and practices resulting from national laws that restrict the right of establishment, in respect of the conditions for: setting up agencies, branches or subsidiaries of companies or firms in their territories; and the entry of personnel of the companies or firms registered in another Partner State into managerial or supervisory positions in agencies, branches or subsidiaries in that Partner State;

Right of Residence

Under Article 14, the Partner States guarantee the right of residence to the citizens of the other Partner States who have been admitted in their territories in accordance

with the provisions of the Protocol. Hence, the Partner States shall issue residence permits to citizens of other Partner States who qualify in accordance with the provisions of the Protocol, with proviso that the right of residence shall be subject to limitations imposed by the host Partner State on grounds of public policy, public security or public health. Also, matters relating to permanent residence shall be governed by the national policies and laws of the Partner States. On the contentious issue of access to and use of land premises, the Protocol provides, under Article 15 that access to and use of land and premises shall be governed by the national policies and laws of the Partner States.

Free Movement of Services

Under the Protocol, Article 16, the Partner States guarantee the free movement of services supplied by nationals of Partner States and the free movement of service suppliers who are nationals of the Partner States within the Community. The Partner States undertake to take such measures to ensure the observance of the measures by local governments and local authorities and non governmental bodies within the Partner States. The measures include any laws and administrative actions taken by: national governments, local governments or local authorities; and non-governmental bodies in the exercise of powers delegated by national governments, local governments or local authorities.

The Partner States shall progressively remove existing restrictions and shall not introduce any new restrictions on the provision of services in the Partner States, by nationals of other Partner States except as otherwise provided in the Protocol. Without prejudice to any other provisions of the Protocol, a person providing a service may, in order to provide the service, temporarily engage in activities related to the service in the Partner State, where the service is to be supplied, under the same conditions as are applicable to the nationals of the Partner State.

The Protocol clarifies that services includes services in any sector except services supplied in the exercise of governmental authority which are not provided on a commercial basis or in competition with one or more service suppliers; and services normally provided for remuneration, in so far as they are not governed by the provisions relating to free movement of goods, capital and persons which will be accorded national treatment. Indeed, each Partner State shall upon the coming into force of this Protocol, accord unconditionally, to services and service suppliers of the other Partner States, treatment no less favourable than that it accords to like services and service suppliers of other Partner States or any third party or a customs territory (National Treatment and Most Favoured National Treatment).

There will, however, be general exception to trade in services and according to Article 21, subject to the requirement that measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between Partner States where like conditions prevail, or a disguised restriction on trade in services. Nothing in the Protocol will be construed to prevent the adoption or enforcement by any Partner State of measures: necessary to protect public morals or to maintain public order; necessary to protect human, animal or plant life or health; necessary to secure

compliance with laws or regulations which are not inconsistent with the provisions of this Part including those relating to: the prevention of deceptive and fraudulent practices or which deal with the effects of a default on services contracts; the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; and safety.

There will also be Security Exceptions on Trade in Services according to Article 22 such that trade in services shall not require any Partner State to furnish any information, the disclosure of which it considers contrary to its essential security interests; and to prevent any Partner State from taking any action which it considers necessary for the protection of its essential security interests.

On the whole, the implementation of Article 16 of the Protocol granting Free Movement of Services shall be progressive and in accordance with the Schedule on the Progressive Liberalisation of Services, specified in Annex V to the Protocol. The Partner States, undertake to make additional commitments on the elimination of restrictions on the service sectors and sub sectors that are not specified in Annex V of this Protocol, after entry into force of the Protocol.

Free Movement of Capital

The Partner States in accordance with Article 24 will : remove restrictions between the Partner States, on the movement of capital belonging to persons resident in the Community; remove any discrimination based on the nationality or on the place of residence of the persons or on the place where the capital is invested; remove any existing restrictions and shall not introduce any new restrictions on the movement of capital and payments connected with such movement and on current payments and transfers, or apply more restrictive regulations. The Partner States will also remove restrictions relating to current payments connected with the movement of goods, persons, services or capital between Partner States in accordance with the provisions of this Protocol. There will be general exceptions and restrictions relating to free movement of capital upon justified reasons related to: prudential supervision; public policy considerations; money laundering; and financial sanctions agreed to by the Partner States. Also, where the movement of capital leads to disturbances in the functioning of the financial markets in a Partner State, the Partner State concerned may take safeguard measures subject to the conditions indicated in the Protocol.

These will occur in cases, e.g. where a competent authority of a Partner State makes an intervention in the foreign exchange market, which seriously distorts the conditions of competition, the other Partner States may take, for a strictly limited period, the necessary measures in order to counter the consequences of the intervention; or a Partner State may take safeguard measures, where the Partner State is in difficulties or is seriously threatened with difficulties, as regards its balance of payments. Under Article 27, conditions are laid out for the application of the Safeguard Measures. Under Article 28, Capital and Related Payments and Transfers are permitted including direct investment; equity and portfolio investments; bank and credit transactions; payment of interest on loans and amortisation; dividends and other income on

investments; repatriation of proceeds from the sale of assets; and other transfers and payments relating to investment flows.

Protection of Cross-Border Investments

The Partner States under Article 29 undertake to ensure: protection and security of cross border investments of investors of other Partner States; non-discrimination of the investors of the other Partner States, by according, to these investors treatment no less favourable than that accorded in like circumstances to the nationals of that Partner State or to third parties. In case of expropriation, any measures taken will be for a public purpose, non-discriminatory, and in accordance with due process of law, accompanied by prompt payment of reasonable and effective compensation. The Protocol affirms that the Partner States shall within two years after coming into force of the Protocol take measures to secure the protection of cross border investments within the Community. It is not clear how this provision will be exercisable by the investors in the period intervening before the Partner States have taken the required measures but, like any other lacunas that may arise, these are expected to be resolved in the process of implementation of the Protocol within the prevailing spirit of good faith to make the Common Market work and deliver.

Economic, Monetary and Fiscal Policy Co-ordination

Under Article 30, the Protocol reaffirms the continuation of Economic and Monetary Co-ordination which the EAC has pursued since its inception. The Protocol declares that co-operation in economic and monetary policy is desirable for the proper functioning of the Common Market, provides that the Partner States shall co-ordinate and harmonize their economic and monetary policies to ensure macroeconomic stability, sustainable economic growth and balanced development.

Related to this area of Economic and Monetary Co-ordination which also includes Fiscal Policy interventions and co-ordination, the Protocol under Article 31 provides that the Partner States shall co-ordinate and harmonize their financial sector policies and regulatory frameworks to ensure the efficiency and stability of their financial systems as well as the smooth operations of the payment systems; ensure and maintain convertibility of their national currencies and promote the use of national currencies in the settlement of payments for all transactions within the Community. Article 32 provides that the Partner States shall progressively harmonize their tax policies and laws to remove tax distortions in order to facilitate the free movement of goods, services and capital and to promote investment within the Community.

Fair Competition, Prohibited Business Practices and Consumer Protection

Under Article 33, the Protocol, probably with the issues that sparked disputes under the Common Market of the former East African Community which collapsed in 1977 in mind, addresses the issue of prohibition of any practices that (may) adversely affect free trade (and Common Market operations). Specifically the Protocol prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Partner States and which have as

their objective or effect the prevention, restriction or distortion of competition within the Community; concentrations which create or strengthen a dominant position and as a result of which effective competition would be significantly impeded within the Community or in a substantial part of the Community; and any abuse by one or more undertakings of a dominant position within the Community or in a substantial part of the Community.

However, the Protocol leaves room for manoeuvre of business competition nature by encouraging, or at any rate permitting competitive business practices which improve production or distribution of goods, promotes technical or economic development or which has the effect of promoting consumer welfare and does not impose restrictions inconsistent with the attainment of the objectives of the Common Market or has the effect of eliminating competition in respect of a substantial part of a product. Also related, under Article 34, the Protocol prohibits the Partner States from granting subsidy through resources in any form, which distorts or threatens to distort effective competition by favouring an undertaking, in so far as it affects trade between the Partner States, but providing also that this prohibition shall not apply where a subsidy granted is authorised by the Treaty or by Acts or policies of the Community or decisions of the Council of Ministers.

Indeed, under Article 35, the Protocol roots for fair competition by providing that the Partner States shall not discriminate against suppliers, products or services originating from other Partner States, for purposes of achieving the benefits of free competition in the field of public procurement; under Article 36, providing that the Partner States shall promote the interests of the consumers in the Community by appropriate measures that ensure the protection of life, health and safety of consumers; and encourage fair and effective competition in order to provide consumers with greater choice among goods and services at the lowest cost.

Co-ordination of Trade Relations

Under Article 37, the Protocol reaffirms the continuation and intensification of collaboration and co-ordination of trade relations which the EAC has pursued since its inception. The Protocol declares that co-ordination of trade relations is desirable for promotion of international trade and trade relations between the Community and third parties; and provides that the Partner States shall adopt common principles in particular in relation to harmonization of their investments incentives and co-ordination of their (joint) export and investments promotion. To this extent, the Council of Ministers shall establish a mechanism for the co-ordination of trade relations with third parties and shall: adopt common negotiating positions in the development of mutually beneficial trade agreements with third parties; and promote participation and joint representation in international trade negotiations.

Co-ordination of Transport Policies

Under Article 38, the Protocol reaffirms the continuation and intensification of collaboration and co-ordination in the Transport sector. The Protocol declares that the co-ordination of transport policies is desirable for the development and consolidation of

the Common Market. To this extent, the Partner States shall evolve coordinated and harmonized transport policies to provide for adequate, reliable, safe and internationally competitive transport infrastructure modes and services. These will include logistics and transport by road, rail, inland waterways, maritime, pipeline and air and facilities such as ports, airports and inland dry ports. The Protocol provides further that the Council of Ministers shall within three years upon entry into force of the Protocol, make regulations applicable to: railway transport; maritime transport and port operations; pipeline transport; air transport; non – motorized transport; and multimodal transport and logistics.

Harmonization of Social Policies

Under Article 39, the Protocol provides that the Partner States undertake to coordinate and harmonise their social policies to promote and protect decent work and improve the living conditions of the citizens of the Partner States for the development of the Common Market. To this extent the Partner States shall coordinate and harmonise their social policies relating to: good governance, the rule of law and social justice; promotion and protection of human and peoples' rights; promotion of equal opportunities and gender equality; promotion and protection of the rights of marginalised and vulnerable groups; promotion of African moral values, social values and ethics; and promotion of unity and cohesion among the people in the Community.

They will undertake programmes to: promote employment creation; strengthen labour laws and improve working conditions; eliminate compulsory and forced labour; promote occupational safety and health at the work places; abolish child labour in particular the worst forms of child labour; promote formal education to advance social development; promote vocational and technical training; expand and improve social protection; promote social dialogue between the social partners and other stakeholders; promote the right of persons with disabilities; promote sports; prevent and manage HIV and AIDS, malaria and tuberculosis; prevent and manage the outbreak of epidemics and other diseases in order to improve the general hygiene and health of the people; prevent social vices such as alcoholism, drug abuse or substance abuse and perverse behaviour; eliminate human smuggling and trafficking; and eliminate ignorance, diseases and poverty; promote, preserve and mainstream cultural activities and heritage in development initiatives; and adopt measures and programmes aimed at promoting the welfare of the vulnerable groups.

Environmental Management

Under Article 40, the Partner States undertake to ensure sound environmental and natural resources management principles for the proper functioning of the Common Market, through prevention of activities that are detrimental to the environment. The Partner States shall manage the environment in accordance with: the East African Community Protocol on Environment and Natural Resources Management; the East African Community Protocol for Sustainable Development of Lake Victoria Basin; the Lake Victoria Transport Act, 2008; the Protocol on the Establishment of the East African Community Customs Union; the East African Community Customs Management Act, 2004; the relevant provisions of this Protocol; and any other

relevant laws of the Community. The Partner States shall respect the principles of international environmental law and honour their commitments in respect of international agreements which relate to environmental management; and also develop common policies in responding to emerging issues on the environment.

Cooperation in Statistics

Under Article 41, the Protocol provides that the Partner States shall cooperate to ensure the availability of relevant, timely and reliable statistical data for: describing, monitoring and evaluating all aspects of the Common Market; and sound decision making and effective service delivery in the Common Market. To this extent the Partner States undertake to develop and adopt harmonized statistical methods, concepts, definitions and classifications for organizing statistical work while duly observing internationally accepted best practices. The Partner States shall collect, compile, store and disseminate relevant, reliable, timely, consistent and comparable statistical information.

Research, Technological Development and Protection of Intellectual Property Rights

Under Article 42, the Partner States undertake to promote research and technological development through market-led research, technological development and the adaptation of technologies in the Community, to support the sustainable production of goods and services and enhance international competitiveness; and undertake measures , including encourage researchers and participation of the private sector and international organizations in the promotion of research , dissemination and development; promotion or research, science and technology institutions and the East African Science and Technology Commission and other institutions on research, science and technology. Intellectual property rights will be protected, including development, protection and commercialising indigenous knowledge.

The Community will also promote and facilitate technology transfer, acquisition and dissemination in order to achieve increased production and productivity and, on the whole, establish and develop a technology innovation system for the productive sector of the economy of the Community. The Partner States also undertake to establish a Research and Technological Development Fund for purposes of implementing this provision of the Protocol. Also related, Article 43 provides for cooperation in the field of intellectual property rights in the promotion and protection of creativity and innovation for economic, technological, social and cultural development in the Community; and enhancement of the protection of intellectual property rights in a variety of fields.

Co-operation in Industrial Development

Under Article 44, the Partner States undertake to cooperate in the area of industrial development in the activities related to the production of goods and services in the Common Market, for the attainment of sustainable growth and development in the Community. To this extent, the Partner States shall adopt common principles and implement strategies , among others, to: promote linkages among industries and other

economic sectors within the Community; promote value addition and product diversification to improve resource utilization; promote industrial research and development, transfer, acquisitions, adaptation and development of modern technology; promote sustainable and balanced industrialisation in the Community to cater for the least industrialized Partner States; promote industrial productivity and competitiveness of industries at national, Community and international levels; and on the whole the promotion of an East African Industrial Development Strategy with involvement of regional Public-Private Partnership and Civil Society dialogue and contribution.

Co-operation in Agriculture and Food Security

Under Article 45, the Partner States undertake to: develop and promote Agriculture with regard to crops, livestock, fish, forestry and their products; and ensure food security in the Community through access to quality and sufficient food. To this extent, the Partner States undertake to promote agriculture and ensure food security in the Common Market, hence increase agricultural production and productivity and achieve food and nutrition security; promote investments in agriculture and food security; develop effective agricultural markets and marketing systems in the Community; and promote agro processing and value addition to agricultural products; cooperate in agricultural research and development; and, in particular, establishing an East African Agricultural Development Fund for this purpose.

General provisions

Under Articles 46 – 56, the Protocol enshrines general provisions that apply to general principles and crosscutting issues in the implementation of the Protocol, including Institutional framework. Hence, Article 46 provides that the Council of Ministers may establish and confer powers and authority upon such institutions as it may deem necessary to administer the Common Market; Article 47 on Approximation and Harmonisation of Policies, Laws and Systems provides that the Partner States undertake to approximate their national laws and to harmonize their policies and systems, for purposes of implementing the Protocol; and Article 48 on Safeguard Measures, provides , among others, that the Partner States shall apply safeguard measures in the event of serious injury or of a threat of serious injury occurring to the economy of a Partner State, following the application of the relevant provisions of the Protocol.

Article 49 on Measures to Address Imbalances provides that the Council of Ministers shall approve measures to address imbalances that may arise from the implementation of the Protocol; and Article 50 on Monitoring and Evaluation of Implementation of the Common Market, provides that the Council of Ministers shall establish a framework for monitoring and evaluating the implementation of the Protocol and ensuring, among others, that the operations of the Common Market conform to the intents and purpose of the Protocol.

The others are the Article 51 on Regulations, Directives and Decisions, providing that the Council shall from time to time make regulations, issue directives and make

decisions as may be necessary for the effective implementation of the provisions of this Protocol; Article 52 on the Annexes to the Protocol providing that the Partner States shall conclude such Annexes to the Protocol as shall be deemed necessary and that such Annexes shall form an integral part of the Protocol; Article 53 on Amendment of the Protocol, providing that with the approval of the Summit, review the Annexes to the Protocol and make such modifications as it deems necessary; and Article 54 on Settlement of Disputes, providing that disputes between the Partner States or any person whose rights and liberties as recognised by the Protocol or infringed arising from the interpretation or application of the Protocol shall be settled in accordance with the provisions of the East African Community Treaty; and that the competent judicial, administrative or legislative authority or any other competent authority, shall rule on the rights of the person who is seeking redress.

Article 55 on Entry into Force of the Protocol , provides that the Protocol shall enter into force upon ratification and deposit of instruments of ratification with the Secretary General by all the Partner States; and finally, Article 56 on Depository and Registration, provides that the Protocol and all instruments of ratification shall be deposited with the Secretary General of the EAC who shall transmit certified true copies of the Protocol and instruments of ratification to all the Partner States; and register the Protocol with the African Union, the United Nations, the World Trade Organisation and such other organisations as the Council of Ministers may determine.

**CORPORATE COMMUNICATIONS
EAC SECRETARIAT
ARUSHA
JUNE 2010**