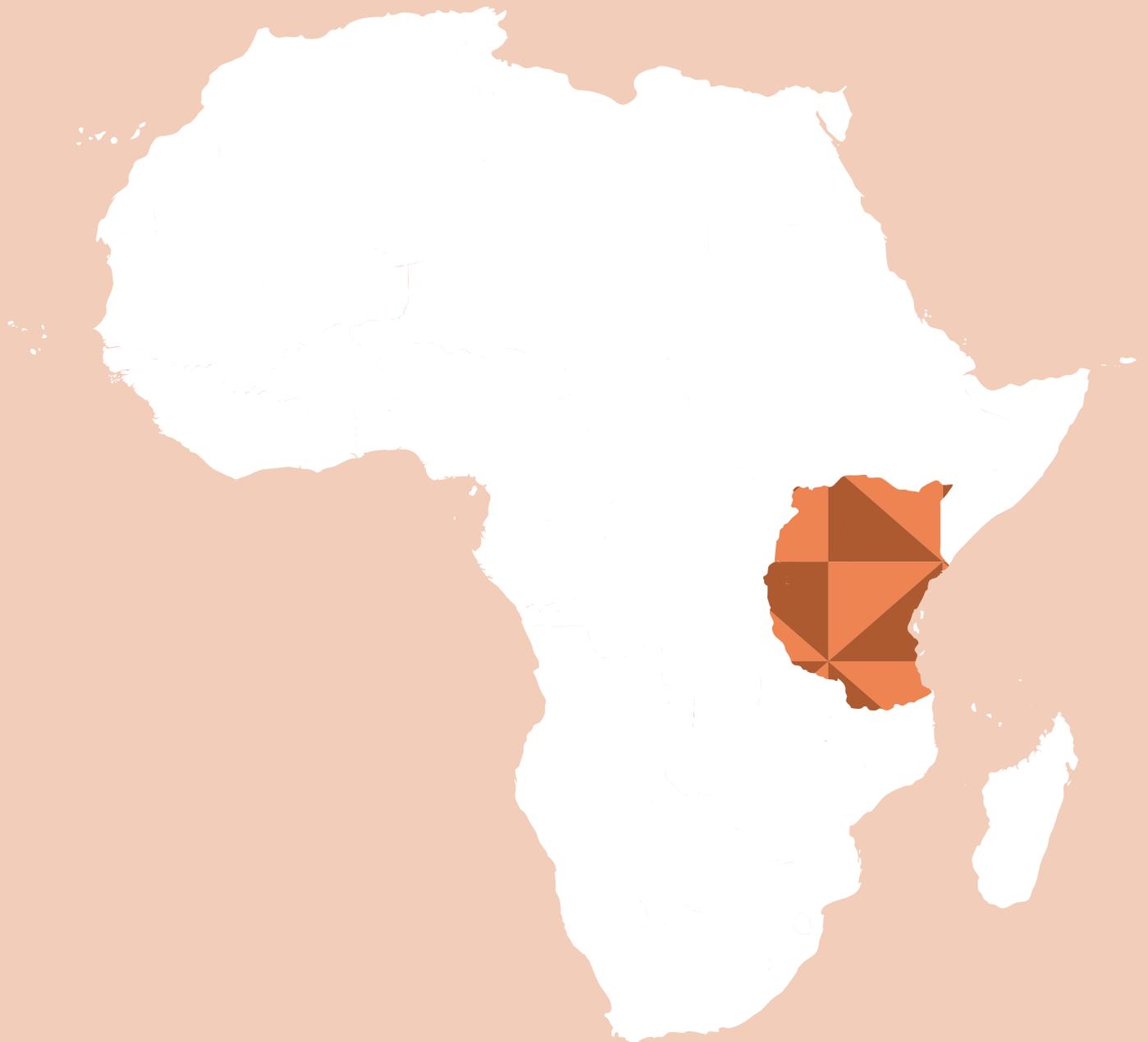


THE POLITICAL ECONOMY OF REGIONAL INTEGRATION IN AFRICA

THE EAST AFRICAN COMMUNITY (EAC)

Craig Mathieson



ecdpm

The political economy of regional integration in Africa

The East African Community (EAC) Report

Craig Mathieson

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MEMBER COUNTRIES: 5
Burundi
Kenya
Rwanda
Tanzania
Uganda

EAC Member States

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The authors of this study are responsible for its content, interpretations and any errors.

Acronyms

AfDB	African Development Bank
AU	African Union
AUC	African Union Commission
CET	Common External Tariff
CM	Common Market
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organisation
CU	Customs Union
EABC	East Africa Business Council
EAC	East African Community
EACCP	East African Community Climate Change Policy
EACJ	East African Court of Justice
EACSOF	East African Civil Society Organizations' Forum
EALA	East African Legislative Assembly
EASSI	East African Sub-Regional Support Initiative for the Advancement of Women
ECCAS	Economic Community of Central African States
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GEF	Global Economic Forum
IGAD	Intergovernmental Agency for Development
KAM	Kenyan Association of Manufacturers
KEPSA	Kenya Private Sector Alliance
KIFWA	Kenya International Freight and Warehousing Association
KTA	Kenya Transport Association
LAAC	Local Authorities Accounts Committee
LAPSSET	Lamu Port Southern Sudan-Ethiopia Transport Corridor
LVFO	Lake Victoria Fisheries Organisation
MEAC	Ministries for East African Community
MoW	Ministry of Works
MPACE	Ministry to the Presidency for East African in Burundi
NPCA	NEPAD Planning and Coordination Agency
NTB	Non-Tariff Barrier
OECD	Organisation for Economic Co-operation and Development
PEA	Political Economy Analysis
REC	Regional Economic Community
RFB	Roads Fund Board
RPF	Rwandan Patriotic Front
RVR	Rift Valley Railways
SADC	Southern African Development Community
SCEA	Shippers' Council of East Africa
SCFA	Strategic Cooperation Framework Agreement

SCT	Single Customs Territory
SGR	Standard Gauge Railway
SSA	Sub-Saharan Africa
TICTS	Tanzania International Container Terminal Services Ltd
TMEA	Trade Mark East Africa
TATOA	Tanzania Transport Association
TAFFA	Tanzanian Freight Forwarders Association
TBT	Technical Barriers to Trade
WTO	World Trade Organization

Executive Summary

This study presents a political economy analysis of the East African Community (EAC), focusing on what drives and constrains this regional organisation in promoting economic integration. In particular it looks at transport infrastructure, and at trade policy monitoring, particularly the system for monitoring regional integration implementation. The report is part of a broader study that also includes the African Union and four other Regional Economic Communities in Africa.

Why a PEA of the EAC?

The EAC was originally founded in 1967 with Kenya, Tanzania and Uganda as members. This built on, and superseded, a range of other regional communities between the colonial governments of the three countries dating back to the early 20th century. Despite the history of cooperation, the EAC collapsed in 1977 as a result of Kenyan dominance and divergent political positions and ideologies. It was only in 2000 that the EAC was revived.

Since its revival the EAC has progressed fairly rapidly and integration is now proceeding at a faster rate than any other REC in Sub-Saharan Africa. With the formal objective of creating a common currency and eventually a political federation, the EAC has achieved a number of notable objectives since reforming. This includes the signing of a customs union in 2004 and the launch of a common market for goods, labour and capital in 2010. Notable progress has also been seen recently in the area of cooperation between EAC countries over regional railway infrastructure development and efficiency improvements of the Northern transport corridor.

The progress realised by the EAC around trade related system reforms and infrastructure development can be seen as a response to the coalescing of a number of shared interests among EAC member states, particularly Kenya, Uganda and Rwanda. This includes the emergence of shared economic interests whereby Kenya has an interest in ensuring an export market in the region and establishing Mombasa as the region's dominant port, and Uganda and Rwanda have an interest in securing import channels and improving the cost and time involved in transport imports from the coast. While the Government of Tanzania has been reluctant to participate in this accelerated integration, it has not been able to constrain the efforts of Kenya, Uganda and Rwanda.

However, the role of the EAC in these developments is mixed. In the area of trade the EAC has harnessed member state interests and provided critical platforms, systems and mechanisms for formalising cooperation in the form of the required trade treaties. Yet, in areas such as transport many recent successes have been the result of national level decision making and interstate coordination that have occurred independently of the EAC transport sector policies. Consequently, the formal commitment of the EAC Treaty to 'harmonise' and 'co-ordinate' transport policy has not been realised.

The major parallel interstate initiative has been the Northern Corridor Countries Initiative, driven by Kenya but also involving Uganda and Rwanda. This initiative is a mechanism for the three countries to realise rapid progress on selected issues. This would not be possible through the EAC as a result of the often divergent interests of Tanzania and Burundi. However, such initiatives occur with no oversight or control from the EAC Secretariat and could be seen to undermine the EAC's role.

Despite the progress outlined above, policies have encountered implementation challenges at member state level. For example, the Common Market has been constrained by exemptions, bans and non-tariff barriers. With the exception of Rwanda, political elites in EAC states lack centralised control over rents and the powers to effectively coordinate reforms, including those related to EAC integration for which there can be limited domestic constituency. As such, a number of EAC policies have been prone to lengthy delays and blockages to implementation by divergent interests within member states. This is most evident in the implementation deficit of the customs union. Partner states have brought in various restrictions on the free movement of goods, in particular sectors which some allege are tied to vested interests.

EAC has limited capacity and authority to monitor these implementation challenges and support member states to address them. EAC institutional capacity is low and EAC institutional arrangements have not been updated to take into consideration the increasing scope of the EAC's goals. Further, it appears that member states are not in agreement over proposed institutional arrangements which would provide more capacity but also give the EAC more supranational authority, something which the EAC Secretariat is striving for but which some member states governments appear to be against. Debate over the EAC's role continues to delay much needed institutional reforms.

Key findings of this study

Structural factors such as geography and shared historical experiences continue to have an on-going influence on EAC policy choices and the effectiveness of EAC policy implementation. For example a collective threat of water shortages and the consequent power constraints fosters collective action to address dated policy documents that disadvantage EAC member states and privilege Egypt and Sudan; a shared identity and history contributes to the prioritisation of policies that enable the free movement of people; a shared infrastructure deficit contributes to collective action to initiate regional infrastructure projects; and instability in Somalia and South Sudan has led to cooperation over regional security policy and initiatives.

Analysing EAC policy from the perspective of institutions (formal and informal rules of the game) highlights a number of areas where policy implementation is affected by weak or absent formal institutions, as well as strong emerging informal institutions. For example, a large number of formal rules to provide checks and balances on policy implementation have not been institutionalised. This includes the power provided to the Summit (on the recommendation of the Council) to sanction member states over non-compliance with the Treaty, which has not been exercised to date; powers formally accorded to the East African Court of Justice to adjudicate over disputes in the interpretation of the treaty or cases of non-compliance when brought forward to it (only 44 concluded cases in the first decade of the Court's existence); and lastly, the monitoring responsibilities accorded to the EAC Secretariat in the EAC Development Strategy 2011/12-15/16, which have not resulted in the specified monitoring and evaluation unit being established. Further, in formal terms power should be distributed between the Summit, Council and the East African Legislative Assembly (EALA). In reality, however, power is vested in the Summit and Council, which are both composed of national politicians, rather than the member state representatives found in EALA.¹ The Council in particular, uses technicalities and informal practices to maximise its power and constrain EALA.

Strong informal institutions that have affected EAC policy implementation include patronage and a per diems culture in the EAC, which fosters incentives for EAC officials and member state representatives that

¹ The EALA is the legislative arm of the EAC. Each country provides nine elected members and seven ex officio members. Members are sworn into five year terms.

are detrimental to the organisation's effectiveness. Disputes over the distribution of these allowances have caused considerable tension in the Assembly, contributed to a protracted conflict between some assembly members and the Speaker last year, and culminated in her impeachment.

EAC policy is affected by actors and agency at three levels: within the EAC structures, within member states more broadly, and through external actors. Within the EAC and its members there appears to be conflicting opinions on the issue whether the EAC should have supranational authority. This divergence in views has delayed much needed institutional reforms within the EAC aimed at increasing the capacity of the organisation.

At the member state level, continued sustained progress towards EAC integration largely depends on Kenya as a regional hegemon and the continued interest that the Kenyan government and private sector have in deeper integration. However, one of the reasons the original East African Community (EAC) collapsed in 1977 was Kenya's dominance. As such there is an important balance between driving and dominating EAC integration. Further, private sector actors can both support and constrain EAC integration but remain a key driver of effective implementation and deeper integration. In particular, the Kenyan private sector's regional expansion in the finance, telecommunications, and retail sectors is contributing to a stronger and better-connected regional economy.

Lastly, in terms of external actors, donor support to the EAC is important but carries risks. In 2013/14 traditional donors contributed over 65 per cent of the budget of the EAC. This strong dependency can lead to policies that reflect donor agenda's but have limited domestic constituency in the EAC, and thus, are not implemented. Further, China's increasing role in the region has facilitated the focus on mega projects in the transport sector, despite many of them lacking a demonstrable economic rationale. However, given the primacy of national level infrastructure investment decisions, China is primarily engaging with national governments rather than the EAC.

Sectoral characteristics have had an impact on EAC policies related to both trade monitoring and transport infrastructure. Trade monitoring is a formal obligation under the EAC Treaty and Protocols. By its nature, it requires the compliance of member states to provide the required information. As such, monitoring issues only gained greater attention with the increased interest by some EAC member states for effective EAC trade integration. These interests were driven by political motives (like in Burundi) or more private sector interests (like in Kenya). Further, as trade monitoring demands capacity within the EAC Secretariat, the support from TradeMark East Africa in this area was critical.

The political influence of trucking firms in EAC member states led to a historic focus on roads, but this has increasingly given way to an emphasis on railway development. Key drivers of these new priorities include an increased focus on private sector development in Kenya and Uganda, large-scale patronage opportunities from railway tenders, and Chinese financing to facilitate these trends. This creates an opportunity for the EAC to facilitate railway development given its regional nature.

Implications

The analysis highlights the importance of setting appropriate levels of ambition in regional processes and the challenge of trying to alter incentives rather than adapting to existing interests, perhaps illustrated best by the accelerated integration efforts of the sub-group of Northern corridor countries. But this initiative represents both an opportunity to drive integration, as well as a risk that it could result in divisions within the EAC. This suggests a need for policymakers to strike a balance between accelerated coordination, which can be driven by a limited number of states, and ensuring cohesion in the wider group of EAC states. It

also suggests an opportunity for support strategies to back accelerated coordination efforts by regional sub-groups on the basis that adapting policy to such informal groupings can create real progress towards regional integration. However, this also requires a deep understanding of the underlying interests, incentives and relationship dynamics between states to avoid fostering tensions.

Interests have most clearly aligned among EAC countries around new large-scale regional infrastructure, with Chinese financing. However, it was also highlighted that much of such large-scale infrastructure development happens outside EAC structures and plans. This suggests a potential role for regional policy-makers and their supporters in regionally coordinating investment decisions with national governments and other actors where political interest is strong, and brokering joint arrangements with financiers such as Chinese banks where appropriate. For example, the EAC could play a role in coordinating the concessions on the Standard Gauge Railway when it is put in place.

Growing private sector interest in EAC integration, particularly within the Kenyan private sector might be built upon by working to strengthen the private sector consultation processes. While general levels of formal private sector engagement in EAC processes are low, the EABC appears to have achieved a range of results which could be built upon for further progress in regionalisation. This would require the EAC and traditional donors to adapt approaches to private sector engagement, being cognisant of opposing interests which may emerge both within and between countries, e.g. from the Tanzanian private sector.

The study pointed to an apparent contradiction between formal EAC policy documents which describe the EAC Secretariat as a coordination, support, implementation and monitoring body, and others which describe the EAC's role solely in terms of support and coordination. This is linked to the protracted discussions over EAC institutional arrangements where there is a debate over whether the organisation should have more authority. Noting that institutional form often does not translate into genuine functions, policy-makers should be cautious about supporting institutional capacity building initiatives before being clear on where it has a clear functional added value.

Beyond this, donor support may create incentives for signalling intent, but encouraging informal practices that potentially undermine the ability of the EAC to undertake its mandate. These include the risk that donor funding to the EAC creates a dependency on such funds and disincentivises member state financial contributions, and the risk that donor funding feeds 'the per diems culture'. This suggests the need for this to be taken explicit account of in policy design to avoid further dependency on donor funds within the EAC. Current incentive structures might be 'avoided' by working to improve revenue generation from member states to address potential dependencies on donor funding, though again this would need to build on an in-depth understanding of existing interests and incentives.

1. Introduction

1.1. Why this study of the EAC?

Increasing regional integration and cooperation have long been high on the agenda for African countries, regions and their organisations. There is wide recognition that regional cooperation is vital to tackle development challenges that cannot be solved at a national level. Many such inter-state problems affect poor people's lives in areas ranging from human security, mobility, rural livelihoods, trade, infrastructure, to environment and climate change. Often such cross-country or regional problems have a particular impact on women, for example in the case of informal cross-border trade and violent conflicts.

Over the years, this has resulted in commitments, policy documents and strategies, with many partners providing financial and other support. Yet policy-makers and partner country representatives and non-state actors frequently express frustration with progress. This is no different for the EAC. While regional integration and cooperation is taking place, levels of progress differ across regions and policy areas, and are not appreciated or understood in the same way.

This report presents the findings of one study of an important regional organisation in Africa, the East African Community. The report is part of a broader study that also includes analysis of five other Regional Economic Communities (RECs) in Africa (AU, ECOWAS, IGAD, COMESA and SADC).

The EAC's resurgence and relatively rapid progress in recent years make it a strong candidate for deeper analysis. From its re-establishment in 2001, the organisation has progressed and integration is now proceeding at a faster rate than any other REC in Sub-Saharan Africa, however serious challenges remain.

A central question for the EAC study is therefore: what are the main political economy actors and factors that influence the agenda setting of the EAC? And what helps explain what gets implemented and what not? This is examined looking at the specific areas of transport infrastructure and trade monitoring.

Three criteria informed and oriented the discussions on the selection of the themes for the study of the AU and the five RECs, including this one on the EAC. These include: 1) policy relevance of the theme/sector; 2) research feasibility; and 3) insightfulness of the evidence, findings and storylines (i.e. is there a political economy story to tell?). After applying these criteria, transport infrastructure and trade were selected as themes for further analysis.

Transport infrastructure is a priority for the EAC at present as seen in the progress towards cooperation over reducing non-tariff barriers (NTBs) on the Northern Corridor, construction of Standard Gauge Railway (SGR) and port efficiency improvements. Further, infrastructure is also an area of focus for the Embassy of Sweden. Trade is another priority for the EAC and a central component of the overall integration agenda. It is also an area where the issue of assessing the progress towards the implementation of the regional agenda has been of greater concern. Hence, the study focuses on the monitoring dimension of trade integration, and how monitoring can affect the implementation dynamics.

The challenges and opportunities of promoting effective regional cooperation and regional integration are not unique to Africa. They occur, however, in complex environments, so stakeholders and policy-makers are better off when they can rely on analyses of the actors and factors that affect how and why regional cooperation and regional cooperation take place. As part of a broader study, this case presents the findings of the EAC. The EAC has made considerable progress in recent years, notably on trade and transport,

however significant challenges to implementation remain. This study seeks to unpack some of the reasons for why progress has been made and constraints remain with a particular focus on transport infrastructure and trade monitoring. The report does this by responding to the question guiding its methodology – what are the actors and factors that affect EAC policy choice and implementation?

1.2. Why a political economy analysis?

The challenges and complexities of promoting effective regional cooperation and integration are not unique to Africa. Sometimes, support to regional processes has been misguided by too narrow a focus on one dominant regional model, such as that of the European Union (EU). In other cases, the agenda gets side-tracked as it considers regional structures to be the sole driver for regional integration.

Rather than focus on best-practice or normative models, policy reform and support that builds on political economy analysis is open to the multiple actors and forms of regional processes, whether they are managed or driven by formal regional organisations, or by state and non-state actors operating from different countries. The political economy approach is dedicated to analysing how and why multiple actors and factors interact in a particular regional context, and the effects they have on change and development processes. In particular, the analysis focuses on how power and resources are distributed and contested in regional contexts. This includes an interest in the effects that global actors and factors have on the incentives of the regional and national level actors.

Such an approach aims to get away from judging the EAC in terms of what it ‘should’ look like and ‘should’ be doing; but rather focuses on what it is doing and why. By examining the different actors and factors that affect the way the REC works, this study therefore aims to provide an improved understanding of what is technically desirable and politically feasible, as well as help identify the types of partnerships or coalitions that support regional cooperation and regional integration in the EAC.

1.3. Methodology of the study

1.3.1. A five-lens framework

In all regional dynamics, five broad sets of political economy actors and factors interact with one another and shape or influence the incentive environment, behaviour and ideas, as well as the distribution of resources, rents, and power. Hence, this study proposes a five-lens framework to unpack these five sets of actors and factors. It builds on a combination of political economy tools of development practitioners who have started to pay more attention to the analysis of political context and processes at country level, and more recently at the level of sectors or particular policy challenges. The latter usually involves a more fine-grained analytical approach. Given the impact of global drivers on regional dynamics and the national political economy, the five-lens framework also integrates and adapts elements from an OECD tool for analysing the dynamics of international drivers.

The first political economy lens identifies **foundational or structural factors**. These are factors that are mostly embedded in geographic, historical, demographic and economic characteristics in a country or region. Their influence may be hard or impossible to change.

A second lens looks at **institutions**, in this context understood as rules of the game. These can be formal, written or codified rules (in legal texts, etc.), but also informal practices, which are associated with norms, beliefs, customs, etc. These are usually more difficult for outsiders to notice and understand, as they are not written down. Context specific combinations of formal and informal institutions – and the way they

interact – are important for a comprehension about why a particular institutional form is effective in a particular context, and why the same institutional form is dysfunctional in another context.

Thirdly, **actors, incentives and agency** need to be factored into the analytical framework. Actors or stakeholders are the individuals and groups that are most relevant to the object of analysis by supporting reforms, opposing it or undermining it. Actors will vary in their ability to exercise agency or their capacity to act and make choices, largely according to their economic, political and social power. The interactions between institutions and foundational factors create incentives to which these actors respond. Ideas, beliefs, leadership capabilities etc. also help explain the types of interests these actors pursue, and the potential for change, or the stickiness of the *status quo*.

A fourth political economy lens draws the attention to **nature and technical features of specific sectors or reform areas** which can have political implications that differ accordingly (Foresti et al, 2013; McLoughlin and Batley, 2012). Technical features of a particular sector influence incentives and interests that the providers, users and politicians face and the accountability relations between them. To illustrate, infrastructure has a different appeal to political leaders than social services such as education. In certain contexts rural roads may have a stronger appeal to politicians, than say investments in cross-border transport infrastructure as they may attract more rural voters by visibly engaging with rural road construction.

A fifth lens focuses on **external factors** that affect the domestic political economy and the regional dynamics and organisations. Global trade, investment patterns, climate change, even the preferences and attitude of consumers in (rich) markets can influence the incentive environment in which domestic and regional actors operate. Unlike foundational factors, these external factors can abruptly change, and are less deeply ingrained in the institutions that they influence. Of particular interest to the six case studies are international relations, and particularly the volumes and ways in which donors support the EAC and regional programmes.

1.3.2. Approach of the EAC analysis

This EAC report is part of a broader political economy study of regional integration in Africa, Political Economy of Regional Integration in Africa (PERIA). All six regional studies follow the same approach, defined during a workshop between the research team and the Contractor, and refined after a further discussion with representatives of the AU and RECs in Addis Ababa (October 2014). The EAC case builds on inputs from a team of experts from Europe and Africa. It involved a review of research literature, participation in conferences and workshops, and stakeholder interviews undertaken between October 2014 and March 2015.

Due in part to their novelty, analyses of the political economy of regional organisations such as the EAC remain relatively novel, so are subject to limitations. Limitations of the study included difficulties accessing reliable information on internal informal political economy dynamics within the EAC (for example, the specifics of patronage politics within the EAC Secretariat), and difficulties identifying a specialist with recent and relevant expertise of EAC hydro/power sector political economy dynamics. Given the challenges accessing reliable information in the internal political economy dynamics, the study has been careful not to interpret internal EAC political economy trends unless triangulation of findings was possible.

Further, choices must be made regarding scope and focus, while on-going research can be overtaken by events. Rather than being exhaustive, this study therefore points to important political economy dynamics

that are indicative of the way the EAC works with a view to providing insights for a range of interested stakeholders, including policy makers and their partners.

The selection of cases for analyses, and indeed the decision to focus on two separate cases, necessarily entails trade-offs in terms of depth and scope of analysis. Nonetheless, as the above highlights, both cases are illustrative of the broader political dynamics at play within the EAC organisational setup and therefore have relevance for areas not covered in detail here.

The report was peer reviewed by a Quality Support Group, with independent academic experts, as well as experts of the Embassy of Sweden.

A separate synthesis report provides a summary of the six reports. It formulates ten statements and presents the key findings on the political economy of regional organisations in Africa, which further help identify the most important implications for different stakeholders with an interest in supporting or nurturing regional dynamics.

1.4. Structure of the EAC analysis

The remainder of the study is organised as follows:

- a) Section 2 looks at EAC characteristics in general terms, focusing particularly on the structural and foundational factors that affect EAC policy choice and implementation, followed by the formal and informal institutions and how these frame EAC's actions and those around it.
- b) Sections 3 and 4 zoom in on the two thematic areas under analysis, linking the common regional factors identified in Section 2 with sector-specific institutions and how they affect the behaviour of various key actors in determining EAC's policy choice and implementation progress both in terms of the different dynamics taking place between countries within the region, and within some key countries.
- c) Section 5 concludes with the main findings, and potential policy implications.

2. General EAC features – notable progress but severe organisational constraints

This section outlines the factors and actors that affect EAC policy development/choice, and implementation. Specifically, it analyses how foundational or structural factors, institutions, actors and incentives, and external factors affect EAC policy choice and implementation. Each of these factors is explained and analysed in more detail below. Furthermore, this section deals with two cross-cutting concerns a) the governance and the financing of the AU/REC/equivalent organisation, and b) gender. However, before explaining the factors that have affected EAC policy choices and implementation, the section below briefly describes the EAC's policy agenda in recent years, and the progress that has been made in implementing policy.

2.1.1. What has been on the EAC policy agenda?

In recent years EAC policies have prioritised economic growth through trade related system reforms such as customs territory, making the Common Market work, as well as infrastructure development. This trend can be seen in the EAC Ordinary Summits held each year, which have focused on infrastructure in recent years. Prior to this, the Customs Union and Common Market took precedence (CMI, 2013). This prioritisation is also seen in the 2014 budget in which trade was the highest area of spend (Bageine, 2013) and the EAC Development Strategy 2011/12-2015/16, which focuses on trade, infrastructure development and economic growth. In contrast, the other sectors have received limited funding and policy focus; food security and climate change adaptation represented 2% of expenditure in the 2013/14 budget (EAC Budget 2013/14).

2.1.2. To what extent have EAC policies been implemented?

While there are a number of challenges to the implementation of EAC policies within member states, EAC policies have been implemented successfully when compared to other Sub-Saharan African RECs. Particularly in terms of trade policy, integration is proceeding at a faster rate than any other REC in SSA, as shown in Figure 1. A recent AfDB report stated that the "EAC has made the most linear progress toward economic union and the highest ambition of the eight RECs" (AfDB, 2014). The EAC is implementing a free trade agreement (FTA), which contains significant exclusions, but is operational. Similarly, despite significant exclusions and exemptions and continued challenges the customs union is functioning more comprehensively since Rwanda and Burundi joined in July 2009. A common market was launched in July 2010 and a protocol was adopted in 2013 which outlined a plan to launch a monetary union within ten years.

Figure 1: REC in Sub-Saharan Africa - progress towards economic integration

RECs	Date of Establishment	FTA	Customs Union	Common Market	Monetary Union	Political Federation
AMU	1989					
CEN-SAD	1998					
COMESA	1994					
EAC	2000*					
ECCAS	1983					
ECOWAS	1975					
IGAD	1998					
SADC	1992					

Notes: Achieved (green), in progress (orange), planned (blue), and not planned (white).
*EAC was first established in 1967, disbanded in 1977 due to internal conflicts among the member countries and reformed in 2000.

Note: Achieved (green), in progress (orange), planned (blue), not planned (white).

Source: African Development Report 2014 – regional integration for inclusive growth

Recent years have seen a notable improvement in the implementation of EAC infrastructure policy, particularly railway planning and management of the Northern Corridor which is a focus of the 2010-15 EAC Transport Strategy. After a number of years of slow progress in improving East Africa's railways, 2014 represented significant progress in implementing the EAC Railways Master Plan. Kenya entered into a contract with China Roads and Bridges for the construction of a Standard Gauge Railway (SGR) from Mombasa to Malaba, and Uganda has entered into an agreement with another Chinese firm (albeit with recent challenges). Further, Kenya, Uganda and Rwanda are making progress towards establishing a joint financing agreement for further roll-out of SGR. Such coordination stands in contrast to the previous 10-15 years.

Other policy areas where there has been progress in implementation includes the free movement of people, where the EAC is the only REC in Sub Saharan Africa (SSA) that has made significant progress in recent years (AfDB, 2014). The EAC has now established an identity card system which means a passport is, in principle, not required to travel between countries.

However, challenges to the implementation of EAC policies agreed by member states remain. The 2014 EAC common market scorecard indicates that despite significant achievement, barriers to the movement of goods, services and capital still remains as a result of member state laws, regulations and capital controls, as well as membership in different RECs (EAC 2014c). Implementation of the Common Market has been constrained by exemptions, bans and non-tariff equivalent measures (AfDB, 2014). Table 1 illustrates the level of key barriers identified by the EAC common market scorecard in 2014.

Many of these barriers are also the result of divergent member state interests on specific issues, or at least private sector groups within member states who stand to lose from reforms and are able to lobby support within member states. Similarly, EAC transport policies have faced considerable setbacks in implementation. While progress on the EAC Railways Master Plan has been good in Kenya, plans to develop the regional standard gauge line in Kenya and Uganda have faced lengthy delays and disruption in each country due to wrangles and competition over contracts between Chinese contractors, brokers, and different arms of government. A major challenge has been the cost of the railways and in particular its opportunity cost (related to its economic and financial rate of return).

Table 1: EAC scorecard 2014: Main liberalisation restrictions

	Trade in goods			Trade in services ⁴	Movement of Capital ⁵
	Tariff ¹	Reported NTBs ²	CET exemptions ³		
Burundi	10%	3	29	9	16
Kenya	15%	16	41	16	3
Rwanda	9%	5	56	11	5
Tanzania	34%	18	11	17	16
Uganda	28%	9	35	10	5
EAC		51		63	

Notes: 1) Percentage indicates trends towards non-compliance in elimination of tariffs and equivalent measures within EAC: a higher percentage indicates higher worse score, 2008-2013; 2) Number of reported non-tariff barriers (NTBs), 2008-2013; 3) Numbers of granted requests for temporary exemptions (stays) of application of the Common External Tariff (CET), 2011-2013; 4) Number of measures inconsistent to commitments to liberalise services trade within EAC, out of over 500 sectoral laws reviewed; 5) Number of capital operations that are restricted, out of the 20 operations covered by the EAC Common Market Protocol (as at January 2014).

Source: Compiled and adapted from EAC Secretariat (2014)

The sub-sections below outline the factors that explain the policy choices and performance described above.

2.2. Foundational factors

Foundational factors have facilitated and constrained EAC policy choice and implementation. The most significant contribution of foundational factors to the *facilitation* of policy choice and implementation include:

- d) A shared infrastructure deficit and increasing Chinese influence facilitating the prioritisation of transport infrastructure;
- e) Large disparities in power between EAC states and Kenya's role as the regional hegemon, enabling Kenya to dominate the regional policy agenda and focus it on increasing the pace of integration;
- f) Historical ties and a shared identity among citizens of EAC member states contributing to the prioritisation of policies that allow the free movement of people;
- g) Increasing scarcity of, and demand for, drinking water, irrigation and energy forcing EAC states to coordinate over water management and energy policies; and
- h) Shared regional security threats facilitating cooperation over EAC security policy.

Each of these points is described in more detail below.

A shared infrastructure deficit, and increasing Chinese influence amidst decreasing Western influence, have led the EAC to increasingly prioritise high-cost infrastructure development.

EAC member states have shared characteristics, such as poor infrastructure and logistic as well as large informal economies, which have favoured cooperation over infrastructure development and economic growth while assigning very limited funding to other sectors not focusing on economic growth such as food security and climate change. As mentioned in the previous sub-section, the EAC Development Strategy 2011/12-2015/16 focuses on trade, infrastructure development and economic growth. The 2013/14 budget set expenditure 15.7% on cross border infrastructure while 'non-productive' sectors were largely absent

from the budget aside from 2% being spent on food security and climate change adaptation (EAC Budget 2013/14). The East African Legislative Assembly (EALA) Committee on Revenue and Expenditure declared this 'gross neglect' and noted that departments relevant to the social sectors were the most affected by rationalisation currently taking place in the EAC. Aside from EAC budgetary allocations, the increased prioritization attached to infrastructure development can also be seen in high profile EAC initiatives and subsequent member state coordination to improve the efficiency of the Northern Corridor and ports. EAC states are currently coordinating on shared railway infrastructure, for which joint financing is being pursued (this funding would be bilateral but agreed through a joint financing agreement among EAC states).

The increased prioritisation of infrastructure, particularly high-cost infrastructure projects, has been enabled by the shifting balance of influence in East Africa from 'West' to 'East'. This shift has allowed the EAC and EAC states to pursue ambitious and high-cost infrastructure projects that were not supported, or were even opposed by traditional donors previously. Chinese influence in the region has been increasing since the early 2000s. Foreign direct investment (FDI) into East Africa from China increased by 52% between 2003 and 2010, the vast majority of which was concentrated in infrastructure, energy and mining (China Analyst, 2012). However, cooperation between the EAC and China over infrastructure development accelerated after the Chinese Government signed an Agreement on Trade, investment and Technical Cooperation with the EAC in 2011, which came after a series of visits to China by the EAC Council of Ministers in the same year.

The most recent example of cooperation between China and the EAC is the Standard Gauge Railway (SGR), which is part of the East Africa Railways Masterplan (SGR is outside the EAC budget but joint financing is being pursued and SGR required coordinated policies and planning). The EAC plans for the SGR to replace and extend an existing line from Mombasa to Kampala, as well as eventually onto Juba and Kigali. SGR was publicly opposed by the World Bank at the time on the grounds that it was not cost effective. Instead they recommended that the existing line should be refurbished. However, the World Bank's opposition and the absence of World Bank funding did not halt the project. The Government of Kenya entered into contractual agreements with Chinese companies for financing and construction of one stage of the SGR line in 2014, and it is reported that EAC member states are in joint discussions with China Exim bank for financing of the remainder of the SGR project. Other projects for which Chinese financing is currently being secured include the port of Bagomoyo (US\$10 billion) and Lamu port expansion.

Large disparities in power between EAC states and Kenya's role as the regional hegemon, has enabled Kenya to dominate the regional policy agenda and focus it on increasing the pace of integration.

Kenya's position as the regional hegemon results from its dominant position in most aspects of inter-state relations. Kenya's GDP is 37% of the total of the EAC's, while that of Rwanda and Burundi are only 6% and 2% (Byiers et al., 2015). Kenya has military superiority in the region. Its defence expenditure in 2013 was US\$861 million, followed by US\$465 million in Uganda (SIPRI, 2013). Kenya has a highly strategic position in the regional transport and trade network. This is due to the pivotal role of the port of Mombasa in the transit network for landlocked EAC states; for instance, 80% of Uganda's transit traffic passes through Mombasa port (Nathan Associates, 2011a).

As a result of these factors, the Kenyan Government has the capacity to exercise disproportionate influence on other member states in the EAC and dominate the regional policy agenda. This is reflected in the government's ability to set up the Northern Corridor Countries Initiative (known in the media as the Coalition of the Willing - Kenya, Uganda and Rwanda) in the face of explicit resistance from Tanzanian

authorities who have been more cautious about the integration process and wary of Kenya's leading role in it.

Historical ties and a shared identity among citizens of EAC member states have contributed to the prioritization of policies that allow the free movement of people.

East African states share a set of historical experiences and ties that have produced a certain level common culture between citizens of EAC member states. This includes the relegation of the vast majority of the population to small scale farmers and petty commodity producers under colonialism, the prevalence of Kiswahili, and projects of post-colonial nation building under single party hegemonies. Further, the discourse of East African integration draws on emotive and powerful narratives and iconographies of pan-Africanism and post-colonial nation building. The initial post-independence project of East African integration explicitly took inspiration from Pan-Africanist thinking and often identified itself as an intermediate step in a wider process of continent wide integration. While the current discourse of EAC integration no longer identifies with this objective and the pan Africanist critique of global capital, it continues to draw on key elements of this narrative, including on African distinctiveness, shared histories of struggle and the need for accelerated development and 'catch up' (Shivji, 2009).

The EAC is perceived positively by significantly more EAC citizens than perceive it negatively. The percentages of people who have a 'positive' versus 'negative' perception of regional integration -on a conceptual level- are: Kenya 55% (6% negative), Uganda 67% (6% negative), Tanzania 55% (14% negative), Rwanda 64% (negative 5%) and Burundi 66% (17% negative) (TMEA, 2013). There is also considerable popular backing for certain policies, in particular the freedom of movement between EAC states (TMEA, 2013). EAC leaders are increasingly taking note of this. When the Northern Corridors Countries Initiative was formed in 2013, two of its key agreements were establishing a common tourist visa and allowing citizens of each country to cross borders with ID cards.

Increasing demand for water for drinking, irrigation and energy has forced EAC states to coordinate over water management and energy policies.

Hydro has played a central role in the development of the region's energy infrastructure however, while demand has increased over recent years, droughts have become increasingly frequent in the region. In 2011, severe droughts in the region reduced the amount of water available for hydro facilities leading to blackouts in several EAC member states.

Despite the importance of access to the Nile waters for the development of the EAC countries, the legal mechanisms determining access to the Nile give Egypt and Sudan almost exclusive rights over the waters. These mechanisms stem from the 1929 colonial treaty between Britain and Egypt. EAC states had not challenged these legal mechanisms until the re-establishment of the EAC in 2001, when politicians within member states started to voice concerns over the implications of the legalities. This disgruntlement culminated in 2011 when six upstream states, led by the EAC, signed the Cooperative Framework Agreement despite Egypt's refusal to sign. This has laid the foundations for the renegotiation of laws determining access to the Nile waters. Water shortages, particularly those in 2011, also contributed to the EAC council of ministers' directive to fast track the establishment of the EA power pool by June 2012 to enable power sharing in the region and reduce dependency on hydro power. As such, water shortages have fostered policy cooperation between member states, as well as the increasing priority of investment in power generation at the national level.

Shared regional security threats are becoming increasingly prevalent and are pushing forward policies to integrate EAC states' security apparatuses.

Article 124 of the Treaty of the East African Community states the importance of security and peace in EAC region for successful integration, however until recently the EAC had played a very limited role in coordinating security policy. This has changed with the increasing prominence of security threats within the region, many of which threaten multiple member states. Recent instability in Somalia and South Sudan has generated new shared challenges for the security and economic stability of EAC states. The growth of Al-Shabab in the region and the proliferation of pirates operating off the Gulf of Aden have economic consequences for a number of member states. Increased insurance costs have pushed the costs of imports to the region by US\$200-300 per 20 foot container which adds to the total cost of Kenyan imports by US\$360 million/year (ISS, 2012). Further, decreased public confidence in the security situation in East Africa has also negatively impacted tourism. It is estimated that between 2006 and 2013 tourism grew 25% less in East Africa than other sub Saharan states (ISS, 2012).

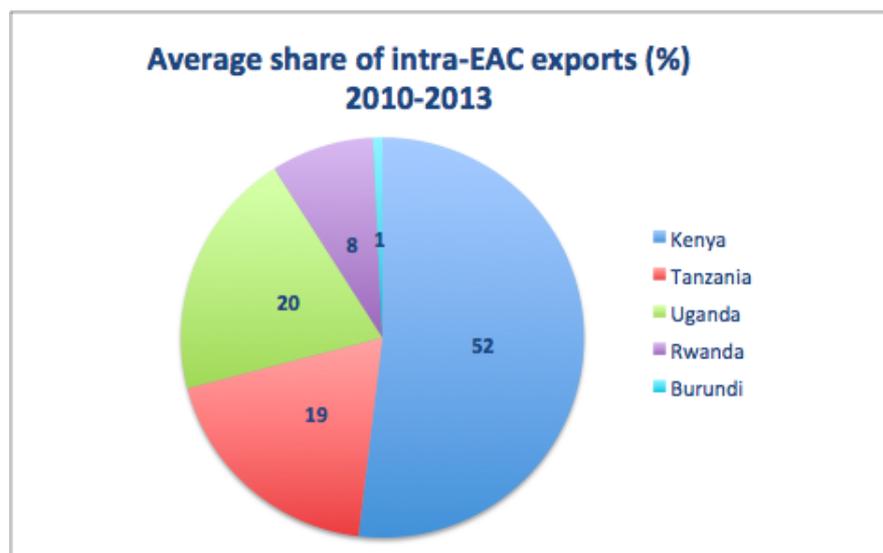
In February 2014 Heads of State of Kenya, Rwanda and Uganda signed a Mutual Defense Pact which sets up a framework for joint military operations, commits EAC states to joint maritime patrols and co-operation in the instance of external aggression on a partner state. The treaty was ratified by Rwanda in January 2015. In April 2014 the Heads of State signed a Joint Counter-Terrorism Strategy which seeks to establish joint training programmes, a regional forensics centre and set principles on intelligence sharing. However, while there is increasing cooperation within the EAC over security, there is also increasing levels of competition between the security organisations of RECs such as IGAD, COMESA and the EA standby force.

While foundational factors have facilitated EAC policy choice and implementation, they have also acted as constraints. The most significant contribution of foundational factors *constraining* EAC policy choice and implementation include the lack of complementary economic structures which has restricted intra-EAC trade and shared implementation of policies in trade liberalization.

Shared economic characteristics of EAC member states have supported agreement over policy choices, however they have also impeded the implementation of certain policies, particularly those relating to the common market.

A lack of complimentary economic structures has resulted in low levels of intra-EAC trade and contributed to a lack of political prioritisation in the implementation of trade liberalisation policies. Similar economic structures in the majority of member states leave them lacking trade complementarities. Most member states are producing and exporting primary goods and importing secondary and consumer goods – a trend not unique to East Africa (Venables and Collier, 2008). Estimates put intra-EAC trade at just 14% of member states total trade (EAC, 2013). Kenya is a noteworthy exception to this and exports high levels of manufactured goods to partner states and consequently has a dominant position in intra-regional trade (McIntyre, 2005). As illustrated in Figure 2, Kenya alone account for about half of intra-EAC trade, with Tanzania and Uganda for a fifth each.

Similarly, Kenya's larger and more expansionist economy has sparked fears from some states that regional integration will be a form of national subjection to Kenyan interests. This was a major cause of the collapse of the first EAC and continues to result in the non-implementation of regional integration measures in some sectors. Tanzania fares the worst in this regard, with the lowest level of compliance on policies to eliminate tariffs and NTBs and harmonise quality and safety standards in trade.

Figure 2: Average share of intra-EAC exports by member state

Source: Compiled by the authors from Sandrey (2015), ITC trade data

Within this context EAC policies that require the involvement of broader sets of actors have tended to face the most blockages to implementation. For instance, efforts to liberalise the trade in professional services in the EAC have suffered from setbacks due to their need to gain the consensus from a broad range of interests, including ministries involved in higher education, migration, licensing procedures and professional associations and unions.

2.3. Institutional factors

The key institutional factors affecting the policy *development* process include:

- a) A large number of formal rules governing the EAC have not been institutionalised which has restricted the ability of the EAC to shape its policy agenda, and resulted in a number of EAC policies being packaged as regional when they are actually national in focus.
- b) Formal processes for consulting civil society organisations (CSOs), private sector organisations and other non-state actors are weak, instead power is narrowly concentrated in the EAC Summit and Council.

a) A large number of formal rules governing the EAC have not been institutionalised which has restricted the ability of the EAC to shape its policy agenda.

Three examples of weak institutionalisation within the EAC are:

- i) The budget process
- j) Formal systems and rules determining power and relations between members states
- k) Rules determining EAC financing

Firstly, the check and oversight functions within the EAC budget process² are extremely weak. While the EALA generally, and General Purposes Committee in particular, has been critical of the neglect of the

² Chairperson of the Council of Ministers presents the annual budget to the EALA, after which it is reviewed by the EALA's Committee on Ways and Means to study its financing arrangements and by the General Purposes

social sectors in (EALA, 2013a), this has not resulted in the EALA recommending any related changes to the budget. The only amendment which has come into the budget over the past few years has been for an increased allocation to the EALA to enable it to hold additional sessions (2013/14). This may be partly due to the *de facto* lack of independence of the EALA relative to the Council of Ministers. The Council of Ministers has considerable powers in determining the terms of service of assembly members and an influential role in disciplinary procedures against them.

Secondly, weak institutions within the budget process is indicative of a wider trend where formal systems and rules are overridden to ensure member states avoid relinquishing significant amounts of power to the EAC.

In formal terms, power should be distributed between the Summit, Council and EALA, however in reality power is vested in the Summit and Council, which are both composed of national politicians, rather than the member state representatives found in the EALA.³ The Council in particular, uses technicalities and informal practices to maximise its power and constrain the EALA.

One such technicality is the Council practice of including implementation plans in Protocols, over-ruling the EALA's role for developing such plans. The Council is composed of a Minister from each member state and has the power to pass Protocols which translate the broad principles of the Treaty into specific policies. These are considered part of the Treaty and so are legally binding on partner states (pending ratification). Protocols are to be supplemented by implementation plans in the form of Acts which are to be voted on by the EALA. The Council, however, increasingly bypasses this by including extended Annexes in Protocols which lay out implementation plans for the policies in partner states (World Bank, 2011).

The Council has a large degree of influence over the EALA through its powers over Assembly members, including determining their terms of service and control over disciplinary action against them (EALA, 2013a). The Council is hence able to push through the Acts and annual budgets that it draws up in the Assembly with little debate.

The Secretariat is also firmly under the Council's control as it approves all appointments within it and all procurement undertaken by it. The Council tends to divide up available appointments according to a set ratio between partner states (World Bank, 2011). This has resulted in some policies, while packaged as regional, having a predominantly national scope which is unsurprising given that Council members are national politicians focused on national interests. The EAC Industrialisation Policy (2012) is a clear example of this. While pitching itself as a regional integration project, and receiving support from donor agencies accordingly, much of its focus is on the development of SME's and manufacturing sectors confined to specific states without a focus on strategising around states comparative advantages to produce a regional market (EAC, 2012b).

Thirdly, another factor limiting the autonomy of the EAC to determine its policy agenda emanates from the failure of member states to adhere to formal rules determining EAC financing through member contributions. These rules are regularly ignored by member states, many of whom do not pay fees for significant time periods. In January 2013 the EAC Secretariat reported that member states were in arrears

Committee to analyse it on a broader level. The budgets are then to be debated in the Assembly along with the reports of these two committees.

³ The EALA is the legislative arm of the EAC. Each country provides 9 elected members and 7 ex officio members. Members are sworn into five year terms.

worth US\$12 million on their contributions to the EAC. This is reported to be a regular phenomenon. Both the Secretariat and EALA claim very late and incomplete disbursements to them are hampering their work. This contributes to the need for donor financing which, in turn, can lead to policies that reflect donor agendas and have little member state interest – see section 2.3 for more analysis on the impact of reliance on donor funding. For example, the 2011/12-15/16 Development Strategy contains extensive commitments around the social sector and environment which align with donor interests but have not been taken forward.

b) While there exists a formal process for consulting civil society organisations and private sector apex bodies in the development of EAC policy, in reality this is not really utilised and the policy making power that exists in the EAC is narrowly concentrated in its executive organs, the Summit and Council. This has contributed to limited citizen engagement in EAC policy issues.

Non-state actors with a stake in EAC policies include the East African Business Council (EABC), the East African Civil Society Organisations Federation (EACSO), and the East African Trade Union Confederation. However, it is claimed that the EAC policy process is overly top down and focused on high level politicians and bureaucrats to the exclusion of consultation processes with the non-state actors mentioned above (EALA, 2013a).

The Secretariat, national EAC Ministries, the Council and the sectoral committees were mandated in 2012 by the EALA to establish regular consultation mechanisms with national and regional civil society and private sector apex bodies, in particular the EABC and EACSO. This was to include their inclusion in regular meetings and the organisation of an annual conference of non-state actors. This is, however, not acted on in practice and these activities have not received any set allocation in annual budgets since this policy was approved in 2012 (EALA, 2013a). Consultation has only taken place in a very occasional and *ad hoc* manner.

The private sector has traditionally had limited engagement on EAC policy issues through formal channels, however Kenyan firms are now more active in advocating for improved regional trade conditions based increasing levels of their exports to the region in contrast to other EAC economies which are less export orientated. This can be seen in the transport sector where the Kenya Association of Manufacturers (KAM) and Kenya Private Sector Alliance (KePSA) have played an effective role in improving transport sector integration, alongside the East African Business Council (EABC). However, active engagement with EAC policies is not always constructive. While business associations have contributed to increased transport sector integration, transporter associations such as the Kenya Transport Association (KTA) and Tanzania Transport Association (TATO) have opposed efforts to liberalise the sector in order to protect their business (World Bank, 2014). Professional associations have also attempted to block common market reforms on trade in services in order to maintain monopolies in their professions (World Bank, 2014).

There are some signs of a growing private sector-led economic integration process taking place which is not fully captured in the EAC's initiatives (Byiers et al., 2015). This is based on local and multinational firms expanding their operations across the borders of member states and cultivating a stronger and better connected regional economy in this process. This is very evident in the finance, telecommunications and retail sectors; Kenyan firms such as Safaricom, Kenya Commercial Bank and Kenya Airlines are increasingly expanding across the regional market and becoming advocates for certain issues on the regional integration agenda. Another example of this trend is supermarkets in the region which have developed strong backwards linkages in agricultural and food processing in the region. While such sectors are relatively small they have the potential to catalyse deeper processes of integration.

While the general trend is of limited CSO involvement in EAC policy development, there are examples of CSOs which have engaged with the EAC on policy issues, and may have contributed to policy development. This includes the East African Sub-Regional Support Initiative for the Advancement of Women (EASSI), which contributed to the EAC adopting a Draft Gender Protocol, establishing an EAC Sectoral Council of Gender, Youth, Children and Social Protection, and a Draft Gender Bill (June 2013). Further, the East Africa Suswatch Network has been engaged in lobbying and advocating for sustainable environmental management of the Lake Victoria basin, and implementation of the East African Community Climate Change Policy (EACCCP). However, both these organisations appear to be responding more to donor initiatives than citizen demand.

The limited involvement of formal non-state actors in the EAC policy process can lead to EAC policies which lack a strong domestic constituency. As a consequence of low levels of non-state actor involvement in EAC policy, Mwapachu (2012: 211) states that ‘we cannot seriously talk about the EAC being market-driven when the key institutions that drive the market are only peripherally engaged in EAC’s mission and work.’ This represents a constraint to the long term sustainability of the EAC project and misses the opportunity to develop ‘buy-in’ to the EAC project within Tanzania where there is considerable suspicion of citizens of other EAC states amongst sections of the population. Surveys show that the majority of Tanzanians mistrust nationals from other EAC countries much more than any other group, including the police and politicians (TMEA 2013).

In general, the private sector has both facilitated and constrained the implementation of EAC policy. Its role has been dependent on the nature of the specific policy issue and the interests of the firms involved (World Bank, 2014) – i.e. while trucking companies in East Africa have advocated improved regional transport efficiency, they have supported efforts to restrict competition in the transport sector (World Bank, 2014). However, the private sector represents a potentially important means of EAC integration aside from formal inter-governmental action. Increasing market integration, although currently primarily driven by Kenyan firms as described above, is establishing a stronger domestic constituency for regional integration which cuts across borders.

The key institutional factors affecting the *implementation* of EAC policies include:

- a) The EAC has not established the formal institutions to implement policy itself contrary to key policy documents, and the formal institutions intended to ensure member state compliance, such as the East African Court of Justice (EACJ), are under-utilised and weak. As such member states face few challenges to non-implementation of policies.
- b) At the national level, patronage and institutionalised bribery in the member state bureaucracies and political systems have blocked a number of EAC policies, including those supported by national governments.

a) The EAC has not established the formal institutions to implement policy, contrary to key policy documents, and the formal institutions intended to ensure member state compliance, such as the EACJ, are under-utilised and weak. As such member states face few challenges to non-implementation of policies.

The EAC Treaty describes the EAC Secretariat as responsible for developing and implementing policy, however the EAC has not established the formal institutions required for policy implementation. Instead, implementation is largely left to member states and their respective national ministries responsible for the EAC, which are generally institutionally very weak. EAC Ministries within member state governments tend

to lack the capacity and influence within their states which is needed to develop comprehensive policies, mobilise parliamentary support for ratification and ensure their compliance by relevant Ministries.

They instead often take the lead on policy positions from other more powerful Ministries within their states (World Bank, 2011). A recent report highlighted the decreasing amount of funds allocated to the Ministry of East Africa Community Affairs in Uganda, despite the increasing role of the EAC in country's political and economic affairs. Perhaps inevitably, EAC policies are more likely to gain traction when they are in the interests of influential national interest groups.

Formal institutions established to ensure member state compliance with EAC policies through penalties or sanctions, such as the EACJ, are rarely used, and as such, states face few real challenges over their non-implementation of policies. The power to sanction member states over non-compliance with the treaty is exercised by a vote of the Summit on the recommendation of the Council. This has not taken place to date.

The East African Court of Justice is formally accorded power to adjudicate over disputes in the interpretation of the treaty or cases of non-compliance when brought forward to it. However, its authority is second to national courts which have complete discretion in whether they refer a case brought forward to them to the EACJ for preliminary ruling (EACJ, 2011). It is thus not very active and has only concluded 44 cases in the first decade of its existence.

Further, the EAC Secretariat has limited capacity for monitoring of policy implementation. According to the EAC Development Strategy 2011/12-15/16 (2011), the Secretariat should house a monitoring and evaluation system to oversee the implementation of Protocols and track the spending and results of projects but this does not appear to have been established.

b) At the national level patronage and petty corruption in member state bureaucracies and political systems have blocked a number of EAC policies, including those supported by national governments.

When implementation of EAC policies have challenged national vested interests, vested interests have often used informal connections to national policy makers to block the implementation of EAC policies at the national level. There is considerable variation in the political economy dynamics of each of the EAC member states, but they all share an especially close connection between political elites and a small set of business interests. This is either through the strong role of the state or governing party in the economy or systems of crony capitalism (Booth et al., 2014). Consequently, a large number of EAC policies have been prone to lengthy delays and blockages to implementation by divergent interests within member states. This includes spoilers to their ratification in respective national parliaments by oppositional legislative factions and their systematic non-implementation in the delivery process. Bureaucracies in most of the EAC states are not subject to centralised control or incentivised along performance based lines. They often either lack interest in the implementation of policies or find them to be actively against their interests. In Kenya, for instance, top political elites are closely connected with tribally segmented sets of business interests who finance their rise and in turn receive patronage once these leaders are in power (Burgess et al., 2009). In Rwanda, on the other hand, the ruling RPF has important business interests of its own through its large holdings companies (Byiers et al., 2015).

The impact of national level patronage on EAC policy implementation can be seen in:

- a) Challenges to the implementation of the customs union; and
- b) Challenges to efforts to remove NTBs.

Firstly, implementation of the customs union has been challenged by various restrictions on the free movement of goods which have been introduced by partner states which some allege are tied to vested interests. These include discretionary taxes and charges equivalent to tariffs and the non-recognition of Rules of Origin laws based on disputes over local content. For instance, in contravention to Customs Union regulation, Kenyan cigarette exports have faced duties in export to Tanzania on the grounds that they contain less than 75% local content and they have sporadically been banned for import into Uganda on the grounds of trademark disputes with local producers. Similarly Kenya banned and later placed cash bonds on Ugandan sugar imports based on allegations of dumping duty free imports.

Secondly, a number of EAC policies have been blocked by informal institutions and coordination failure in national bureaucracies, even when the policies have the support of senior government officials. Bribery prevalence levels are high in each of the member states apart from Rwanda (Transparency International, 2012). This is reflected in partner states failures in overcoming NTBs. Despite an extensive programme aiming to reduce the costs and time involved with transporting goods along the two corridors, results have been limited. This is due to various low level systems of rent extraction involving customs agents, police, private groups and politicians at ports, custom check points and weighbridges across the corridors. Out of the 51 de jure NTBs identified by the EAC in 2008 21 remained unresolved in 2014, with reports of new ones emerging as well (EAC, 2014). In addition to this are difficult to quantify informal NTBs. In a survey conducted in 2012 86% of transporters in Kenya, 82% in Tanzania and 55% in Uganda admitted making informal payments to these groups in the course of transporting goods (TMEA, 2012b).

2.4. Actors and incentives

Key actors and incentives affecting EAC policy *choice* include:

- a) A reliance on donor financing creates incentives to develop policies which appeal to donor interests, but have limited domestic constituency in the EAC, and thus, are not implemented.
- b) A clash of interests between elites in Tanzania and Kenya which restricts the development of policies which would accelerate integration.

a) A reliance on donor financing creates incentives to develop policies which appeal to donor interests, but have limited domestic constituency in the EAC, and thus, are not implemented.

Traditional donors contributed over 65% of the 2013/14 budget of the EAC, with partner states contributing just 28% (EAC, 2013). This reliance on donor funding creates significant incentives for the EAC to develop policies that appeal to donors in order to continue accessing funds, which contrasts to Chinese financiers which are less interested in policies. The vast majority of funding to the EAC is tied to specific projects or objectives set by donors with more open ended forms of support, such as the Partnership Fund, making up a very small share of the total spend (EAC, 2013) However, it can also mean EAC policies are geared at the standards of the international community with insufficient regard for local realities, and policies can lack a domestic constituency and realistic prospects of implementation (Bachmann and Siddaway, 2010). Some have commented that donor support for regional integration is not based on substantive interest in the integration process, but is driven by internal political drivers. Grey, for instance, argues the large amount of support the EU provides for RECs is driven by the desire to affirm its own model through its being exported (Gray, 2011). This produces an official policy agenda based on the particular experiences and priorities of RECs and states in the developing world which are distant from the real context and drivers of regional integration in East Africa.

Many long term donor-supported policies, as embodied in medium term development strategies, are thus never translated into clear policy or plans, and current priorities are sometimes not found in any policy or plan. For instance the 2011/12-15/16 Development Strategy makes no reference to investment in standard gauge rail, but has extensive commitments around the social sector and environment which have not been taken forward.

A Kenyan led acceleration of EAC integration had succeeded in gaining the buy-in of most other EAC member states but an increasing clash of interests between elites in Tanzania and Kenya risks constraining further progress. As mentioned, the Government of Kenya has been leading attempts to accelerate EAC integration, based in part on the interest of the Kenyan private sector in assisting Kenyan producers to reach the regional market. This represents a threat to Tanzania, the second largest EAC state, which does not have a similarly regionally expansive private sector.

b) This clash of interests could be seen in tensions over Tanzanian involvement in the informal grouping of Kenya, Uganda and Rwanda, which Tanzania opposed before eventually joining.

This tension manifested itself in the Summit, which is especially prone to regional power politics. In late 2013-early 2014, when the informal grouping of Kenya, Uganda and Rwanda was being used as an alternative policy forum to the exclusion of Tanzania, the Government of Tanzania refused to sign an EAC Council of Ministers' report on political integration until the issue of land ownership was removed and clauses on military cooperation revised. This refusal was symbolic of Tanzania's opposing vision of the EAC and its differing position in the region. The right to own land across the region and the defence pact are fundamental to the proposed political federation, but Tanzania in many ways prefers a shallower form of integration able to accommodate its other regional commitments. As Tanzania is a signatory to the SADC defence pact signing up to one in the EAC may have risked a situation where Tanzania was under conflicting obligations in the case of member states of the two RECs coming into conflict.

The tensions between Kenya and Tanzania have been accentuated by two recent developments. Firstly, long standing competition over control of the regional transit market is growing with the increase in traffic at Dar port, which has been growing at 12.9% compared with 11% in Mombasa (Shippers Council of Eastern Africa, 2013), and the US\$10 billion finance that the Government of Tanzania has secured for the development of the port of Bagamoyo. Secondly, the discovery of gas reserves worth US\$2.1 trillion could bolster the Tanzanian government in its aims of industrial transition and threaten Kenya's regional economic dominance (Byiers et al., 2015). While neither of these developments currently poses a challenge to Kenya's position in the region, there is a risk that they could in the future and Kenyan elites seem to be reacting strongly to this possibility.

Key actors and factors affecting policy *implementation* include:

- a) Overlapping member state membership in multiple RECs creates obstacles to effective implementation of a number of EAC policies.
- b) Kenya has a greater interest in EAC integration and is consequently bearing a disproportionate cost to ensure accelerated integration.

a) Overlapping member state membership of multiple RECs creates obstacles to effective implementation of a number of EAC policies.

East African states are at the centre of an overlapping web of regional blocs and trade arrangements including membership in IGAD, COMESA, SADC and ECCAS and sets of bi-lateral and multi-lateral trade agreements with foreign states/RECs. EAC states hence face competing commitments and disjointed sets

of rules and standards to comply with. There are also some significant differences between the political agendas of member states that relate to economic policy. This results in tensions and additional co-ordination costs for implementing regional policies and fragmented policy environments (Muluvi and Odhiambo, 2013; Odhiambo, 2011).

The effects of multiple REC membership are most prevalent in trade policy and barriers to the implementation of the common market (Sandrey, 2015). Efforts to implement a common external tariff have suffered from a patchwork of exemptions, some of which due to that EAC member states belong to different FTAs. In particular, all EAC partners are members of COMESA, except Tanzania that is a member of SADC. So, the EAC CET makes explicit exemptions to accommodate for these differences. In addition, Burundi is also a member of ECCAS, for which no formal exemption are recognised in the EAC Customs Union Protocol and related regulations, but which de facto derogate to the EAC CET when trading with its ECCAS partners. In terms of trade values, the trade flows thus derogating from EAC CET represents between 7% and 13.5% of the respecting external trade of EAC member states (EAC Secretariat, 2014c).

This is a major systemic problem which both limits and complicates the implementation of the EAC integration. COMESA is also in the process of implementing its own customs union, and while the COMESA CET is in principle harmonised with EAC CET, discrepancies will remain, as long as Tanzania does not join COMESA and exclusion and exemptions differ. Since SADC also plans to become a custom union, the issue of coherence and harmonization of the different trade regimes will remain high. The Tripartite FTA process, involving COMESA, EAC and SADC should in principle facilitate the alignment and compatibility of overlapping trade regimes, even more so if the Tripartite FTA turns into a Tripartite CU, as foreseen. But there is still a long way to go. This will also not address the issue of Burundi's membership to ECCAS. Besides, the EAC CU also allows for member states to request exemptions ('temporary stays of application of the CET'), although they arguably cover a small percentage of trade of the respective EAC countries (between 1% and 3.6% according to EAC Secretariat, 2014c).

The merit of exclusions and exemptions is that they allow accommodating for domestic political and economic interests which otherwise could have worked against or even prevented the pursuit of EAC integration process. But in doing so, they also reduce the coherence and integrity of that integration and further complicate its implementation.

Overlapping memberships may also limit the ability of the EAC to act as a fully coherent collective actor in the international arena. In the case of the Economic Partnership Agreement (EPA) with the EU, for instance, Tanzania initially negotiated with a sub-group of SADC countries, before finally joining the group comprising all other EAC members (Bilal, 2011).

b) Kenya has a greater interest in EAC integration and is consequently bearing a disproportionate cost to ensure accelerated integration.

Generally speaking Kenya has a greater interest in regional integration than other EAC member states. Kenya's trade with other EAC states is hugely dominated by the export of Kenyan goods, primarily of high value primary/secondary goods. Kenya's most recent Presidents have been very receptive to private sector interests, including those that relate to the EAC. As such, Kenya is willing to bear the costs which come with inter-governmental co-ordination to accelerate the integration process. The Government of Kenya has, relatively successfully, pushed ahead on the implementation of EAC policies, including on improving the efficiency at Mombasa Port, developing a regional Standard Gauge Rail network, addressing issues around weighbridges and easing visa restrictions. This could be linked to the preferential distributional impact of EAC integration on the Kenyan economy, which appears to have benefited from the elimination of EAC

trade barriers since 2007 in contrast to Tanzania and Uganda (Cirera, 2013). It is also clear that the Kenyan private sector stand to benefit from integration as firms are well positioned to export to the region.

The EAC experience confirms a body of regional integration theory which argues that initiatives are most likely to be successful where at least one government takes a leading role in implementing them (Mattli, 1999). Furthermore regional integration commonly comes with high costs for certain sectors of member state economies as comparative advantages are played out. Governments are often not readily interested in implementing policies with such asymmetrical benefits and the pressure of a committed and influential state is thus extremely important.

2.5. Cross-cutting issues

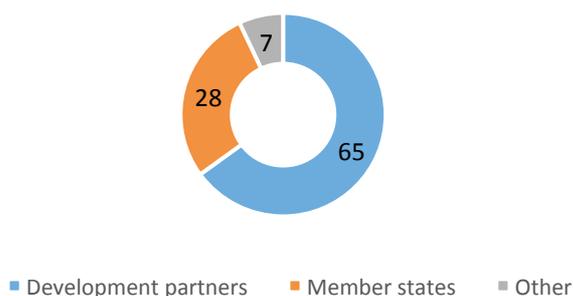
2.5.1. Ownership, legitimacy, sustainability, administrative competences

EAC member state leaders proclaim the EAC as a top priority. However, tangible commitments to ownership over the EAC and its agenda are rare.

A recent World Bank and EAC report found that while the EAC integration agenda is very ambitious, and some significant progress has been made, developments have been slowed by the “lenient attitude” adopted by EAC partners (World Bank & EAC, 2014: 2). The reasons for limited ownership over the EAC within Tanzania has already been discussed, however other member states also exhibit signs of limited ownership over the EAC agenda which, as discussed, remains significantly driven by donors. The Governments of Kenya and Uganda can be seen to ‘own’ certain EAC policy positions, their commitment to the EAC as an organisation is more limited. In 2013 President Museveni of Uganda announced EAC integration as one of the country’s top priorities, but went on to reduce the already low level of funding allocated to Uganda’s Ministry of East African Community Affairs. Many stakeholders in Burundi have commented that there is little real knowledge or interest in the integration process in the country, with decision makers instead focused on managing internal political strife (Greater Horn Outlook, 2015). More widely, in 2012 regional integration did not appear as a national priority in any of the members’ vision statements’ (Mwapachu, 2012: 211).

Figure 3: Sources of EAC funding in 2013

Member states’ financial contributions to the EAC also indicate limited ownership. In 2013 development partners contributed over 65% of the 2013/14 budget of the EAC, with member states contributing just 28% (EAC, 2013). Further, while the current status of member state arrears on financial commitments is not clear, in 2012 each of the five member states was in significant arrears on their individual subscriptions (Mwapachu, 2012). This reflects and reproduces a lack of prioritisation of the EAC agenda in member states relative to other domestic and international initiatives. The EAC’s financing arrangements require



member states to contribute equally to the running of the organisation, regardless of GDP or population size and as such, represent a significantly greater burden for Burundi, Uganda and Rwanda than Kenya and Tanzania. Regardless, the dependence of the EAC on development partners poses a significant question about the sustainability of the EAC and member relations as they currently stand

2.5.2. Administrative competences, capacities and bottlenecks

EAC institutional capacity is low and EAC institutional arrangements have not been updated to take into consideration its increasing mandate.

The limitations of EAC institutional capacity, particularly in the context of the EAC's increasing mandate, is apparent to many within the EAC. Peter Mutuku Mathuki (Kenya), a member of the EALA Accounts Committee, recently stated that the "The departments at the Secretariat are not well-staffed and staff is overstretched", going on to describe the EAC Secretariat as "currently operating below capacity—meaning some services won't be delivered to the expectations of East Africans" (New Times, 2015). A report by KPMG found that, on average the EAC has only 4.5 staff members in each of its 30 departments, and found this to be unsustainable (KPMG Finland, 2012). Examples of the limited capacity include the Energy Division, which has only two staff but responsibility for coordinating policy across EAC states, and fulfilling the EAC's responsibilities towards the East African Power Pool (CMI, 2013). And the Gender and Community Development Department of the EAC which has only one substantive staff member.

Box 1: Regional Strategy on Scaling-Up Access to Modern Energy Services in the EAC 2005-2015

The Regional Strategy on Scaling-Up Access to Modern Energy Services in the EAC 2005-2015 is an example of the impact of limited staff capacity on policy implementation. A 2013 NORAD review found that the fundamental problem with the Strategy is that while the goals are clear, there is no commonly agreed path to reach them and critically, there is very limited capacity in the EAC Secretariat to develop more detailed road maps (NORAD/NORPLAN, 2013). The EAC's energy division has only two staff and a range of responsibilities in addition to those pertaining to the Regional Strategy on Scaling-Up Access to Modern Energy Services in the EAC.

The EAC's mandate is increasing as integration proceeds at a faster rate than other RECs in Sub-Saharan Africa, however institutional structures and capacities have not been revised. Straton Ndikuryayo (Rwanda), East African Legislative Assembly (EALA) member stated that "The EAC organs and institutions don't have required personnel to effectively and efficiently discharge their expanded mandates" (ibid). Members of the EALA claim that the delay in revising upgrading institutional arrangements and capacity is slowing the pace of integration, and in particular, constraining the implementation of the Common Market Protocol (ibid).

In the context of these capacity constraints EAC policies have primarily achieved results in implementation when the national organs of member states take a leading role in these initiatives, rather than them being led by the Secretariat or EAC ministries. This applies to recent successes in the implementation of the EAC's transport policies and action against NTBs.

It appears that member states are not in agreement over proposed institutional arrangements which would provide more capacity but require member states to cede authority to the EAC.

While it is clear that the EAC organs have low levels of institutional capacity, there is a lack of consensus on the structure and form that increased institutional capacity should take. In 2011 the Council of Ministers directed the Secretariat to commission an institutional review given the Secretariat's increased mandate since the Permanent Tripartite Commission was established in 1993. However, several years on the review is not complete due to changing policy positions and a lack of member state agreement on the recommended institutional arrangements. Straton Ndikuryayo (Rwanda), East African Legislative Assembly (EALA) member has stated that key staffing positions remain vacant awaiting completion of the review, hindering Secretariat capacity even further.

It has been reported that the proposed institutional structures include a full-fledged department within the Secretariat for the Common Market Protocol, transferring the existing responsibility from the Planning Department (ibid). However, the most contentious institutional update is reported to be the replacement of the Secretariat with a more powerful Commission, which would have the power to enforce decisions over member states, overturning the current interstate dominance in decision-making. Proposals for the Commission would reportedly include the transfer of ministers in charge of EAC affairs from their respective member states to reside in Arusha to expedite decision making.

It appears that member states have not committed to a clear position on the proposal to replace the Secretariat with a Commission. It would appear unlikely that member states would cede such large amounts of authority to the EAC, or commit substantially increased funding to the EAC.

Patronage and a per diems culture in the EAC fosters incentives for EAC officials and member state representatives which are detrimental to the organisation's effectiveness.

Positions in the organs of the EAC are highly lucrative. Salaries are high compared to similar postings in national and regional bodies and staff have access to considerable additional funds through large per diems, sitting allowances and study tours (World Bank, 2011). Non-project recurrent labour costs accounted for over 24% of the 2013/14 budget, while such costs accounted for less than 6% of the EU's budget (EAC, 2013; EC, 2014). All organs of the EAC are run as meeting and travel intensive bodies which treat meetings, exchanges and conferences as key outputs. Positions are hence highly sought after and those with control over appointments to them use them as part of systems of political patronage to reward their supporters. This produces nagging skills gaps across the organs of the EAC and generates an organisational culture that is not driven by results.

The Secretariat is the top funded body in the EAC and has 80% of its budget allocated to recurrent labour costs. Its staff spend much of their time outside Arusha for which they receive sizeable per diems. Appointments to these lucrative positions are tightly controlled by the Council who have to individually approve each posting (World Bank, 2011). Informally the Council gives a quota of appointments to each Council member which, some argue, they use to bolster their personal networks. (ibid). Within the Secretariat, Sector Committees are responsible for designing and overseeing the implementation of regional programmes within their specific sector. They consist of technical experts from the relevant Ministries of each Partner State and are set up based on a vote of the Council. The framework for setting the work of the committees is relatively vague - they do not have fixed procedures for meeting, reporting on their activities or evaluating their work (EAC, 2011). While some Committees have been working effectively many others produce very low quality work and regularly fail to meet quorum (World Bank, 2011). The number of Committees has mushroomed to 20 and it has been argued that they are often formed based on the patronage of the Council to provide specific bureaucrats with personal prestige and a source of income through per diems and sitting allowances (World Bank, 2011). For instance the existence of separate sectoral committees for trade and customs is widely considered to be a product of this drive to increase postings. Ministers can make appointments into (ibid). This is to the detriment of joined up policy making and manageable regulatory costs.

Similarly, EALA legislators are compensated extremely well. On some estimates they are the second highest paid legislators in Africa. They earn a basic monthly salary of \$6,408 and are paid a sitting allowance of \$400 per day (East African, 2014). This allowance is provided for the 12 sessions per month during plenary which Assembly members must sit as well as the meetings of the numerous parliamentary committees most legislators are involved in. In addition to this there is a considerable travel allowance available to the Assembly for sensitisation work, attending training and having meetings with counterparts

in EAC states. Disputes over the distribution of these allowances have caused considerable tension in the Assembly and contributed to a protracted conflict between some assembly members and the Speaker last year which culminated in her impeachment. (EALA, 2014). This focus on holding external meetings and politicking within the Assembly takes away from the Assemblies potential to be an important policy making body. Since its formation it has adopted an average of two acts per year and most of the research and drafting for these has been done by the Secretariat (World Bank, 2011)

2.5.3. Gender

The 'Gender Gap' remains

As highlighted by the World Economic Forum (The Gender Gap Report, 2014), the East Africa region has some way to go in terms of achieving gender parity in a number of key indicator areas, particularly in educational attainment, and health and survival. To give some context to the indicators, economic participation is measured through a number of factors, including female ratio of the labour force, wage equality and income ratio; educational attainment through literacy levels and net enrolment of women at different levels (primary, secondary, tertiary); health and survival through sex ratio and life expectancy; and, political empowerment through number of women holding seats in parliament, at ministerial level or as heads of state. With the exception of Rwanda and to a lesser extent Burundi, East Africa is ranked fairly low in terms of addressing the gender gap. The table below provides a summary of some of the key indicators.

Table 2: Summary of gender issues in the EAC (Rankings)

Country	Overall	Economic Participation	Educational Attainment	Health and Survival	Political Empowerment
Rwanda	7	25	114	118	6
Burundi	17	1	120	1	30
Kenya	37	9	115	80	48
Tanzania	47	53	125	73	22
Uganda	88	97	128	107	29

Source: *The Gender Gap Report, 2014*

Generally speaking, women lag behind in terms of access to education, health, political participation and decision-making, wage and employment as well as trade (Birakwate, 2013). Even where access is considered relatively good, this may not necessarily translate to significantly improved outcomes. For example, although in some cases women constitute 50% of political party membership, they make up only 10% of those in leadership positions. Rwanda has managed to achieve gender parity with 56% representation in Parliament. However, other EAC Partner States are lagging significantly behind at around 30% (Burundi doing slightly better at 39%). Even then, this does not necessarily mean they are participating in conditions of equity.

From principles to practice

Gender equity and equality are among the major guiding principles of achieving EAC integration and is enshrined in a number of Articles of the EAC (Articles 5, 3(e); 6(d); 121 and 122). A Gender and Community Development Committee has been established within the institutional framework of the EAC and held its first meeting in 2000. This Committee, which was established in 1998, is responsible for drawing up Strategic Plans and a regional programme on gender and community development. Within its mandate it is also responsible for monitoring the implementation of these programmes and reporting to the Coordination Committee. Consequently, the Committee coordinated the development of the Gender and

Community Development Framework, 2009; and the Strategic Plan on Gender, Youth, Persons with Disabilities, Social Protection and Community Development 2012-2016.

The establishment of the Committee was a promising step, however, there are concerns surrounding the ability of the Committee to influence the broader EAC agenda, and their capacity to operate effectively. The membership of the Committee is made up of personnel from the Ministries of Gender and related ministries from the Partner States. There is no membership from other Directorates of the EAC. As a result, gender issues are generally regarded in isolation and are not well mainstreamed into key sectoral plans or aligned with broader plans and budgets (EASSI, 2011). At Partner State level, there is generally low levels of expenditure and investment in gender and related issues, as noted in the EAC Strategic Plan on Gender (2012-2016). There is also limited inter-sectoral coordination and cooperation among the various social sector institutions and between them and the economic ministries. Although all partner states have made relevant policies and in some cases relevant legal instruments in the area of gender, with the ratification and domestication of international instruments on gender equality for example, implementation of these policies and enforcement of the relevant legal instruments has been weak to say the least, in part a consequence of insufficient budget allocations in these areas (EASSI, 2011). At the heart of this problem is the prevalent and deeply entrenched attitudes and accompanying cultural practices that have served to marginalise women, and women's issues, and to undermine the importance of gender equality issues in the agenda. This is reflected in individual attitudes and more broadly in governance structures (SID & EASSI, 2013).

After a concerted advocacy campaign spearheaded by the East African Sub-Regional Support Initiative for the Advancement of Women (EASSI), the EAC developed a Draft Gender Bill (Draft EAC Protocol on Gender Equality) in June 2013. This Protocol emerged to ensure that the EAC regional integration process fully addresses gender considerations by bringing into one legally binding document all commitments to women's rights. The Bill consolidates international commitments to gender equality (BPFA, CEDAW, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa and the MDGs) into one regional legal instrument. In this regard, the campaign seeks to ensure that gains made towards addressing women's rights do not dissipate in the integration process but are scaled up to the sub-regional level. Efforts are currently underway to develop the Gender Bill into a Policy. This process is on going.

EASSI in particular have been very active in promoting and advocating gender equality in the region and have been at the forefront in influencing the EAC to develop and adopt the Gender Bill and accompanying mainstreaming instruments and M&E tools.

Women and cross-border trading

The four pillars of the EAC integration process are: Customs Union, Common Market, Monetary Union and Political Federation. An important component of EAC integration and at the heart of these four pillars is cross-border trade, much of which operates within the informal sector. Trade in general but informal trade in particular is an activity which engages a high proportion of women – around 70-80% according to UNECA (Masinjila, 2009). Exporting through official border crossings can be a real challenge for traders: serious delays can be caused as a result of opaque export regulations and exporters are often charged high fees to get their goods across. Women traders in particular are often subject to harassment by border guards, and in some cases violence. Due to such obstacles and dangers, and a general level of ignorance about customs formalities, the majority of women traders choose to operate outside existing formal systems (Seltier, 2013). Intra-EAC trade liberalisation, including non-tariff and technical barriers to trade, as well as customs and trade facilitation endeavours by the EAC, do contribute to reduce transaction costs

associated to cross-border trade (USITC, 2012), including for women, thus encouraging traders to switch from informal to formal trade (Lesser and Evdokia, 2009). These trade facilitation measures are however often not sufficient, in particular with regard to discrimination, harassment and violence against women traders. Improving services and support at the border is also key for vulnerable groups of the population, including informal traders, and women in particular, as the initiative supported by the World Bank has demonstrated (Fruman, 2014; Soprano, 2014; WCO, 2013).

However, despite their important role in this sector, women are not well catered for within the Customs and Common Market Protocols. Within the Customs Union Protocol, mention is made of the special role of women in cross-border trade. Likewise, the “promotion of equal opportunities and gender equality” is mentioned in Article 39 of the Common Market Protocol. However, in order to be taken seriously and to be effectively implemented, gender and the specific concerns of women (and particularly women traders) would need to be adequately addressed within the legal and policy frameworks with guidance on how it can be addressed in practice and specific interventions included. Unfortunately, this guidance and the accompanying interventions are absent and the work of EAC seems to be largely silent on this issue. Since the overwhelming focus of much of EACs work is on infrastructure, technocratic interventions related to customs and currency, and economic integration, this may actually have a negative impact on women’s sources of income (e.g. petty trading and small scale farming) while giving greater emphasis to male dominated formal employment. Whilst some efforts have been undertaken by EAC to address informal cross-border trade, this has generally focused on encouraging women traders to enter the formal economy, which has faced significant resistance. Other sub-national organisations, such as TradeMark East Africa (TMEA) could be in a good position to promote alternative ways to support women traders. However, even a cursory look through their website and publications reveals an overwhelming focus on technocratic interventions (NTBs, One stop Border posts etc.) with very little of a more social nature.

Because a large proportion of women traders do not use formal systems and structures for most of their transactions it makes it very challenging for regional trade policy initiatives, such as the Customs Protocol, to have any significant impact on women traders. In fact, women apparently (and understandably) see the opening up of trade as a potential threat to income earning. Combined with a suspicion of the official system and doubts as to whether the tax rate would be applied in reality in an environment where bribery is so prevalent, women in general felt safer in the informal economy (Masinjila, 2009). Furthermore, since the goal of common currency is the elimination of discrepancies in exchange rates and informal trade generally thrives on these discrepancies and imbalances across borders, those working in the informal sector are likely to be opposed to such measures.

3. Transport Infrastructure

The previous section described the factors that have put transport high on the policy agenda of the EAC. This section goes on to outline the factors that have shaped the choice and implementation of EAC transport policies. First, the EAC's transport policy agenda is briefly described.

What has been on the EAC's transport policy agenda?

The formal EAC transport policy framework is most significantly composed of i) the EAC Treaty, ii) the 2010-2015 EAC Transport Strategy, and iii) the 2009 Railways Masterplan.

EAC Treaty

All modes of transport are mentioned in the EAC Treaty as vital to making progress in regional integration. The treaty 'stresses the need for coordinated, harmonised and complimentary (sic) transport and communications policies; improvement and expansion of existing links; and establishment of new ones as a means of furthering the physical cohesion of the countries, facilitate intra-regional commerce and global connectivity' (EAC, 2011a: 61). Under Article 89, partner states 'undertake to evolve coordinated, harmonised and complementary transport and communications policies; improve and expand the existing transport and communication links and establish new ones. The ultimate objective is to have a common transport policy' (CPCS, 2009: 24).

However, the article also contains some specific provisions around railway development. Article 91 of the 1999 EAC Treaty 'provides that the Partner States agree to establish and maintain coordinated railway services that would efficiently connect the Partner States...and, where necessary, establish additional railway connections.'⁴

2010-15 EAC Transport Strategy

Prior to adopting the 2010-15 Transport Strategy, the EAC's main focus in the transport sector was to support railway restructuring in Kenya, Tanzania and Uganda regarding 'ownership, management, infrastructure, finance and investment, ...legislations and human resources,' in order to achieve 'a harmonised approach to restructuring of the railways in the region and [identify] possible areas of cooperation during the restructuring process' (EAC, 2011b: 24). This specific focus on railways was carried over into the 2010-15 Strategy, which identified a number of general obstacles to trade integration and specific obstacles to joint EAC action in the railway sector, namely, differences in laws, regulatory frameworks and licensing systems (EAC, 2011b: 25).⁵

The EAC Transport Strategy lists no less than 247 projects in all transport sectors across the EAC, worth approximately US\$21 billion (EAC, 2011d: 22).⁶ The Strategy (Section 7) lays out criteria for prioritising projects, but it is unlikely that this influences the actual choice of projects that are eventually commissioned, which will depend on the availability of finance from national treasuries and international donors and banks. However, the 'strategy' allows particular stakeholders to invest in discrete studies of possible road and rail

⁴ EAC, 2009: 24.

⁵ The Study makes numerous proposals on how to address country differences and to enhance the political influence of the EALA and monitoring capacity of the EAC Secretariat.

⁶ See also EAC, 2012. 'The 2nd heads of state retreat on infrastructure development and financing', Kenyatta International Conference Centre, Nairobi, 29th November for a comprehensive listing of project proposals in power generation and transmission, oil and gas pipelines and refineries, ports, and roads and rail transport. There is no financial summary, but almost all are multi-billion dollar projects.

investments, including detailed technical studies premised on more or less plausible transport demand projections, as detailed below.

2009 Railways Master Plan

As mentioned, article 91 of the 1999 EAC Treaty 'provides that the Partner States agree to establish and maintain coordinated railway services that would efficiently connect the Partner States ... and, where necessary, establish additional railway connections.'⁷ The 2009 Railways Master Plan Study is the most recent comprehensive review of the sector, but its status as the blueprint for railway development in the region is contested. Controversy rages over whether the Master Plan endorses the Standard Gauge railway initiative in the region, an option that the Master Plan Study specifically rejected, as explained below.

EAC Customs Union

Improved transport infrastructure in EAC member states complements efforts to increase intra-regional trade under the EAC Customs Union (CU) through the reduction or elimination of tariff and non-tariff barriers.⁸ Under Article 13 of the CU Protocol, EAC members agreed to remove all existing non-tariff barriers to trade and not to impose new ones. Kenya, Uganda and Rwanda have made substantial progress in achieving this objective, as narrated below.

In conclusion, key features of the formal EAC transport policy framework include i) coordinated, harmonised and complementary transport policies (EAC Treaty); ii) joint EAC action in the railway sector, namely, differences in laws, regulatory frameworks and licensing systems (EAC Railway Masterplan and EAC Transport Strategy); and iii) ultimately, a common transport policy' (EAC Treaty).

How has the EAC's transport agenda been implemented?

A number of achievements have been recorded in the region's transport infrastructure, management, and regulatory environment, including:

Railways

Some recent achievements related to the 2009 EAC Railways Masterplan include co-ordinated rail interconnections between Kenya, Uganda and Rwanda (Standard Gauge Railway planning described in subsequent sections); the Rift Valley railway has recently recorded some improvements in performance; and in 2014 Tanzania received a US\$ 300million World Bank loan to rehabilitate the Central Line from Dar es Salaam to Isaka, with the possibility of more WB loans to follow. Problems of coordination within and between sectors arise when informal institutions take over the 'policy' and project identification processes. The way this works in the railway sector is one of the main focus of our discussion of actors and incentives, below.

Roads

Achievements include Kenya, Uganda and Rwanda coordinating road interconnections. Transport corridors have seen the removal of roadblocks, weighbridges; more efficient administrative procedures; and the elimination of multiple bonds. Axle load limits have been standardised and there is growing compliance with vehicle weight restrictions. Further, there have been significant improvements in the quality of the region's

⁷ EAC, 2009: 24.

⁸ The principal components of the customs union (CU) agreement are (1) a Common External Tariff (CET) on imports from third countries; (2) duty-free trade between the member states; and (3) common customs procedures (Cooksey 2014: 6).

trunk roads, substantial reductions in road travel times, and falling transport prices along the Northern Corridor.

Ports

Mombasa port has become much more efficient in recent years and Dar es Salaam port has also shown some improvements (summarised from Hoffman and Kidenda, 2014).

Business and regulatory environment

Achievements include partial implementation of the Single Customs Territory (SCT), establishment of joint border committees, reductions in the number of road blocks and weighbridges, and removal of other NTBs. Further, trade associations are exerting increasing influence over policy design and implementation.

Intermodal transport

The EAC was relatively slow to develop an integrated ('intermodal') approach to the transport sector which has become the international norm in transport systems planning over the last 20 years, along with the concept of transport 'corridors' (US Department of Transportation, 1994).

However, 'Under the High Level Standing Committee on the East African Road Network, the EAC has facilitated sector reforms which include the formation of Roads Boards/Agencies, participation of private sector, harmonisation of regional policies and axle load control...'.⁹ In June 2014, the EAC Secretariat signed a Strategic Cooperation Framework Agreement (SCFA) with the Central Corridor Transit Transport Facilitation Agency, the Lamu Port Southern Sudan Ethiopian Corridor Development Authority, and the Northern Corridor Transit and Transport Coordination Authority (EAC, 2014d). The agreement covers inter alia infrastructure development, transport facilitation, private sector development, investment promotion, transport safety, environmental protection, research and development, training and human resource development. A wide range of facilitation and harmonisation activities are listed, as well as the development of railway infrastructure 'as a means of facilitating optimised freight flows in the region'.

In conclusion, the efficiency of the EAC's transport infrastructure is generally increasing, particularly along the Northern Corridor where progress has been made in reducing journey times and costs, and towards coordinated railway development. However, while many of these achievements align to the wide range of EAC transport sector policies, this review suggests that successes have been the result of national level decision making and interstate coordination that have occurred independently of the EAC transport sector policies. Consequently, the formal commitment of the EAC Treaty to 'harmonise' and 'co-ordinate' transport policy has not been realised.

Since the five EAC member states have not accorded a coordination role to the EAC secretariat, transport planning and project selection takes place largely at the national level, where capacity is also limited and vulnerable to political capture. The role of the EAC Secretariat is limited to advising the five member state governments on regional transport policy and undertaking various technical studies with a view to securing external funding. The EAC Secretariat relies on donor technical support to carry out this function. For example, TradeMark East Africa (TMEA)--a non-profit company funded by a consortium of donors--has country offices in all EAC capitals and a headquarters in Nairobi.¹⁰

⁹ <http://www.eac.int/infrastructure/index.php?Itemid=129>, accessed 13/04/15.

¹⁰ 60% of TMEA finance is from the UK. Other donors are the US, Netherlands, Sweden, Finland, Canada, Denmark and Belgium.

Given the primacy of national level decision making over EAC transport infrastructure and the limited coordination role of the EAC, this section inevitably addresses PEA factors which have affected progress towards national policies which pertain to EAC priorities, as well as EAC policies more broadly.

What explains the contrasting performance of road and rail transport in the EAC in recent years and Kenya's superior performance compared to Tanzania? Why is Mombasa port more efficient than the port of Dar es Salaam? Why have EAC member states now embarked on huge port, rail and other infrastructural development projects? PEA suggests a number of key factors. How engaged are ruling elites and what is the nature of their engagement? Are private sector actors organised and capable of lobbying collectively, and if so, lobbying for what?¹¹ Are competent bureaucrats allowed to plan and implement policies 'ring-fenced' from predatory rent-seeking? Finally, PEA can shed light on how external finance influences the incentives faced by the main national actors.

3.1. Structural factors

Key structural factors affecting the development and implementation of EAC transport infrastructure policy, and corresponding national policies, include:

- a) East African railway building and cross-border cooperation have colonial roots.
- b) Economic and political geography constitute the structural underpinnings of the region's transport system.

a) East African railway building and cross-border cooperation have colonial roots.

The Mombasa-Kisumu railway was completed in 1902 and the Kenya-Uganda railway reached Kampala in 1931. The Germans completed the Dar es Salaam-Kigoma railway in 1914 and the British completed the Tabora-Mwanza line in 1928. In 1947, the British colonial and trustee governments set up the East African Railways and Harbours Corporation to coordinate maritime, terrestrial and lake trade between Kenya, Uganda and Tanganyika. Other East Africa-wide organisations dealt inter alia with currency, postal and aviation services, customs, and higher education. After independence in the early 1960s this arrangement fell apart as Tanganyika and Uganda took measures to combat the perceived economic dominance of Kenya in the region. The collapse of the first East African Community in 1978 saw the end of most of these organisations, leading to protracted arguments over the division of the collective assets.

b) Economic and political geography constitute the structural underpinnings of the region's transport system.

The ports of Dar es Salaam and Mombasa link EAC member states and neighbouring countries with the outside world through the Southern, Central and Northern road and rail transport corridors.¹² Mombasa and Dar es Salaam ports handle the lion's share of EAC external trade. Eighty percent of Uganda's imports pass through Mombasa, while Rwanda and Burundi depend on both Dar and Mombasa for imports and exports (Mwangi, 2014). Conducting their terrestrial trade through Dar and Mombasa ports gives landlocked Uganda, Rwanda and Burundi compelling reasons to be concerned with the costs, reliability, and security of Kenya's and Tanzania's transport systems. It is also in the interest of these countries to

¹¹ Competent operators will lobby for a more conducive business environment in which to operate, lower taxes, less regulation, better public goods provision, while the less competent aim for official protection from competition from neighbouring countries.

¹² Air transport is key for horticultural exports and tourism in the region, while sea, lake and river transport is vital for local movements of people and goods. Largely unpaved rural roads help farmers and traders get produce to local markets. Here we focus on the Central and Northern transport corridors.

maintain good diplomatic and political relations with their coastal neighbours. Other things being equal, it is likely that the land-locked countries would be particularly eager members of a REC that promises to speed up and cheapen cross-border trade in capital and consumer goods.¹³

Tanzania and Kenya are not constrained by such considerations. Of all cargo landed in Dar es Salaam port, about two-thirds is for Tanzania, 13% for the DRC, 12% for Zambia, and 4% each for Rwanda and Burundi.¹⁴ Reliable income from entrepôt services to the region should be an incentive to efficient logistic services. A major difference between the two ports is that more of the landed cargo at Dar es Salaam stays in the city, compared to Mombasa, where upcountry road and rail deliveries to both the national and the regional markets are larger in both absolute and relative terms. Though in both countries roads now account for the lion's share of corridor traffic, the decline of the Kenya-Uganda Railway was less catastrophic than that of the Central Line (Hoffman and Kidenda, 2014).

3.2. Sector characteristics

A characteristic of the transport infrastructure 'sector' that has affected the development and implementation of EAC transport infrastructure policy, and corresponding national policies, is the political influence of trucking firms in EAC states.

The political influence of trucking firms in EAC states led to a historic focus on roads, but this has increasingly given way to an emphasis on railways development.

Roads and railways are natural monopolies that over time compete for passengers and goods. Roads are prone to various market failures, for example, trucking companies are potential free riders, given the 'non-excludability' nature of roads. While governments can build roads, including rural feeder roads, to attract political support, railway construction is more likely to reflect high-level political and strategic considerations. The rise of politically connected trucking lobbies in Kenya and Tanzania helps explain the de facto policy focus on major road construction and maintenance in recent years, and the relatively successful institutional arrangements put in place, including the Tanzania National Roads Agency, Kenya Roads Board and Uganda Road Fund. These agencies are still vulnerable to political capture and rent-seeking, but this is tempered by elite, including presidential, investments in trucking, so that, for example, trunk road maintenance is still carried out to tolerable standards. Taxation favours road transport, since the road fund is raised on fuel consumed, including diesel used by the railways. Neglect of rail maintenance reflects the secular decline in the profitability of railway transport over time. A well organised trucking industry can take the lead in self-monitoring of overloading in its own interest. Thus, there is a 'virtuous circle' of road construction and growth of the trucking industry. By contrast, railways have no comparable private/elite buy-in, or driving profit motive, which helps explain their absolute and relative decline in the region in recent years, with lines falling into disuse through lack of maintenance, and no new lines built to serve national or cross-border markets.

It may appear surprising, then, that railways, not roads, should be the main focus of current EAC transport prioritisation and project selection. Huge new investments in new railway construction, including cross-border components, are discussed at length below, however key drivers of these new priorities include an increased focus on private sector development in Kenya and Uganda, large-scale patronage opportunities from railway tenders, and Chinese financing to facilitate these trends. There has been little or no analysis of the potential for a (very costly) railway revival in light of the rapid expansion of road construction and

¹³ Byiers et al. 2012. This source argues that Dar and Mombasa are implicitly in competition with each other.

¹⁴ Plus 2% for Malawi and 1% for Uganda (World Bank, 2013: 31).

growth of the private haulage industry, particularly in Tanzania and Kenya. The consequent risks associated with such mega-investments have been largely ignored: how can rail attract adequate cargo away from the roads through market incentives as opposed to compulsion? Hauliers claim to be in favour of a return to a more balanced distribution between road and rail transport. If they feared the resurrection of the rail sector, they would surely be capable of resisting policies supporting such a redistribution.

3.3. Institutional factors

Key institutional factors affecting the development and implementation of EAC transport infrastructure policy, and corresponding national policies, include:

- a) Informal institutions such as patronage and corruption have constrained the impact of EAC Transport Strategy projects in Dar es Salaam port.
- b) Despite efficiency improvements on EAC roads, patronage in national level governments has restricted the impact of the EAC Road Sector Development Programme.

a) Informal institutions such as patronage and corruption have constrained the impact of EAC Transport Strategy projects in Dar es Salaam port.

The EAC's 2011 East African Transport Strategy lists four 'priority' projects in Dar es Salaam port: channel dredging, building an inland container depot and two additional container terminal berths, and a single-point mooring upgrade worth a total of US\$297.¹⁵ These projects are at varying stages of implementation, however the port of Dar es Salaam's experiences a number of problems including inadequate facilities to deal with increasing volumes of imports, inefficiencies in cargo handling, and corruption. It takes over six days on average for a ship to turn around, making Dar an extremely inefficient port by international standards.¹⁶ TICTS, a consortium between the Hong Kong-based Hutchinson Port Holdings Group and local investors, was awarded a management contract for the container terminal in 1998. The company hit the headlines in 2008 when it was revealed that the one-time Minister of Energy and Minerals Nazir Karamagi was its chairman and 30% shareholder.¹⁷ By Tanzanian standards, TICTS has been a success. After 2000, TICTS increased the efficiency of container handling at the port, but has been criticised in recent years for worsening performance in the face of a rapid increase in freight movements. TICTS blames the growing difficulty of handling container movements on the lack of container stacking space and inefficient documentation by importers and exporters.

On-going and planned investments by the World Bank, UK, Trademark East Africa (TMEA) and others worth over US\$500 million in new berths and handling machinery will only be profitable if efficiency can be increased at the same time.¹⁸ Though Dar es Salaam port has improved its performance in recent years, inefficiency and corruption in managing the port and the Central Railway are estimated to cost EAC countries US\$2.6 billion a year.¹⁹

¹⁵ EATS Strategy 2011 Annex, page 22.

¹⁶ Dar es Salaam turn-around time is 150 hours and Mombasa 72, compared to 62 hours in Durban (S Africa), 12 in Singapore and 5 in Rotterdam! (Hoffman and Kidenda, 2014: 8)

¹⁷ Karamagi resigned over the Richmond scandal in February 2008.

¹⁸ Funded mainly by the World Bank and the UK, these investments are designed to double the port's handling capacity by 2020 (Hoffman and Kidenda, 2014: 8).

¹⁹ The total global welfare loss is estimated to be US\$1.759 million per year for the Tanzanian economy and US\$830 million per year for neighbouring countries (World Bank, 2013a).

In contrast, the reduction in patronage and high-level corruption in Mombasa port has contributed to increased efficiencies. The Moi regime (1978-2002) extracted rents from Mombasa Port to the detriment of port services. Performance deteriorated drastically in the last decade of Moi's rule through under-investment in port infrastructure and services, mismanagement, corruption and centralised government control.²⁰ By the end of Moi's presidency, the port had large debts and equipment was old and obsolete.

On coming to power in 2002, Mwai Kibaki introduced major reforms in the port's management to deliver on his campaign pledge to foster rapid economic recovery after years of poor economic performance and neglected infrastructure. Port traffic nearly doubled between 2003 and 2013, from 12 to over 23 million tonnes. At the same time port efficiency improved according to a number of key indicators; container dwell time halved between 2006 and 2013, and ship turnaround time was reduced by around 30%.²¹ These improvements were the result of a number of management reforms which enabled more effective financial management and reinvestment in operations. This was made possible as a result of shifting incentives to use the port as a means of economic growth rather than source of rents for political elites (Mathieson et al, 2014).

b) Despite efficiency improvements on EAC roads, patronage in national level governments has restricted the impact of the EAC Road Sector Development Programme.

The EAC's Road Sector Development Programme (2011) aims to '[improve] road connectivity and operations across the Region', including identifying priorities and funding sources.²² According to the Strategy, achievements in the sector 'include [establishing] road agencies and road funds; [constructing] the flagship ... Arusha-Namanga-Athi River road; [preparing] an EAC Transport Strategy and Road Sector Development Programme; [developing] a framework for [harmonizing] policies and regulations in the road sector; [establishing] a one stop border post at Namanga operating on a 24-hour basis; [prioritising] key regional roads within national programmes [and incorporating] roads projects for Rwanda and Burundi in the regional road network' (EAC, 2011: 40).

A significant improvement in the quality of trunk roads, substantial reductions in road travel times and growing compliance with vehicle weight restrictions have reduced transport prices along the Northern Corridor. Removing roadblocks and weighbridges, more efficient administrative procedures and eliminating multiple bonds have also helped reduced prices. Axle load limits have been standardised.

However, the EAC flags a daunting number of 'challenges' facing the roads transport sector:

'... a disconnect between regional programmes and national priorities disparities in transport regulation; lack of applications of international road standards; limited private sector involvement in road infrastructure development; poor maintenance standards;... insufficient resources to carry out feasibility and detailed design studies; poor road safety enforcement standards; complicated procurement systems leading to long gestation periods; high and fluctuating costs of construction; lack of capacity of local contractors to design and deliver durable roads, limited integration of road

²⁰ World Bank, 2011 cited by Mathieson et al. 2014.

²¹ Mathieson et al., 2014: 24, citing World Bank, 2011.

²² 'This entails: 'a) [Implementing] ... the EAC Transport Strategy and Regional Roads Development Programme; b) [Harmonising] policies, procedures, guidelines and standards and procurement procedures in the roads sub sectors; c) [Establishing] a Regional Public Private Partnership framework for resource mobilisation, road construction, management and maintenance; d) [Developing] a pipeline of bankable roads development projects for the region; and e) [Promoting] joint financing and implementation of regional projects and establishment of the EAC Infrastructure Fund' . (EAC, 2011:61).

transport to other modes of transportation; low absorption capacity of development loans; inadequate data for planning purposes and existence of non tariff barriers (EAC, 2011:40).

Informality can introduce inefficiencies in sector management that generate numerous negative externalities. The following example is not intended to point the finger at Tanzania in particular, but to illustrate how informality works in the trunk roads construction sector.

Political patronage reduces efficiency and profitability, imposing very high social costs. Patronage politics also undermine non-trunk road construction and maintenance. Non-trunk roads are mostly financed by a dedicated fuel tax, managed by the Roads Fund Board (RFB). The parliamentary Local Authorities Accounts Committee (LAAC) identified sub-standard (or no) construction and 'in most cases' procurement and tender procedures were not followed 'raising serious doubts of corruption.' During the late 1990s, 'after having passed through the Treasury, Ministry of Works and regional (MOW) offices, only 10-25 percent of the original amount collected was effectively spent for road maintenance.' Spot-checks by CAG auditors of municipal and district council building and other contracts also reveal widespread incomplete work, advances paid but little or no work completed, poor quality finishing, and, in the worst cases, full payments made but no goods or services supplied.²³

Box 2: Roads and rents in Tanzania

TANROADS (Tanzania Roads Agency) is responsible for trunk road construction and maintenance. In FY 2010/11, the government budgeted TShs 1.5 trillion (one billion US dollars) for infrastructure, or 13% of the national budget, most of which was used for road works. According to the World Bank: 'The condition of the national roads has improved from 50% in poor condition in 2000 to 5% in poor condition in 2009' (World Bank, 2010: 21). But the National Audit Office's 2010 Performance Audit on road works found that trunk road construction did not deliver value for money. On average, final costs were 57% over the original budget. 'In some instances, funding constraints occurred because the [Ministry of Infrastructure Development]/TANROADS had failed to secure financing before projects started.' 'All ten road construction projects studied were approved at final inspection even though all of them started to undergo repairs soon after the approval, some of which were quite substantial.'²⁴

Reasons for the poor performance of TANROADS include overlapping and unclear legal mandates with the Ministry of Works and LGAs and irregularities in the appointment of senior staff. In 2007, Andrew Chenge, Minister of Infrastructure Development, appointed Ephraim Mrema head of TANROADS under 'hugely controversial circumstances.' According to one report: 'A government enquiry has already established that Mrema was appointed ... contrary to official procedure and lacks the necessary qualifications for the key post.' A number of tendering scams were 'directly linked to the CEO'. Mrema is said to have ignored 'official instructions from the ministry not to appoint directors and regional managers at TANROADS without prior approval.' Mrema 'claimed that he was personally authorised by President Kikwete to appoint new directors and regional managers.' State House later refuted the claims 'and sought to distance President Kikwete from the ... saga.' The President's eldest son Riswan (now a member of Parliament) is said to have been a frequent visitor to Mrema's office.

Source: Cooksey 2011: 48-9.

To anticipate a later section, this example suggests that the ruling elite's stake in the trucking industry does not inhibit parallel *rentierism*²⁵ that undermines sector efficiency. In part, this may be because the

²³ Cooksey, 2011.

²⁴ United Republic of Tanzania, 2010. Ten road projects were sampled.

²⁵ Rentierism is the process of identifying, securing and distributing rents.

inefficiencies engendered by the processes outlined in the text box above are socialised, with additional costs borne by taxpayers, donors and contractors.

To complete the picture, since the 1990s, Chinese contractors have largely replaced Japanese, Scandinavian and European firms in the region, despite the corruption that is associated with a number of these firms. In 2009, the World Bank banned three Chinese firms from tendering for Bank-financed projects in Tanzania. The China Road and Bridge Corporation (CRBC) was banned for corruption in construction projects in the Philippines, along with the China State Construction Engineering Corporation and the China GeoEngineering Corporation. 'The three firms have executed numerous multibillion dollar projects not only in Tanzania, but also in many other African countries such as Kenya and Angola' (Wilfred, 2009). CRBC are the contractors for the Mombasa-Nairobi SG railway, discussed further below.

Patronage politics undermine all aspects of transport sector efficiency. The table below ranks four of the five EAC members on the World Bank's 2014 Logistics Performance Index.

Table 3: Logistics Performance Index 2014

Country	Rank (/160)	Score (/5)	Customs	Infra-structure	International shipments	Logistics competence	Tracking & tracing	Time-liness
Kenya	74	2.81	1.96	2.40	3.15	2.65	3.03	3.58
Rwanda	80	2.76	2.50	2.32	2.78	2.64	2.94	3.34
Burundi	107	2.57	2.60	2.40	2.60	2.51	2.51	2.76
Tanzania	138	2.33	2.19	2.32	2.32	2.18	2.11	2.89

Source: www.lpi.worldbank.org/international/global/2014

Tanzania ranks in the 86th percentile, far behind Kenya, its main regional rival. In the Global Economic Forum's (GEF) Global Competitiveness Index for 2013/14, Tanzania also ranks well below Kenya on the infrastructure indicator.²⁶

Ambitious new investments in infrastructure that ignore or discount the reasons for past failures to maintain facilities can fail for the same reasons.²⁷ In the final section, we examine the incentives and the institutional constraints facing the main actors.

3.4. Actors and incentives

Key institutional factors affecting the development and implementation of EAC transport infrastructure policy, and corresponding national policies, include:

- EAC organs have limited capacity to effectively coordinate EAC member state transport policies and plans.
- The private sector has been both a catalyst and blocker to a more effective regional transport network.
- The historical preference of East African elites in road investments is increasingly channelled towards mega projects, in particular those involving railways development.

²⁶ Kenya and Tanzania were in the 67th and 82nd quartile respectively (Cooksey, 2014c: 27).

²⁷ The lack of a 'maintenance culture' is in part a political failure: presidents and MPS gain more kudos from opening a new road than for showing voters how well they maintained the old one.

- d) China's increasing role in the region has facilitated the focus on transport mega projects, despite many of them lacking a demonstrated economic rationale.
- e) Heavy donor involvement in the EAC Secretariat, investment projects, and TM-EA make it likely that EAC transport sector priorities are heavily influenced by external donors.

a) EAC organs have limited capacity to effectively coordinate EAC member state transport policies and plans.

In relation to transport and other sector policies, the EAC institutions have no formal, delegated authority and consequently neither have nor require a substantial cadre of technical staff. For example, in the Infrastructure Department at the EAC Secretariat, there are two senior staff working on roads, there is one temporary railway expert (funded by the AfDB) though there is no railway unit,²⁸ and the Maritime Unit currently has no expert staff. In addition, TradeMark East Africa finances a corridor expert.²⁹ The Secretariat advises member states on transport policy on the basis of studies undertaken by international consultancy companies, themselves generally funded by third-parties. For example, the Transport Master Plan Study was undertaken by a Canadian consultancy and funded by the AfDB; Africon Ltd, a Greek-Nigerian conglomerate, prepared the 2011 Transport Strategy and Road Sector Development Program (pp 432); while USAID were funding Santa Fe Railways to look into SG feasibility, and so on. The large amounts spent on pre-feasibility, feasibility and detailed planning studies suggest that these and similar activities can easily become an end in themselves, disconnected from the likelihood that the proposed investments will take place. This observation raises the issue of what factors and incentives (transparent or hidden) drive the main actors.

The limited capacity of the EAC Secretariat limits its ability to coordinate transport infrastructure. Reviews suggest that the formal commitments of the EAC Treaty to 'harmonised' and 'co-ordinated' transport policy have yet to be fully realised. The 2008 Master Plan Study mentions different legal frameworks in EAC member states, and a multiplicity of actors:

'There are a number of players at the national, regional, continental and international level with a direct interest in [the EAC railway sector]. It is clear their relative role in respect of proximity to implementation differs. As a result, there is a need to clarify *and circumscribe* their relative roles.'³⁰

For example, in the context of a weakly capacitated EAC Secretariat, a number of parallel transport infrastructure initiatives are emerging, such as the Northern Corridors Initiative and Standard Gauge Rail, over which the EAC has no control and mandate. A number of TMEA initiatives could also be seen in the same light. In this way the EAC's inability and lack of mandate opens up for alternative groupings and implementers.

b) The private sector has been both a catalyst and blocker to a more effective regional transport network.³¹ A key factor tilting transport sector policy in favour of roads is the political support enjoyed by

²⁸ In 2011 the EAC Partnership fund commented that: 'The EAC needs to create a Railway Unit which will provide the Secretariat and the Member States with technical assistance in integrating the East Africa Railways.' See 'Status of Studies supported by EAC Partnership Fund 2011' (mimeo.). 'The EAC Partnership Fund is a basket fund mechanism with annual contributions from Development Partners (DPs) aimed at supporting the EAC projects and programmes that are geared towards regional integration.' The fund disbursed US\$ 28m between 2006 and 2012.

²⁹ Telephone interview, 13 April 2015.

³⁰ EAC, 2009: 23 (emphasis added).

³¹ This section quotes liberally from Barak D. Hoffman and George B. O. Kidenda 2014. 'Political Economy of Transport Sector Integration in the East African Community', Draft report, October.

private trucking companies.³² Policy benefits to truckers include the use of fuel taxes to finance road maintenance, which effectively subsidises truckers' for the wear and tear they inflict on the trunk roads, and relatively low licence fees. Road maintenance has improved substantially, especially in Kenya, Rwanda, and Tanzania over the past decade. Much of this has been through strong pressure from trucking companies, who have lobbied government because poor road conditions raise their maintenance fees and slow travel times.

According to Hoffman and Kigenda (2014: 4-5):

'A number of national business associations have formed apex bodies to harmonise procedures and engage with governments to improve the business climate... The East Africa Business Council (EABC), the Kenya Association of Manufacturers (KAM), and the Kenya Private Sector Alliance (KePSA) are leading examples. Competent organisations like Kenya Shippers Council (KSC) and the Uganda Shippers Council (USC) have made the Shippers Council of East Africa (SCEA) a powerful advocate for regional integration.'

Some business associations favour deeper transport sector integration, others resist it. For example, the Kenya Transport Association (KTA) and the Tanzania Transport Association (TATO) lobby hard for improved efficiency along the region's roads, but oppose liberalisation and competing with the neighbour's truckers. A final example is the Tanzanian clearing and forwarding agents (TAFFA) who lobby actively against the introduction of a Single Customs Territory, already operational in Mombasa port, for fear of Rwandan companies setting up shop in Dar es Salaam.³³

The Kenya International Freight and Warehousing Association (KIFWA) - which used to be the model freight forwarding association for the EAC - has become embroiled in a number of court cases and its effectiveness has suffered as a result. The decline has also discouraged professionally run freight forwarding companies from joining, and the leadership of KIFWA remains largely in the hands of owners of small companies inexperienced in engaging governments in policy dialogue.³⁴

Kenya's private sector has pushed hard for many of the gains noted in this report. Soon after President Kenyatta came into office, a number of shippers' and importers' associations - including the Shippers' Council of East Africa (SCEA), the Kenya Private Sector Alliance (KEPSA) and the East Africa Business Council (EABC) - engaged in a sustained lobbying effort to improve the performance of the transport sector. Shortly after engaging the President, he announced a sweeping set of reforms in the port and along the roads, including removing roadblocks and weighbridges (Hoffman and Kidenda, 2014). In addition, all Kenyan political parties sending members to the East African Legislative Assembly (EALA) have selected pro-business legislators, reflecting the influence of Kenyan business lobbies in promoting regional economic integration.³⁵

³² Many of the big trucking companies are owned by businessmen from ethnic minorities.

³³ Tanzania Freight Forwarders Association (TAFFA) Executive Council member Jimmy Mwalugelo argued that having Rwandan clearing and forwarding agents in Dar port would be "very risky for our country's security", opening the possibility that "landlocked countries might use this ... to pass dangerous goods at our ports." TAFFA President Stephen Ngatunga said: "All EAC landlocked member states are yearning to come to Dar es Salaam to do the clearing and forwarding tasks with their customs. What will locals do then?" (Veneranda Sumila 2014. 'We're excluded from policy making: Freight forwarders', *Citizen*, 26 June).

³⁴ There also exist two rival freight forwarding associations in Uganda, the Uganda Clearing Industry and Forwarding Association (UCIFA) and Uganda Freight Forwarders Association (UFFA).³⁴ Efforts to merge the two associations into one national association have failed. Such lack of cooperation undermines their influence on sector policy.

³⁵ Interview with EALA legislator, Nairobi, March 2014.

c) The historical preference of East African elites in road investments is increasingly channelled towards mega projects, in particular those involving railways development.

Ruling elites frequently have interests in road construction and port management, both sources of considerable rents. Ruling elite in Kenya and Tanzania have a stake in the trucking industry. This helps explain why roads have enjoyed more public funding than railways, and why there are no serious attempts to liberalise the regional trucking sector. The falling cost of trucking freight along the Mombasa-Kigali road, despite two border crossings, suggests that the efficiency of cross-border trade can be improved significantly with an elite buy-in, a dominant partner (Kenya) and a common interest in reducing transport costs.

The larger EAC-wide vision endorsed by recent meetings of EAC leaders involves multi-billion dollar infrastructure development projects to be financed by government borrowing and loans from China, the WB and other donors, to address the growing 'infrastructure deficit' that is said to be holding back both national and regional development.³⁶ Planned investments include upgrading existing ports, railway lines and roads and building new ones, an oil pipeline and hydro-plant worth many billions of US dollars. The proposed LAPSET (Lamu Port Southern Sudan-Ethiopia Transport Corridor) project consists of a new port facility in Lamu, a 3,250km Standard Gauge railway line, road, pipeline and fibre optic cable links from Kenya to Ethiopia, South Sudan and even Sudan. According to Kenya Railways: 'In the long-term, the Lamu Corridor will interface with the other proposed transcontinental corridors under the African Union programs to serve an extended hinterland.'³⁷

None of these proposed investments are to be funded from the EAC's US\$ 110m budget, which is: 'to enable the Secretariat, East African Legislative Assembly, East African Court of Justice, Lake Victoria Basin Commission, East African Science and Technology Commission, the East African Kiswahili Commission, the East African Health Research Commission, the East African Competition Authority, the Inter-University Council for East Africa (IUCEA) and the Lake Victoria Fisheries Organisation (LVFO) to discharge their mandate in 2015/2016.'³⁸

d) China's increasing role in the region has facilitated the focus on transport mega projects, despite many of them lacking a demonstrated economic rationale.

Finally, external sources of finance and policy advice are key components for a PEA of the transport sector. The full story is yet to be told as there is inadequate information available on key issues, including the degree of donor coordination and the importance of commercial interests of donor countries and financial institutions.

A 'game-changer' in this field is China, with large projects such as the US\$1.2 billion Mtwara-Dar gas pipeline almost completed in Tanzania (mid 2015), and others worth many billions of US dollars in ports, roads, mining, energy, housing, and other sectors at least at the Memorandum of Understanding stage. Though observers have applauded the arrival of a new source of large, long-term credits on the development aid scene, the more sceptical detect moral hazard in the aggressive behaviour of Chinese state corporations competing with each other to sell turn-key, tied projects to regimes with poor governance

³⁶ There is now a consensus among international development banks and agencies, think tanks and private sector investment promoters that Africa is suffering from an acute 'infrastructure deficit' reflecting unprecedented FDI in recent years across the continent and a history of underinvestment and poor maintenance of existing infrastructure.

³⁷ Kenya Railways (no date) Launch of the LAPPSETT project, http://krc.co.ke/?page_id=122.

³⁸ Marc Nkwame, 2015. 'EAC ministers endorse 204bn/- regional budget', *Daily News*, 15 March.

records. Projects may be significantly overpriced, over-specified, or of dubious economic priority. At least in Tanzania, the Chinese do not participate in donor coordination meetings.³⁹

One could argue that the growing influence of China in the region's transport infrastructure sector could represent a plausible alternative to the established EAC-western donor partnership discussed in this report. A Framework Agreement signed between the Chinese government and the EAC in November 2011 included infrastructure investments as part of a package covering trade, investment and technical cooperation (EAC Secretariat, 2011e). An upbeat interpretation of this story is that:

'The EAC is a good example of how regional co-operation has fostered a strategic relationship with China. There remains much scope for the EAC to use this mechanism to improve exports to China and encourage further Chinese FDI.'⁴⁰

A more nuanced view would include the financial and other risks associated with these huge investments in a context of growing external debt.

Of course, Chinese infrastructure investments are negotiated at the national, not the EAC, level. The SG story suggests that presidential politics and high level rent seeking rather than cost-benefit analysis drive this and other major projects, making the role of the EAC in regional transport policy advice and coordination a marginal one.

Increasingly, the economic rationale for some of these projects and their high cost are being challenged. A key issue is the nature of the interface between ruling elites and sources of finance for projects. One view is that donor agencies increasingly compete for aid market share, driven in particular by the rise of China as a major source of concessional loans.⁴¹ There is evidence suggesting elements of state capture and collusion between funding agencies and recipients in mutually beneficial projects that may not have been objectively appraised or subjected to strict cost-benefit analysis, and which carry considerable economic, financial and governance risks. It is also plausible that the ability of political elites to play donors off against each other has risen significantly in recent years, with the proliferation of external sources of finance and the rise of China as a major player.

e) Heavy donor involvement in the EAC Secretariat, investment projects, and TM-EA make it likely that EAC transport sector priorities are heavily influenced by external donors.⁴²

TMEA provides technical support to the EAC member states on transport infrastructural development and trade facilitation while also financing some modest strategic investments, including port access roads, one stop border posts, and short stretches of road in key cross-border locations (TMEA, 2014). Probably its biggest current financial commitment is to Dar es Salaam Port modernisation—worth US\$63m over three years—where it is part of a consortium that includes the WB and British aid (see below).⁴³ In addition to some small infrastructure work, including decongesting feeder roads into the port, TMEA finances

³⁹ Interview J, 25/03/14.

⁴⁰ Centre for Chinese Studies 2014. 'African Regional Economic Communities' engagement with China', Stellenbosch University, September.

⁴¹ According to Cooksey (2014: 8). 'If individual donors raise their aid commitments and transfers, they are less likely to raise corruption concerns that might threaten aid flows. If more donors are coming on stream, existing donors are unlikely to take steps that might reduce their 'market share'. Currently, both conditions hold.'

⁴² As argued in similar contexts by Gray, 2011, 2013, 2014.

⁴³ Interview TMEA staff, Dar es Salaam, 14/06/15.

consultants to the TPA on investment and business decisions, including further concessioning and eventual divesting.

With a total income for 2013-14 of US\$37m, TM-EA has substantial resources to contribute to East African integration, and claims some of the credit for the achievements reported below in reducing port handling and transit costs, and the reduction of NTBs (TMEA, 2014).

3.5. Conclusion – transport

Progress has been made to increase the efficiency of transport infrastructure in the EAC, particularly on the Northern Corridor. There has also been increased levels of cooperation in infrastructure management and infrastructure development (Standard Gauge Railway). While many of these developments align with EAC transport policies, they have been driven by interstate cooperation rather than EAC direction or guidance. A key example of this is the Standard Gauge Railway which it appears was added to the EAC Railways Masterplan after its completion to respond to interstate cooperation. The EAC Secretariat has very limited capacity to support common EAC transport policy, particularly through limited staff numbers as highlighted earlier in this section. As such, it appears unlikely that the EAC will play a more significant coordination role in the short term. In fact, the existing limited capacity within the EAC Secretariat for transport infrastructure coordination is leading to a number of parallel initiatives over which the EAC has not control or mandate – this includes the Northern Corridor Countries Initiative. That said, statements within EAC publications imply that the EAC Secretariat has a more ambitious vision for the future involving member states ceding some decision making power to the EAC over transport infrastructure planning and policy:

‘Although there are various examples of national agencies cooperating and pooling resources (e.g. Kenya-Uganda joint railway concession, integrated upper airspace management initiative, one-stop border posts), there is no indication that partner states intend relinquishing their ownership role to the EAC. They will therefore remain responsible for the planning of, investment in and operation of their transport assets, even if via contract. The role of the Community will be to guide partner states on the components of the transport system that are of regional importance. In principle, these are infrastructures associated with the identified regional corridors.’ (EAC, 2011: 113)⁴⁴

However, it is difficult to reconcile such supranational ambition with the current situation, and it is not clear that increased supranational authority would be beneficial for transport infrastructure. Current successes have emerged from cooperation and shared interests which the EAC Secretariat would struggle to foster in a supranational arrangement. Further, the existing major challenges to coordinated transport infrastructure are PEA factors at the national level over which the EAC Secretariat has no influence. This includes patronage constraining the efficiency of Dar es Salaam port, and EAC road management/development. There are also concerns that huge planned investments in infrastructure, including an EAC-wide Standard Gauge Railway, may add to the region’s debt burden without proving economically viable.

Lastly, to date, the success stories have reflected coordination on ‘software’ issues--harmonising regulations, reducing red-tape and NTBs--rather than on infrastructure development. The success of road, rail and other trans-border initiatives will depend in part on the continued perceived realisation of common interests among EAC partners.

⁴⁴ Emphasis added.

4. Trade Policy Monitoring

This section focuses on analysing the factors and actors that have affected EAC trade monitoring. Unlike the other report sections, this focuses on the specific issue of trade monitoring rather than the wider issue of trade. The section begins by explaining the rationale for this approach before outlining EAC trade policies, their implementation, and the actors and factors that have affected such implementation.

4.1.1. Why focus on monitoring to understand the dynamics of trade implementation?

The benefits promised by regional integration agreements do not flow automatically once they are signed. A great deal of planning, action and commitment of resources is required to make sure agreements are actually implemented. Developing countries have a notorious poor track record of effective and timely implementation of regional integration commitments.

Literature and analysis on policy implementation tends to focus on a top down approach, whereby policies/commitments in a regional agreement in the form of legally binding trade rules that are negotiated and formulated at the highest political level. Once the political negotiations and formulation is completed, policies are complemented by regulations and directives, which are handed 'down' to the administrative level of government for implementation. However, this 'top-down dichotomy of political policy formulation processes misses a very important part of what actually happened at the administrative level long after the negotiations and formulation process is completed: that is the bargaining and negotiation process with and among those on whom implementing action and policy outcomes depend, most notably government agents and private sector actors.

Box 3: EAC Trade overview

One of the root causes of the challenges in moving on to implementation of trade commitments is linked to the fact that negotiations tend to be a highly centralised process with a few key agencies sitting at the negotiation table while implementation of trade related commitments is a decentralised process which requires enlisting a host of sectoral ministries. Another cause of low implementation of regional commitments is also linked to the cross cutting nature of trade which de facto requires very strong incentives and institutional capacity to coordinate across agencies and across states. So, even when political leaders are truly committed to implement regional decisions, coordination and technocratic incentives and hurdles might prevent effective implementation. Setting in place a proper monitoring system may help address some of these problems.

Monitoring mechanisms are increasingly seen as an essential tool for supporting and

Trade integration is a central pillar of the EAC regional agenda and has been an issue around which many of the tensions between member countries have arisen. The EAC has an ambitious trade integration agenda at the forefront of which is the EAC Customs Union Protocol (the Protocol) launched on the 2nd of March 2004. It provides for the political vision as well as legal basis for the establishment and implementation of the EAC Customs Union. The Protocol aims to eliminate charges imposed on imports (including customs duties), adopt common rules of origin, remove non-tariff barriers (NTBs), and establish a common external tariff (CET), in an effort to deepen integration and stimulate economic prosperity in the region (Khorana et al, 2009). The Common Market (CM) Protocol was then adopted in 2010, which led to the Introduction of the Single Customs Territory in 2014. In March 2015, the East African Legislative Assembly passed the Elimination of Non-Tariff Barriers Act, providing a legal framework for the removal of NTBs under the CM Protocol. The said act got the assent of the region's heads of state in July 2015 paving way for the implementation of the EAC Common Market Protocol.

catylising implementation by monitoring, analysing, supporting, and adjusting implementation processes in response to identified challenges in real time. Monitoring mechanisms allow member states and peers to update available information and analysis on implementation progress and obstacles. Moreover, they allow the implementing authorities to respond to implementation progress and identified challenges through a further specification or redefinition of policy objectives, complementary rule-making, and tailor-made resource dedication over time in a flexible manner; and settle disputes over non-compliance informally where they occur. Such 'built-in' flexibility, in the form of strong and effective joint institutional mechanisms, is critical for the achievement of the complex and demanding reforms that are frequently mandated by modern regional integration agreements (Chauffour and Kleimann, 2013).

The importance of monitoring in ensuring implementation of trade agreements is seen in the case of the WTO and EU. In the EU accession countries, monitoring mechanisms have been a core element of the accession countries implementation plans and post accession monitoring mechanism. The new EU member states produce yearly monitoring reports, which serve as a way to check new member states status of compliance against commitment undertaken. Similar mechanisms have been set up at the WTO. A large and essential part of members' work in the WTO is to monitor how the agreements that have been negotiated are being implemented, looking at laws, measures adopted and other issues in the various councils and committees. All WTO members must also undergo periodic peer review of their trade policies and practices through the Trade Policy Review which containing reports by the WTO Secretariat and the country concerned and comments by other members in the meeting. More recently the WTO Secretariat has produced regular global trade monitoring reports on how countries are using trade measures overall in response to the changing economic climate. The independent Global Trade Alert framework has usefully complemented this monitoring and reporting system.⁴⁵

More importantly, in doing so, monitoring mechanisms have the potential to alter the dynamics and political economy around the implementation of regional trade and integration agreements.

This Chapter outlines the factors that have shaped the development and implementation of EAC trade monitoring mechanisms. First, features of the EAC's trade monitoring system are described.

4.2. Key characteristics of the EAC monitoring system

The EAC legal framework, and underlying dynamics, has heavily contributed to shape the institutional approach to monitoring regional integration in the EAC. National structures and incentives have in parallel influenced the approach to monitoring at national level.

4.2.1. What do EAC trade monitoring mechanisms look like?

The monitoring of regional integration process is enshrined in the EAC Treaty, its annexes and major economic integration protocols (see Box 1). Critically Article 71 empowers the Secretariat to undertake strategic planning, management, monitoring and evaluation of projects and programs for the development of the Community and regularly submit reports on activities of the Community to Council through the Coordination Committee. Monitoring is also enshrined in all the EAC Protocols (i.e. Customs Union, Common Market Protocol, and East African monitoring Union protocol). At national level the monitoring role falls under the remit of respective Ministries for East African Community (MEAC).

⁴⁵ <http://www.globaltradealert.org>

Box 4: Provisions for monitoring in EAC Treaty and Protocol

The Treaty recognises that monitoring and evaluating EAC projects and programmes is a shared responsibility at different levels and by different stakeholders:

Article 71 empowers the Secretariat to undertake strategic planning management, monitoring and evaluation of projects and programmes for the development of the Community and regularly submit reports on activities of the Community to Council through the Coordination Committee

Article! 14 (2) empowers the Council to “promote, monitor and keep constant review of the implementation of the programmes of the Community and ensure its proper functioning.

Article! 21 (b) empowers the Sectoral Councils to “monitor and keep under constant review the implementation of programmes of the Community within their respective sectors.

Article 18 empowers the Coordination Committee to “submit from time to time reports and recommendations to the council on the implementation of the Treaty.”

Article 49 (2c) gives the East African Legislative Assembly powers to consider Annual Reports of the activities of the Community, annual audit reports and any other reports referred to it by the Council.

EAC Common Market Protocol

Article 50 of the EAC Common Market Protocol requires the development of a framework for monitoring and evaluating the implementation of the protocol.

In March 2015, the East African Legislative Assembly passed the Elimination of Non-Tariff Barriers Act, providing a legal framework for the removal of NTBs under the CM Protocol. The said act got the assent of the region’s heads of state in July 2015 paving way for the implementation of the EAC Common Market Protocol. The aim is to provide a stronger basis for legal enforcement.

While developing a solid legal framework can be useful, the dynamics of implementation is unlikely to be strongly affected by it, at least in the short term. EAC member states are facing numerous challenges in domesticating regional decisions, policies, plans, laws, and regulations nationally due to lack of incentives, capacity, legal or policy coherence, as well as numerous political, economic and institutional constraints (EAC, 2011). Some of these challenges also extend to continental and/or international obligations that the member states are party to (GIZ, 2014). This is the case for instance for the overlapping membership issue referred to in Section 2, with Tanzania being a member of SADC whereas the other EAC countries are members of COMESA, both RECs being FTAs with a CU agenda. The COMESA-EAC-SADC Tripartite initiative is also meant to help remedy this situation by harmonizing these RECs agenda.

This challenge is further exacerbated by the fact that the EAC Treaty does not provide for the direct application of community law in national jurisdictions of the member states, and the Secretariat’s limited role in enforcing community Protocol and regulations. The direct application of community legal commitment can be in conflict with existing national laws or international legal obligations.

However, the Treaty also provides for flexibility, allowing for permanent exclusions of products from liberalisation, temporary exemptions and safeguards, and incorporating the principle of variable geometry. Accordingly, EAC member states are allowed to request for exceptions or more time when it comes to implementing regional decisions. This flexibility is a way to recognise specific difficulties or circumstances

that some EAC member states could encounter in the integration process. Such a pragmatic, flexible approach is also a means to accommodate opposing interests and thus broaden the consensus among EAC member states and actors, hence in some circumstances facilitating the adoption of a more ambitious integration agenda (Brenton and Hoffman, 2015). But excessive flexibility may also ultimately undermine the regional approach and weaken the incentive to implementing regional decisions, leading to greater disparity in the integration process (GIZ, 2014). It also complicates the monitoring process.

Since the new Elimination of Non-Tariff Barriers Act takes precedence over the national laws of member states, the business community the region would have now the opportunity to resolve existing NTBs through dispute resolution, with the possibility of sanctions for member states not observing directives by the Council of Ministers. Signalling is however an important dimension of this endeavour. It can also be argued that it would be difficult for any party to formally oppose the adoption of an enforcement mechanism of the EAC Common Market, which all have endorsed. Whether, and if so, how such enforcement mechanism will be used in practice remains to be seen. However, it is likely that it will reinforce incentives for greater transparency and monitoring of implementation.

EAC monitoring tools and corresponding institutional arrangements to support member states in tracking and monitoring progress on EAC trade integration include:

- a) East African Monitoring System (EAMS) which is managed at Regional Level by the EAC Secretariat and at National Level by the MEAC in respective member states.
- b) NTB Monitoring Committee (NMC) which oversee the EAC Time Bound Programme on non-Tariff barriers
- c) National Implementation Committee on Common Market Protocol EAC and Common Market which oversees the monitoring of the CMP via a an M&E Framework
- d) EAC Common Market Protocol Score Card, an independent monitoring conducted by the IFC with the support of TMEA.

The East African Monitoring System (EAMS) is the main monitoring tool in EAC, and thus the focus of this section. It is managed at the regional Level by the EAC Secretariat and at national level by the MEAC in respective member states. The EAMS is an online database and monitoring system, which helps the Secretariat, in collaboration with the national Ministries of EAC Affairs, to collect data on the implementation of decisions and directives made by the EAC Summit, Council of Ministers, and Sectoral Councils. Furthermore, it monitors the achievements of the Common Market and of the EAC Development Strategy, based on an agreed indicator framework.

4.2.2. How have EAC trade policy monitoring mechanisms been put in place?

Focussing on the EAC, EAMS has been slow to take off in the initial years, such that the 26th Council of Ministers' meeting in 2013 directed "Partner States to fully operationalise the web-based system and regularly update and report on the status of implementation of the Council decisions and directives". The impetus for this was to improve and institutionalise the timely monitoring and reporting on the implementation of regional commitments undertaken by partner states. However understanding the underlying causes, which have hindered the operationalization of the EAMS at member state level, requires looking beyond the technical and financial capacity.

Box 5: Burundi political unrest

The sub-sections below outline the factors that explain the development and implementation of these monitoring systems. While the focus is on EAC and the dynamics in EAC member states, Burundi receives particular attention in this analysis because of its special position in the region. As a later EAC member (Burundi joined EAC together with Rwanda in 2009 only), Burundi had to undertake and implement over a short period many EAC commitments. Burundi is also the EAC poorest country and one of the poorest countries in the world. Integrating EAC provided thus both opportunities to leverage development opportunities from regional integration as well as many challenges given its lack of resources, weak private sector base and very limited capacity. In this context, it is particularly interesting to understand how monitoring regional integration could become a strategic tool to alter the implementation dynamics. This perspective is usefully complemented and contrasted with the experience in other EAC countries.

This analysis in this section was written prior to the political unrest which was sparked by the Burundi's President renewal of a third term in office. The Regional Integration Agenda remained a priority for the government amidst serious challenges which have ensued following the political unrest and the withdrawal of a number of embassy representation and Development partners as well as the position taken by the Community and the EAC secretariat. The EAC member states have during the last few months played a strong role in mediating between the ruling party and opposition. Amidst rumours of Burundi pulling out of the EAC, we have seen yet a stronger reliance of the small politically fragile state of Burundi on the EAC as a means of providing the country with an open channel to interact with the international community. Whilst the topic of EAC monitoring may momentarily take a backseat amidst the pressing political issues of governance and democracy, the legitimacy of the EAC is more than ever relevant.

4.3. Actors and incentives

The EAC's mandate and capacity limits its ability to link information from monitoring to enforcement/implementation

The EAC Secretariat, which is the executive organ of the EAC is only empowered to put in place the monitoring mechanism and report on status of implementation by collating information from member state. As such, it has no power or authority to check, control or sanction member states who are not complying with commitments. The leverage which the EAC Secretariat has at its disposal is mainly peer group pressure, by making visible the performance of each member state. At an informal level, high-level consultation between Heads of State and the high-level management of the EAC Secretariat (i.e. office of the Secretary General) has often been used as a way to unblock implementation issues between member states.

The EAC Deputy Secretary-General in charge of Political Federation very adequately identified the root cause of the poor implementation to structural issues linked to the level of accountability and locus of responsibility between the Member States and the EAC Secretariat. Put simply the EAC Secretariat's mandate ends at declarations, while it is up to governments to implement' and added to this, the EAC Secretariat has no means of following up with the institutions responsible for enforcement. Right from the EAC Secretariat to the MEAC, inherent structural, technical and managerial weaknesses hamper the process of transposition, mainstreaming and implementation and it is unlikely that things will move faster until these missing links are fixed.

In the initial phase of the roll out of EAMS, the EAC Secretariat had limited capacity to coordinate the set-up of EAMS at the national level. This was partly because the set-up of national EAMS was being managed at national level through donor-funded resources under for example the Trade Mark East Africa (TMEA) national programmes. The EAC Secretariat was not as such part of the process and thus could exercise only very limited influence or guidance. This led to information not flowing freely across EAC member states and the Secretariat, thus hindering the peer review and regional uptake of national monitoring processes. Kenya, Uganda, Burundi and Rwanda all have benefited from Technical Assistance to set up their respective national EAMS. Besides, the EAC Secretariat is fully dependent on the information provided by the member states. So, while setting in place the EAMS framework was key to gather monitoring data, it relies on the appropriate structures to be in place at national levels. The EAC Secretariat mainly played a coordination and facilitation role among member states.

A centralised and compartmentalised approach to monitoring restricts information sharing, coordination and cooperation among member states

For reasons of competition, the consultants recruited at national level to support member states monitoring systems have tended to not share their methodology, codes and approach, which has resulted in each of the member states developing its own, different systems, and failing to benefit from lessons learnt across countries.

Burundi provides a telling illustration of this. In 2012 TMEA office Burundi together with the Ministry to the Presidency for East African in Burundi (MPACE) initiated a tripartite meeting with the EAC Secretariat, the EAMS TA Burundi and the TMEA office. This tripartite meeting opened up a number of very important issues, which until then had remained dormant; i.e. the solutions and hardware specification, as proposed by the consultant, were over specified and failed to incorporate existing information available from the EAC Secretariat. Lack of transparency and information retention as a result of vested interest ('knowledge is power'), was impeding the TA provided, as it often does the work of officials in government. The facilitating role of TMEA and MPACE contributed to redress this situation. A number of high level regional meetings have been organised since, to share the experience and practice (e.g. organisational structure, communication tools, case study) of Burundi and other EAC member states. The brokering role played by an external actor such as TMEA, combined with close engagement with the MPACE, to foster ownership and buy-in, contributed to a more cooperative environment, thus diluting incentives to retain information and produce original but overly complex solutions.

Considerable resources has been invested by TMEA in the design of the EAMS central and at country level, illustrating again the critical role that an external actor can play in regional integration processes. However, these systems have not been working together and each member state has been crafting its own solutions, leading to development of national EAMS, which are often not functioning adequately. Some of the efforts have remained a one-shot efforts, however this has recently changed with the design of the EAMS Burundi which through its simple and cost effective solution has led to some initial exchange of experience between member states and the EAC Secretariat.

One conclusion is that there is certainly a potential to make the systems more sustained efforts through a better management of the monitoring systems and more openness and sharing of information. We have seen that fragmented design of the various systems at member state level and a built in completion between consultants involved in the design has played a huge role in impeding sharing and cross fertilization between systems.

National parliaments have generally played a limited role in EAC trade policy monitoring in all member states

The role of national parliament with respect to monitoring the regional integration process is weak in all member states. This can often be related to the role of national parliaments in national setting, and the tendency to focus on domestic issues, with more regional issues being perceived as of less direct interest and subject to less direct influence by national representatives and their constituency.

However, each member state has in place an EAC regional Integration parliamentary committee, which is set up to look into the EAC affairs. The attention has often been on general policy debates and resolutions on key regional policies, as well as budgetary issues when relevant. Implementation has generally attracted less attention, reflecting a low level of priorities at national political level. This is partly explained by the importance of Heads of State's Summits in driving the EAC agenda and limited prominence, until more recently, given to implementation issues among national politicians. In the case of Kenya, the national parliament has played only limited oversight (Odongo, 2014). However, the 2013 National Regional Integration Strategy and Implementation Plan for Kenya foresees the institutionalization of the oversight role of the Parliament on regional matters. In parallel, Kenya private sector interests on regional issues seem also to have gained greater traction in Kenyan's Parliaments.⁴⁶ In the case of Uganda, a Parliamentary committee looks specifically into the implementation EAC regional Integration implementation issues. This has played an important role in fast tracking transposition and in getting the EAMS Uganda operationalised. This seems to reflect the importance given by national politicians to effectively implementing regional integration as a means to foster Uganda's economic transformation.

In the case of Burundi the role of Parliament has been very weak in providing leadership on regional integration matters. This partly reflects some of the weaknesses of parliament in general and its focus on domestic affairs and internal politics. It also reflects the state of national policy, with the relatively lower importance that Burundi has paid to regional integration as part of its national strategy for growth, at least initially, as compared to countries like Kenya and Rwanda. Up until the second Burundi's Poverty Reduction Strategy (Cadre Stratégique de Croissance et de Lutte contre la Pauvreté - CSLP II), regional integration was not even part of the national strategy.

National-level EAC monitoring can be more effective when it is the responsibility of a ministry or department that is particularly powerful or effective in inter-ministerial manoeuvring, however it can also restrict the involvement of other ministries and stakeholders

Institutional structures and the influence of domestic stakeholders, in this case mainly private sector, tend to explain the role played by Ministries of East African Community. The EAC trade integration commitments are often under the responsibility of the Ministry also in charge of trade issues, while the MEAC have generally a more coordinating role.

This is the case in Rwanda, where the Ministry of Trade and Commerce experiences relative power and is in close contact with private sector actors. By contrast, the Ministry of the East African Community has the more coordinating role. It has no power to ensure the implementation of EAC commitments, which depends on other ministries. It focuses then on monitoring, building capacity and raising awareness (Newfarmer et al. 2013).

⁴⁶ See also Kass Online, *First Joint KEPSA Meeting with EALA and Parliamentary Committee on Regional Integration*, 30 July 2014 <http://kassfm.co.ke/home/index.php/component/k2/item/990-first-joint-kepsa-meeting-with-eala-and-parliamentary-committee-on-regional-intergration.html>

By contrast, in Kenya, these two roles are combined, as the Ministry of East African Affairs, Commerce and Tourism deals with integration issues and international trade. This Ministry has a relatively strong power in the government structure, given its prominence in combining trade and integration issues, and monitoring implementation issues. Private sector interests have also significant clout on Kenya's economic issues and trade and integration in particular.

In Burundi the dynamics in regional integration leadership lies with the MEAC (Ministère à la Présidence chargé des Affaires de la Communauté Est Africaine- MPACEA), which is seen as the main driver for EAC regional integration affairs. One of the underlying factors, which has contributed to the MEAC taking on an active role in spearheading the regional integration monitoring system in Burundi, has been the fact that the MEAC is directly under the office of the President and as such has to report regularly on the status of EAC implementation. This has created the required push for the MEAC to provide leadership in rolling out the EAMS. There is also the added responsibility, which is incumbent on the Ministry, to prepare the annual EAMS report.

The challenge of setting up a dedicated institution was both in terms of financial and of human capacity. But the political dynamic was paramount. The MEAC was initially placed under the Ministry of Foreign Affairs. The importance of the MEAC in Burundi grew exponentially as the government identified trade and regional integration as one of its priority economic growth transmission channels. The Government gradually saw regional integration not only as a political signal towards its neighbours, but also as a way to lock in reforms and carry out the structural transformation which it had planned to undertake as part of its national plan and its objective of boosting economic growth and development. So, it is not the institutional setting that fostered the importance of regional integration and monitoring implementation in Burundi. Instead, it is the deliberate political strategy of pushing economic reform through the regional integration agenda that influenced the institutional setting for addressing EAC issues in Burundi. The MEAC was seen as a potential catalyst for pushing ahead and coordinating the reform agenda.

Another force at play was that as a relatively new institution, the MEAC in Burundi was faced with a huge credibility deficit *vis-à-vis* sectoral ministries. As a mere coordination ministry, it was devoid of any real power. This was further exacerbated by the small and weak private sector interest in the country, which has *de facto* no significant influence on policy making (contrary to the situation in Kenya for instance).

In order to increase its political clout within the government, the MEAC lobbied very strongly through the president's office to have the Ministry reporting directly to the President's office. This was made possible by an important factor: personal connections. Both MEAC Ministers in place from 2010 up to date were very strongly connected to the President. As such, they had a vantage position and access to the president's office. The placing of the MEAC under the office of 2nd Vice President was a deliberate move to give the MEAC the credibility and authority it needed to execute its mandate, i.e. coordination across Ministries, Department and Agencies (MDA) and monitoring the implementation of regional integration.

In addition, other forces were also at play. From the technocratic/administrative level, two main incentives were at play. First, raising the profile of the Ministry allowed officials to dispense their mandate more efficiently but also raised their personal profile within the government machinery. Second, reporting directly to the President's office put MEAC officials on a better position for negotiating higher salaries and run financial incentives.

In 2013 the MCEA was placed under the Office of the President and underwent a significant reform process. However, the increased responsibility and clout of the MEAC, has also had an adverse effect in

that it has not provided in the initial phases the impetus for the MEAC to consult widely with implementing ministries and private sector in establishing the EAMS and in collating information. So, while impetus from the Head of State is crucial to foster and implement regional integration processes, it is not sufficient. Without the active consultation and participation of lead implementing ministries and the involvement of the private sector, the implementation and monitoring system cannot be properly operationalised. MEAC had to redesign the centralised approach to the operation of EAMS to set up a decentralised system, which gives different stakeholder clear role and responsibility, resources and visibility for the work achieved. A number of informal incentive systems have also been put in place to ensure that various ministries, departments and agencies take on their role and responsibility with respect to their specific mandate in EAC integration.

EAMS has had limited private sector involvement due to its high-level government focus which means the private sector have little to gain from participation, which contrasts with the Non-Tariff Barrier Committee (NMC) within which the private sector is more active given potential benefits.

The private sector's participation in the Non Tariff Barrier Committee (NMC) can be seen in all member states. The NMC has been very active in all member states in so far that this is a joint government/private sector committee and the issues at hand are purely of commercial interest which affect business in their day to day operation.

In contrast, private sector participation in EAMs has been very weak. The EAMS has been mainly driven by government and the EAC Secretariat and has seen less participation from private sector. One of the reasons for this can be attributed to the fact that EAMS is an ex post monitoring tool and does not provide for a forum for solving bottlenecks, contrary to what the NMC does.

The fact that EAMS is seen mainly as a reporting tool for high level government has in fact been one of the impediments to the effective operationalisation of EAMS Burundi when compared to the functioning of the NMC. The lack of pressure from the private sector and demand for accountability by the private sector to government authorities has resulted in slower pace of implementation of the EAMS Burundi. EAMS Burundi has in fact taken close to 4 years to set up with a number of delays due partly to lack of funding but mostly due to the lack of clear demand from stakeholders for stronger accountability by government authorities with respect to the implementation of EAC regional Commitment. When compared to Kenya which has a stronger and more organised private sector representation, we can see how push from the Private Sector has contributed to early take up and institutionalisation of EAMS. But even in Kenya, private sector does not want to waste its time and energy in closely monitoring EAC policy implementations, along the EAMS, and prefers to focus its attention on NTBs that can be more directly addressed.

4.4. Conclusions on trade policy monitoring

The role of monitoring EAC regional integration process has increasingly been seen by the member states as an important part of the implementation dynamics of EAC commitments.

Monitoring serves an obvious information and awareness function, shedding light on the state of implementation, achievements and bottlenecks in the EAC integration agenda. A series of monitoring tools have been devised at EAC level and at country level to this effect.

Monitoring structures and efforts are the results of evolving incentives and interests regarding the implementation drives, and in turn can affect implementation incentives.

In EAC, monitoring is a formal obligation under the EAC Treaty and Protocols. But the EAC Secretariat mandate and capacity has limited its ability to develop a coherent monitoring framework and link information from monitoring to enforcement and implementation at national level. It is only with the increased interest by some EAC member states for effective EAC trade integration, driven by political motives (like in Burundi) or more private sector interests (like in Kenya), that monitoring issues gained greater attention. With the strong support of an external actor, such as TMEA, and only when in closer cooperation with the EAC Secretariat and respective member states, an more effective EAC monitoring system was put in place.

The role and power of the Ministry of EAC, required in all EAC member states, depends on the domestic institutional setting and interests structures in each country. MEAC generally have a coordination role, but do not necessarily have much political power. In Rwanda, Ministry in charge of trade makes most of the decisions regarding trade integration, whereas the MEAC's role is limited to coordination and reporting mainly. In Kenya, the trade and EAC coordination have been place under a single ministry. This reflects the prominence of trade interests at play, both from private sector and policy-making perspectives. In Burundi, the MEAC was initially under the Ministry of Foreign Affairs, and very weak. The decision to put the MEAC under the direct authority of the President reflects both the increased importance given to EAC integration as a way to foster domestic reforms and enhance political credibility, as well as the successful efforts of the MEAC to gain additional power (including through personal connections).

Monitoring endeavours in turn can affect the dynamics of implementation, by highlighting implementation deficits, providing a tool to sectoral ministries to show results, and private sector actors (notably in Kenya and Uganda) to hold domestic policy makers accountable.

Monitoring regional integration is far more than a simple technical issue. And while a monitoring mechanism is not sufficient condition to stimulate implementation of regional trade commitments, it reflects and influences important political economy dynamics of integration, at national and regional level.

Finally we have seen that in the area of NTB and the role of the NMC, the private sector in all countries and particularly in Kenya and Uganda have placed a significant role is pushing ahead from a simple monitoring system to a more comprehensive model, with the NTB Act 2015 which is rooted in key principle of compliance and enforcement.

5. Overall conclusions

Summary

This report has sought to understand the main political-economic actors and factors that shape how the EAC sets and implements its agenda. Focusing on the areas of transport integration and the trade monitoring of regional integration implementation in trade policy, and using the five lenses described in the introduction to this report, it has tried to identify the most important within-country and between-country historical, structural and institutional factors, and provide evidence on how these influence the EAC and its organisations.

Although this report cannot be exhaustive, the analysis points to a number of important findings from the selected case studies to illustrate important political economy dynamics at play in the region. This final section also draws some implications, for stakeholders – primarily donors – that seek to support regional dynamics through regional organisations and beyond.

Key findings

In recent years EAC policies have prioritised economic growth through trade related system reforms such as the Customs Territory and Common Market, and infrastructure development through cooperation over regional railway infrastructure and improving the efficiency of regional transport corridors. Overall, the implementation of EAC integration policies has been progressing relatively successfully and the EAC has made more linear progress than Sub-Saharan Africa's other seven RECs.

Recent acceleration of EAC policy implementation, particularly around trade related system reforms, and infrastructure development, can be seen as a response to the coalescing of a number of shared interests among EAC member states, particularly Kenya, Uganda and Rwanda. This includes the emergence of shared economic incentives for integration among several EAC members, Kenya has an interest in ensuring an export market for its private sector, and establishing Mombasa as the region's dominant port, and Uganda and Rwanda have an interest in securing import channels and improving the cost and time involved in transport imports from the coast. The Government of Tanzania has been reluctant to participate in this accelerated integration but has not been able to constrain the efforts of Kenya, Uganda and Rwanda. The increasing availability of finance from China has enabled EAC member states to start to realise their shared interest in pursuing an ambitious infrastructure development agenda to address the infrastructure deficit throughout the region, despite limited support from Western donors. Given the proportionally greater interest that Kenya has in accelerated EAC integration, it has been leading these efforts and carrying a larger share of the integration burden. However, Kenyan-led parallel initiatives such as the Northern Corridor Countries Initiative occur with no oversight or control from the EAC Secretariat and could be seen to undermine the EAC's role.

Despite the progress outlined above, policies have encountered implementation challenges at member state level, in particular implementation of the Common Market has been constrained by exemptions, bans and non-tariff barriers. With the exception of Rwanda, political elites in EAC states lack centralised control over rents and the powers to effectively coordinate reforms, including those related to EAC integration for which there can be limited domestic constituency. A number of EAC policies have hence been prone to lengthy delays and blockages to implementation by divergent interests within member states. This is most evident in the implementation deficit of the customs union. Partner states have brought in various restrictions on the free movement of goods, in particular sectors which some allege are tied to vested interests. Bureaucracies in most EAC states are not subject to centralised control or incentivised along performance based lines. This is reflected in partner states failures in overcoming many non-tariff barriers

(NTBs). Despite an extensive programme aiming to reduce the costs and time involved with transporting goods along the two corridors, results have so far been limited. This is due to various low level systems of rent extraction involving customs agents, police, private groups and politicians at ports, custom check points and weighbridges across the corridors.

EAC has limited capacity and authority to address and monitor these implementation challenges as a result of its institutional challenges. EAC institutional capacity is low and EAC institutional arrangements have not been updated to take into consideration the increasing scope of the EAC goals. It appears that member states are not in agreement over proposed institutional arrangements that would provide more capacity but also would give the EAC more supranational authority, as well as carrying increased financial obligations. The EAC is and remains strongly an intergovernmental organisation.

More specifically, the study points to the importance of structural factors such as geography and shared historical experiences that continue to have an on-going influence on EAC policy choices and the effectiveness of EAC policy implementation. For example; a collective threat of water shortages and the consequent power constraints fosters collective action to address dated policy documents that disadvantage EAC member states and privilege Egypt and Sudan; a shared identity and history contributes to the prioritisation of policies that enable the free movement of people; a shared infrastructure deficit contributes to collective action to initiate regional infrastructure projects; and instability in Somalia and South Sudan has led to cooperation over regional security policy and initiatives.

The study also highlights how a large number of formal rules governing the EAC have not been institutionalised. This has restricted the ability of the EAC to shape its policy agenda, and resulted in a number of EAC policies being packaged as regional when they are actually national in focus – for example, the EAC Industrialisation Policy (2012). There appear to be conflicting opinions within the EAC and its member states on the issue of whether the EAC should have supranational authority. This divergence in views has delayed much needed institutional reforms within the EAC aimed at increasing the capacity of the organisation.

Monitoring of trade policy implementation as part of regional integration commitments is a formal obligation under the EAC Treaty and Protocols. However by its nature, it requires the compliance of member states to provide the required information. As such, it is only with the increased interest by some EAC member states for effective EAC trade integration, driven by political motives (like in Burundi) or more private sector interests (like in Kenya), that monitoring issues gained greater attention. Further, trade monitoring demands capacity within the EAC Secretariat, and TMEA support to build this capacity in the EAC was critical.

Continued sustained progress towards EAC integration largely depends on Kenya as a regional hegemon and the continued interest that the Kenyan government and private sector have in deeper integration. However, one of the reasons the original East African Community (EAC) collapsed in 1977 was Kenya's dominance. As such there is an important balance between driving and dominating EAC integration.

In sectors such as transport, the EAC's role is limited to policy advice and undertaking technical studies rather than coordinating national policies. As such, many achievements in regional transport have been the result of national level decision-making and interstate coordination that has occurred independently of EAC transport sector policies. The political influence of trucking firms in EAC states led to a historic focus on roads, but this has increasingly given way to an emphasis on railway development. Key drivers of these new priorities include an increased focus on private sector development in Kenya and Uganda, large-scale

patronage opportunities from railway tenders, and Chinese financing to facilitate these trends. This creates an opportunity for the EAC to facilitate railway development given its regional nature.

Patronage and a per diems culture in the EAC create incentives for EAC officials and member state representatives which are detrimental to the organisation's effectiveness. Disputes over the distribution of these allowances have caused considerable tension in the Assembly and contributed to a protracted conflict between some assembly members and the Speaker last year, which culminated in her impeachment (EALA, 2014).

Private sector actors can both support and constrain EAC integration but remain a key driver of effective implementation and deeper integration. In particular, the Kenyan private sector's regional expansion in the finance, telecommunications, and retail sectors is contributing to a stronger and better-connected regional economy. At the same time, while formal processes for consulting civil society organisations (CSOs), private sector organisations and other non-state actors are weak, instead power is narrowly concentrated in the EAC Summit and Council. As such, there are opportunities to strengthen policy implementation by engaging the private sector in the development process.

In terms of external factors, donor support to the EAC is important but risks creating donor dependency. In 2013/14 traditional donors contributed over 65 per cent of the budget of the EAC which can lead to policies which reflect donor agenda's but have limited domestic constituency in the EAC, and thus, are not implemented

China's increasing role in the region has facilitated the focus on transport mega projects, despite many of them lacking a demonstrable economic rationale. However, given the primacy of national level infrastructure investment decisions, China is primarily engaging with national governments rather than the EAC.

Implications

The analysis highlights the importance of setting appropriate levels of ambition in regional processes and the challenge of trying to alter incentives rather than adapting to existing interests, perhaps illustrated best by the accelerated integration efforts of the sub-group of Northern corridor countries. But this initiative represents both an opportunity to drive integration, as well as a risk that it could result in divisions within the EAC. This suggests a need for policymakers to strike a balance between accelerated coordination, which can be driven by a limited number of states, and ensuring cohesion in the wider group of EAC states. It also suggests an opportunity for support strategies to support accelerated coordination efforts by regional sub-groups on the basis that adapting policy to such informal groupings can create real progress towards regional integration. However, this also requires a deep understanding of the underlying interests, incentives and relationship dynamics between states to avoid fostering tensions.

Interests have most clearly aligned among EAC countries around new large-scale regional infrastructure, with Chinese financing. However, it was also highlighted that much of such large-scale infrastructure development happens outside EAC structures and plans. This suggests a potential role for regional policy-makers and their supporters in regionally coordinating investment decisions with national governments and other actors where political interest is strong, and brokering joint arrangements with financiers such as Chinese banks where appropriate– for example, the EAC could play a role coordinating the concessions on the Standard Gauge Railway when it is put in place.

Growing private sector interest in EAC integration, particularly within the Kenyan private sector might be built upon by working to strengthen the private sector consultation processes. While general levels of formal private sector engagement in EAC processes are low, the EABC appears to have achieved a range of results which could be built upon for further progress in regionalisation. This would require the EAC and traditional donors to adapt approaches to private sector engagement, being cognisant of opposing interests which may emerge both within and between countries, e.g. from the Tanzanian private sector.

The study pointed to an apparent contradiction between formal EAC policy documents which describe the EAC Secretariat as a coordination, support, implementation and monitoring body, and others which describe the EAC's role solely in terms of support and coordination. This is linked to the protracted discussions over EAC institutional arrangements where there is a debate over whether the organisation should have more authority. Noting that institutional form often does not translate into genuine functions, policy-makers should be cautious about supporting institutional capacity building initiatives before being clear on where it has a clear functional added value.

Beyond this, donor support may create incentives for signalling intent, but encouraging informal practices that potentially undermine the ability of the EAC to undertake its mandate. These include the risk that donor funding to the EAC creates a dependency on such funds and disincentivises member state financial contributions, and the risk that donor funding feeds 'the per diems culture'. This suggests the need for this to be taken explicit account of in policy design to avoid further dependency on donor funds within the EAC. Current incentive structures might be 'avoided' by working to improve revenue generation from member states to address potential dependencies on donor funding, though again this would need to build on an in-depth understanding of existing interests and incentives.

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