

**ASSESSING THE EFFECTIVENESS OF THE EAST AFRICAN COMMUNITY
COMMON MARKET IN PROMOTING FREE MOVEMENT OF GOODS AND
SERVICES: A CASE STUDY OF UGANDA, KENYA AND RWANDA (2010 TO
2023)**

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**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF
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DECLARATION

I, BALAAM. WAMUKOTA, hereby declare that this dissertation titled, *Assessing the effectiveness of the East African Community Common Market in promoting free movement of goods and services*, is my own original work and has not been submitted to any other university or institution of higher learning for the award of a degree or any other academic qualification.

Where people's work and ideas or quotations have been used, they have been duly acknowledged and referenced in accordance to OSCOLA rules of referencing recognized in Uganda Christian University.

This dissertation is submitted as an elective course unit, in fulfillment of a Bachelor of Law Degree at UCU.



08/06/2026

Supervisor's approval

I hereby certify that I have supervised duly the preparation of the above dissertation and it is submitted with my full approval and knowledge.



08 JUNE 2026

Signature

Date

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ABSTRACT

This dissertation examines the effectiveness of the EAC Common Market in promoting the free movement of goods and services, with a case study focus on Uganda, Kenya, and Rwanda. This study thus investigates whether the legal provisions under the EAC treaty and Common Market Protocol have been effectively implemented to facilitate cross border trade and service provision.

The Research adopts qualitative, legal doctrinal approach, through analyzing relevant treaties, statutes and case law supplemented by empirical insights from the EAC secretariat report on trade data. It examines both the legal framework and its practical implementation by member states, of the EAC regional bloc, while assessing challenges that impede that impede the free movement of goods and services. The findings indicate that the Common Market Protocol is the second pillar to regional integration established in 2010, by the EAC summit, upon establishment of the Customs Union in 2006. The Common Market Protocol provides a comprehensive legal structure to achieve the objectives of The Treaty Establishing the East African Community. It is analyzed that the effectiveness is limited by Non-Tariff Barriers, inconsistent enforcement of rules, for example Buy Uganda Build Uganda that favors only Ugandan goods and services, complex rules of origin for example goods in the Northern Corridor Transit Route that has a lot of restrictions through the fragmented licenses.

Uganda incorporates the provisions of the EAC and Common Market Protocol through the East African Act of 2002, Cap 187, Kenya does so through the Treaty for the Establishment of the East African Community Act Cap. 4C, and Rwanda has Treaty of Accession of the Republic of Rwanda into the East African Community. This reflects the countries' compliance with the Act though partial reflects administrative and institutional constraints that hinder the realization of a fully integrated regional market. The study concludes that the Common Market is advanced stage in achieving The African Continental Free Trade Area that intends to attain Africa as a single regional bloc through the regional blocs and an actual path to the realization of Agenda 2063, of the African Union. Therefore there are so many written laws that law lack implementation due to multiple membership of several African states belonging to regional blocs with similar goals, lack of sensitization amongst people leading insufficient participation, and weak institutions like the East African Court of Justice that lacks an enforcement mechanism and lacks defined jurisdiction, through express legal provisions.

DEDICATION

This dissertation is dedicated to my enduring academic interest in regional academic integration and the legal frameworks governing the East African Common Market. It reflects a focused scholarly engagement with the principles, norms and scholarly mechanisms designed to promote the free movement of goods and services amongst partner states. Therefore the study is further dedicated to the continued development of legal scholarships and policy discourse aimed at strengthening the effectiveness, coherence and enforceability of the EAC Common Market regime.

ACKNOWLEDGEMENT

I would like to thank my supervisor, *Mr. Elau Emmanuel*, for guidance and feedback throughout the research and dissertation writing. Appreciation also goes to the authors and reports of the East African Community, with great informed data.

LIST OF ABBREVIATIONS

AfCTA----- African Continental Free Trade Area.

CU-----Customs Union.

EAC-----East African Community.

EACJ-----East African Court of Justice.

FTA-----Free Trade Area.

GATS-----General Agreement on Trade.

GATT-----General Agreement on Trade in Services.

NTB-----Non- Tariff Barrier.

OSBS-----One-Stop Border Post.

REC-----Regional Economic Community

TFEU-----Treaty on the Functioning of the European Union.

UNECA-----United Nations Economic Commission for Africa.

UN-----United Nations.

WTO-----World Trade Organization.

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CHAPTER ONE

INTRODUCTION

Regional Integration in East Africa has emerged as key pillar of trade facilitation and sustainable development in through the African Continental Free Trade Area Agreement, that intends to create big single markets of the region that shall expand to the entire Africa. In East Africa, integration process is governed by the Treaty for the Establishment of the East African Community (EAC), signed in 1999 and entered into force in 2000. The treaty outlines the objectives of the community under article 5(1)¹ which provides that partner States undertake to deepen and widen cooperation in political, economic, social and cultural fields for their mutual benefit. The treaty envisions progressive integration through four main stages which are Customs Union, Common Market, Monetary Union, and a Political Federation. The East African Community Common Market represents the second pillar of the integration agenda, it was formalized by the Protocol on the Establishment of the East African Community Common Market, signed on 20th November 2009, and it entered into force on 1st July 2010. Article 4² states the intention to widen and deepen cooperation among Partner States in economic and social fields for the benefit of the citizens of the community, through opening up room for free movement of goods and services.

The Treaty for the Establishment of the EAC under 76(1)³ mandates the Partner States to establish among themselves a Common Market for the free movement of goods, and services with in the region through the creation of efficient policies , to create room for investment, collective bargaining and creation of a wider market.

Additionally, the East African Community Common Market Scorecard (2021)⁴, jointly published by the EAC Secretariat and World Bank, stated that only 60% of the commitments made under the protocol, had been implemented by partner states , due to existence of a Common External Tariff, and uniform system of internal taxation. The report states that this is greatly implemented by

¹ The Treaty for the Establishment of the East African Community.

² The Protocol on the Establishment of the East African Community Common Market.

³ The Treaty for the Establishment of the East African Community.

⁴<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eac.int/immigration/labour-and-employment/eac-common-market-scorecard&ved=2ahUKEwib6-6urv2QAxXmxQIHHCXIBUIQFnoECB8QAQ&usg=AOvVaw2ZX2GDLwrK3oEclAx5rEJW>

Uganda, Kenya and Rwanda, that they have an extra mile in creating the Coalition Of the Willing⁵, in June 2013, to bypass the slow implementation of the Common Market Protocol. The report further stated the persistent challenges including Non-Tariff Barriers, unharmonized domestic laws and limited mutual recognition of professional qualifications, all which hinder the realization of the Protocol objectives and sluggish implementation.

To add to that, the EAC Secretariat Annual Report (2022)⁶ observed that while trade volumes within the region have increased modestly, intra EAC trade still accounts for less than 15% of total trade, indicating that the Common Market's potential to stimulate regional economic growth remains underexploited. This attributed to both legal and institutional challenges, including inconsistent national implementation. In the case of Anyang' Nyong'o and others V Attorney General of Kenya and Others⁷, the East African Court of Justice stated emphasized that partner states are bound by the principles of the Treaty and must exercise their powers in good faith to give effect to the objectives of the Community.

BACKGROUND TO THE STUDY

Regional economic integration has long been recognised as a strategic tool for accelerating economic growth and fostering development among African states. In East Africa, the desire for integration predates independence, with historical arrangements such as the East African High Commission (1948–1961) and the East African Community of 1967–1977, which established a framework for cooperation in trade, transport, and communications.

⁵<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://qz.com/africa/687870/east-africas-economic-coalition-of-the-willing-is-falling-apart&ved=2ahUKEwi22anDsv2QAxUdVaQEhf-fOzAQFnoECBsQAQ&usg=AOvVaw3EL4oWHTrcSPMWTpUsad8I>

⁶https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eac.int/documents/category/annual-report&ved=2ahUKEwjpgvyds_2QAxX_TqQEHezjEe4QFnoECBgQAQ&usg=AOvVaw33GGg_t7vkX3THZJLwdxTu

⁷EACJ Ref. No. 1 of 2006.

The collapse of the first East African Community was in 1977, primarily due to political and economic disparities amongst the memberstates highlighted the need for greater integration that's united jointly. Following years of diplomatic engagement, a new Treaty for the Establishment of the East African Community (1999) was signed and entered into force on 7 July 2000, marking the rebirth of the EAC. The Treaty establishes under Article 2(1)⁸ that “the Contracting Parties establish among themselves an East African Community,” while Article 5(1)⁹ outlines the broad objective of the Community as “to widen and deepen cooperation among Partner States in political, economic, social, and cultural fields for their mutual benefit” (EAC Treaty, 1999). To achieve this, Article 5(2)¹⁰ of the Treaty provides for the progressive establishment of a Customs Union, a Common Market, a Monetary Union, and ultimately a Political Federation. These integration stages were designed to be sequential, with each phase building upon the successes of the preceding one. The EAC Customs Union was launched in 2005, and the Common Market followed in 2010, formalized by the Protocol on the Establishment of the East African Community Common Market (2009).

The Common Market Protocol, under Article 2¹¹ provides that partner states hereby establish among themselves the East African Community Common Market Protocol. Further more, article 4¹² outlines the objectives of the common market as the acceleration of economic growth and development through the removal of restrictions on the free movement of goods and services. The Protocol is thus the cornerstone of regional economic integration, aiming to transform the EAC into a single economic space. It's fundamental principles include non-discrimination, equal treatment, and reciprocity. Under Article 6¹³, the Protocol guarantees the free movement of goods among Partner States and obliges them to eliminate existing restrictions and refrain from introducing new ones that impede trade.

Similarly, Article 16¹⁴ commits states to ensuring free movement of goods services and it calls for mutual recognition of the professional qualifications, licensing and certification.

⁸ The Treaty for the Establishment of the East African Community.

⁹ The Treaty for the Establishment of the East African Community.

¹⁰ The Treaty for the Establishment of the East African Community.

¹¹ The Treaty for the Establishment of the East African Community.

¹² The Protocol on the Establishment of the East African Common Market.

¹³ The Protocol on the Establishment of the East African Common Market.

¹⁴ The Protocol on the Establishment of the East African Common Market.

However despite these binding legal commitments, the implementation of the Common Market provisions remains problematic. According to the EAC Common Market Scorecard (2021)¹⁵, although all partner states have domesticated the Protocol, inconsistencies in national laws and administrative practices persist. A case in point is that while Kenya and Rwanda have largely liberalized their service sectors, Tanzania and Burundi maintain restrictive laws governing telecommunications, transport and financial services, contrary to the spirit of Articles 16 and 17 of the Protocol.

This slow pace of legislative alignment has resulted in fragmented trade regulations, inconsistent customs procedure, and limited cross-border service liberalization. Moreover, the EAC Annual Report (2023) notes that Partner States continue to face challenges related to non- tariff barriers (NTBs) such as multiple road blocks, unnecessary border inspections, and divergent product standards. The persistence of NTBs contradicts Article 75(5), of the EAC Treaty, which requires states to eliminate non- tariff barriers to trade among themselves.

To add to that, The EAC Elimination of Non-Tariff Barriers Mechanism Report 2022, documents more than 200 NTBs reported between 2011 and 2022, many of which remain unresolved, particularly those relating to transit delays, arbitrary taxes, and discrimination in public procurement. For example, exporters from Uganda and Rwanda have faced recurrent restrictions in Kenya due to disputes over sanitary and phytosanitary standards, a situation that directly contravenes Article 13(2) of the Common Market Protocol, that mandates Partner States to harmonize trade related measures.

At the same time, the World Bank (2022) East Africa Trade Report¹⁶ observes that intra-EAC trade accounts for only 15% of the total trade, compared to 60% within the European Union and 40% within ASEAN. This disparity underscores the need to evaluate whether the legal and institutional mechanisms of the EAC Common Market are effectively facilitating trade and service liberalization. The EAC Secretariat (2023) acknowledges that while substantial progress has been

¹⁵<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eac.int/documents/category/eac-common-market-scorecard&ved=2ahUKEwi2x8TXnYSTAxWrU6QEhfciFOYQFnoECEgQAQ&usg=AOvVaw3jok8Ty8gCVpBrc3jQP8UD>

¹⁶<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://documents.worldbank.org/curated/en/099035012132234820/pdf/P17984003eaf2a0bd086280abccdfd4579c.pdf&ved=2ahUKEwi1zeqhp4STAxUaTqQEhdTPlQUQFnoECB4QAQ&usg=AOvVaw3gxaY-en5KvL-A8VHD6pBq>

made in infrastructure development and policy coordination, the enforcement of the Common Market Protocol remains weak, largely due to limited institutional capacity, political will and inadequate monitoring mechanisms. From a legal standpoint, the East African Court of Justice (EACJ) has played a crucial role in interpreting and enforcing the provisions of the treaty and protocol.

In the *East African Law Society V Attorney General of Kenya and Others*¹⁷, the court affirmed that partner states are a legal obligation to implement the provisions of the Treaty and protocols in good faith, consistent with Article 8(4), of the EAC Treaty. Despite such jurisprudence, enforcement at the domestic level remains inconsistent, leading to uneven progress in integration. Therefore, this study seeks to critically assess the effectiveness of the EAC Common Market Protocol in promoting free movement of goods and services. The findings will inform recommendations on strengthening the Common Market's legal and institutional frameworks to enhance intra-regional trade and service integration.

STATEMENT OF THE PROBLEM

The East African Community (EAC) Common Market, established under the Treaty for the Establishment of the East African Community (1999) and operationalized through the Protocol on the Establishment of the EAC Common Market (2009), was designed to accelerate regional integration by guaranteeing the free movement of goods and services among Partner States. Legally, Articles 5(2), 6, 16, 24, 75, and 76¹⁸ of the Treaty, alongside the Common Market Protocol, obligate Partner States to eliminate trade barriers, harmonise laws, and ensure seamless cross-border movement of goods and services. Therefore goods, and services should ideally flow freely across borders without tariff or non-tariff barriers, professional qualifications, certifications, and licensing are mutually recognised, as all partner states should implement harmonized national laws aligned with EAC obligations. This should lead to economic benefits of trade liberalisation, increased market access, and regional competitiveness are realized across all Member States.

¹⁷ Reference No. 1 of 2008.

¹⁸ The Treaty for the Establishment of the East African Community.

However, the reality in East Africa particularly among Uganda, Kenya, and Rwanda, which are highly interdependent economies is markedly different, despite the strong legal framework. Non-Tariff Barriers Persist, the EAC Secretariat (2023) reports numerous NTBs, including roadblocks, unnecessary inspections, duplication of fees, and arbitrary administrative delays, undermining the free movement of goods and services. Secondly, there is incomplete harmonisation of Laws, The EAC Common Market Scorecard (2021)¹⁹ shows that only 61% of laws related to free movement of goods and 51% of laws on services have been harmonized.

This results in inconsistent regulatory environments between Uganda, Kenya, and Rwanda, limiting the operationalisation of Articles 6, 16, and 24 of the Protocol. Thirdly there are sectoral Trade Challenges, Uganda's agricultural exporters (dairy, poultry, sugar) frequently face market restrictions in Kenya and Rwanda, while Rwanda's goods experience clearance delays through Ugandan and Kenyan corridors, despite investments in digital customs systems such as Rwanda's Electronic Single Window and Kenya's iCMS, Daily Monitor 2021²⁰. Lastly there is partial Coalition Implementation: The informal "Coalition of the Willing" among Uganda, Kenya, and Rwanda has accelerated some integration projects, but its benefits are unevenly realised, with smaller or slower-to-act Partner States lagging, creating gaps in the effectiveness of the Common Market, New Vision 2013²¹

The consequences of this gap between the ideal and reality are profound and expressed in the following ways.

¹⁹<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eac.int/documents/category/eac-common-market-scorecard&ved=2ahUKEwi0t8Lbv2QAxXiUaQEhfUFIT4QFnoECB8QAQ&sqi=2&usg=AOvVaw3jok8Ty8gCVpBrc3jQP8UD>

²⁰https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.monitor.co.ug/uganda/news/national/eac-external-trade-grows-as-member-states-impose-more-barriers-4474974&ved=2ahUKEwjR_-qBv_2QAxWmOPsDHWclFboQFnoECBoQAQ&usg=AOvVaw1HWsF1qabGLzys8zWfKidN

²¹<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.newvision.co.ug/news/1336846/coalition-willing-begins-yield-results&ved=2ahUKEwizh9mOwP2QAxWiUqQEHWkmlYgQFnoECB0QAQ&usg=AOvVaw12J6PhS2mHkk2sK8t0MbOl>

Persistent NTBs increase the cost of doing business, reduce competitiveness, and limit intra-EAC trade, which remains only 12–15% of total regional trade despite infrastructure investments, EAC Trade & Investment Report 2023²²

Delays in services and goods movement hinder economic growth and the equitable distribution of Common Market benefits among Partner States.

Legal obligations under the Treaty and Protocol, including Article 8(4) (good faith implementation) and enforcement via the East African Court of Justice (EACJ), remain underutilized, weakening compliance incentives, this was stated in the case of East African Law Society v Attorney General of Kenya & Others²³.

OBJECTIVES

General Objective

To assess the effectiveness of the EAC Common Market in promoting free movement of goods and services among Uganda, Kenya, and Rwanda from 2010 to 2023.

²²https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eac.int/documents/category/trade-investment-reports&ved=2ahUKEwjB4pfOv_2QAxW3UKQEHdjyBVAQFnoECA0QAAQ&sqi=2&usg=AOvVaw3oMZDe78wioAhQrLPN8ZLf

²³ Ref. No. 1 of 2008).

Specific Objectives

To evaluate the implementation of EAC trade commitments (tariff elimination, CET, standards) for goods.

To examine the liberalization of services sectors and mobility of service suppliers under the CMP.

To identify the main barriers (tariff or non-tariff) hindering goods and services trade within these countries.

To analyze trends in intra-EAC trade of goods and services in the focus countries (e.g. trade data, key exports/imports).

To propose legal, policy and administrative recommendations to enhance free movement in the EAC.

RESEARCH QUESTIONS

How well have Uganda, Kenya and Rwanda implemented the CMP's provisions on free movement of goods?

To what extent have the services liberalization commitments been fulfilled, and how freely do services and service providers move among the three states?

What barriers (legal, regulatory or practical) still impede free trade in goods and in services among these countries?

How has intra-EAC trade among Uganda, Kenya and Rwanda evolved (in goods and services) since 2010? (Using trade reports and statistics).

What measures can further strengthen the EAC Common Market's effectiveness for goods and services?

SIGNIFICANCE OF THE STUDY.

Legal and Institutional Significance, The EAC Common Market is legally anchored in the Treaty for the Establishment of the East African Community (1999) and operationalized through the Protocol on the Establishment of the EAC Common Market (2009). Articles 5(2), 6 , 16, 24, 75, and 76²⁴ of the Treaty obligate Partner States to remove barriers on trade, harmonize national laws, and ensure cross-border movement of goods and services. Therefore, while the legal framework is robust, enforcement remains inconsistent.

Cases such as East African Law Society V Attorney General of Kenya & Others²⁵ illustrate that partner states are legally bound to implement Treaty provisions in good faith, yet practical compliance, particularly in harmonizing customs laws and service regulations, has been uneven. This highlights a critical disjunction between normative legal commitments and administrative realities, demonstrating that the mere existence of law is insufficient without effective enforcement mechanisms. The role of the EACJ and EAC Secretariat in monitoring compliance and resolving disputes is very vital and it should be noted that the enforcement is based on the political will of states, and this exposes structural weaknesses that limit the enforceability of the Common Market provisions including delayed domestic legislative alignment and selective application of rules.

Policy and governance significance, from a policy perspective, the study examines the effectiveness of regional governance structures in facilitating free movement of goods and services. Despite the legal provisions, the persistence of Non-Tariff Barriers including duplicative inspections, arbitrary fees, bureaucratic delays, and inconsistent licensing remains a significant impediment. Reports from the EAC Secretariat (2023) note that Uganda, Kenya, and Rwanda continue to experience operational difficulties in cross border trade, indicating gaps in policy

²⁴ The Treaty for the Establishment of the East African Community.

²⁵ Reference No. 1 of 2008.

implementation and enforcement, this was emphasized by president Museveni where he stated, “where’s my ocean “ according to Daily Monitor²⁶.

As a result, the study is significant because it evaluates how policy interventions and institutional mechanisms affect actual trade flows. For instance, the Coalition of the Willing”, comprising of Uganda, Kenya and Rwanda, has attempted to accelerate integration by coordinating infrastructure projects and harmonizing select trade procedures. Analyzing the outcomes of these initiatives highlights the interaction between formal legal obligations and informal political cooperation, offering policy lessons on accelerating regional Integration within multi state agreements.

Economic and Trade significance, the research provides a critical assessment of how the gap between the legal aspirations and practical realities affects trade efficiency, competitiveness, and market access. Intra-EAC trade remains low around 12–15% of total regional trade despite significant infrastructure investment such as the Northern Corridor and Standard Gauge Railway (SGR) (EAC Trade & Investment Report 2023). There are NTBs and delays in service recognition limit the movement of goods and professional services. For example, Ugandan dairy products face restrictions in Kenyan and Rwandan markets, while Rwandan service providers encounter licensing delays in Uganda and Kenya (Daily Monitor, 2021)²⁷.

Academic and Scholarly Significance, this research contributes to scholarship in several ways, through filling the gap in literature regarding the operational effectiveness of the EAC Common Market for goods and services, as most existing research focuses on the Customs Union or abstract trade liberalization, according to the report, majority of the EAC Secretariat. It further offers a

²⁶https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.monitor.co.ug/uganda/news/national/museveni-s-indian-ocean-statement-angers-kenyans-5268444&ved=2ahUKEwiCyvCLw_2QAxUpUaQEHcy8H9kQ0PADKAB6BAgUEAE&usg=AOvVaw2dz6Ej5UwJbLgOQfWEYjpx

²⁷https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.monitor.co.ug/uganda/news/national/museveni-s-indian-ocean-statement-angers-kenyans-5268444&ved=2ahUKEwiCyvCLw_2QAxUpUaQEHcy8H9kQ0PADKAB6BAgUEAE&usg=AOvVaw2dz6Ej5UwJbLgOQfWEYjpx

comparative perspective on Uganda, Kenya, and Rwanda, providing insights into how legal, institutional, and political factors interact to shape integration outcomes.

JUSTIFICATION OF THE STUDY

The free movement of goods and services is a foundational pillar of the East African Community's integration project. The EAC Treaty, particularly Articles 5(2) and 76(1), mandates Partner States to establish a Common Market to accelerate economic development and facilitate trade by eliminating internal barriers. The EAC Common Market Protocol (2010) further operationalizes these obligations, committing States under Articles 4, 5, 7, and 15 to ensure the removal of non-tariff barriers (NTBs), harmonize trade-related laws, and guarantee nondiscriminatory access to regional markets.

First the study because of persistent NTBs and regulatory fragmentation continue to undermine the legal guarantees of the Common Market. According to the EAC Non-Tariff Barriers Reports, the region still experiences recurrent roadblocks, duplicative product standards, delays at borders, discriminatory taxation regimes and inconsistent application of the Common External Tariff (CET). These restrictions contradict article 13 of the Common Market Protocol, which obliges Partner States to remove NTBs with immediate effect, and violate article 6(d) of the EAC Treaty, which emphasizes adherence to good governance, transparency and the rule of law.

Second, the study is justified because the effectiveness of the Common Market has direct economic and social consequences. Inefficiencies in the movement of goods raise the cost of doing business, limit economies of scale and reduce competitiveness of regional industries contravening article 7(1)(e) of the EAC Treaty. Likewise restrictions in service providers contradict the commitments under articles 23-29 of the Common Market Protocol, which guarantees the liberalization of the key service sectors such transport, finance, tourism, and professional services, and thus totally undermining regional Integration

Third, the study is further justified because existing scholarship is insufficient to fully explain the current state of the Free Movement of Goods and Services. Most academic works are either outdated or focus narrowly on specific sectors such as transport, customs, or professional mobility. Reports such as the EAC Common Market Scorecard 2014, 2016²⁸ highlight widespread non-compliance but do not provide the legal-depth analysis required for academic and policymaking use. A comprehensive, updated, critically oriented study is needed to evaluate the legal, policy, and institutional effectiveness of the Common Market twelve years after its operationalization.

²⁸<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://documents.worldbank.org/en/publication/documents-reports/documentdetail/799871468194049251/main-report&ved=2ahUKEwjU05a-xP2QAxXgU6QEhfk6DCMQFnoECBsQAQ&usg=AOvVaw0wQOb1PAqGOXuKL-tsR4he>

SCOPE OF THE STUDY

Temporal Scope

The study covers the period from 2010 to 2023. This timeframe is selected because 2010 marks the entry into force of the EAC Common Market Protocol, which legally operationalized the free movement of goods and services under Articles 4, 5, 7, and 15 of the Protocol. Focusing on this period allows for a comprehensive assessment of how the commitments made by partner states have evolved over more than a decade of implementation. This includes evaluating progress outlined in official documents such as the EAC Common Market Scorecards (2014,2016), Annual Secretariat Reports, and Non-Tariff Barrier (NTB) Monitoring Reports. Extending the scope to the present ensures the study captures recent reforms, challenges, and regional developments affecting the free movement regime.

Geographical Scope

Geographically, the study focuses primarily on Uganda, Kenya and Rwanda, with supplementary reference to the broader East African Community regional framework where necessary. These

three Partner States were key actors in the Coalition of the Willing (CoW) initiatives and champions of the Northern Corridor Integration Projects (NCIP) aimed at accelerating the implementation of the Common Market. Their active participation provides a rich basis for examining the operationalization of the free movement regime. Although other EAC partner states form part of the regional legal structure, the selected countries offer sufficient comparative depth to assess implementation trends, persistent barriers, and cross border regulatory practices related to the movement of goods and service providers.

Thematic/ Subject Scope.

Thematically, the study is limited to examining the effectiveness of the EAC Common Market in promoting the free movement of goods and services as provided under the Treaty and Common Market Protocol. This includes, the legal framework governing free movement, such as Articles 76, and 104 of the EAC Treaty and Articles 4,5 ,7 13 , and 23-29 of the Common Market Protocol. The practical implementation mechanisms, including customs procedure, NTB elimination, standards harmonization, mutual recognition of professional qualifications, and service liberalization schedules. Challenges such as the persistence of NTBs, administrative delays, restrictive domestic regulations, discriminatory licensing requirements and failure to harmonize laws.

The institutional mechanisms responsible for oversight and enforcement, including the EAC Secretariat, EALA, Sectoral Committees, national committees of trade, and the East African Court of Justice (EACJ).

LITERATURE REVIEW

The East African Community (EAC) Common Market has attracted considerable scholarly, institutional and policy oriented attention since the entry into force of the Common Market Protocol in 2010. Existing literature broadly examines the legal framework, economic implications, and practical challenges surrounding the free movement of factors of production within the EAC. However, much of this literature either adopts a general regional approach or focuses on Labor and capital mobility, with limited targeted analysis of free movement of goods and services within specific partner states such as Uganda, Kenya and Rwanda.

Scholarly and Academic Literature

Several scholars analyze the EAC Common Market as a legal and economic integration project. Ogola (2012)²⁹ argues that the Common Market Protocol represents a significant legal milestone in East African integration by creating binding legal obligations on partner states to eliminate barriers to intra- regional trade. He observes that the Protocol establishes a rights-based framework for economic actors, particularly through the principles of non- discrimination and national treatment.

However, Ogola's analysis remains largely doctrinal and does not sufficiently assess whether these legal commitments have translated into effective free movement of goods and services in practice.

Similarly, Assefa(2015)³⁰ examines regional Integration in East Africa from an economic perspective, noting that while Tariff barriers have largely been eliminated, non- tariff barriers continue to undermine the Common Market. He highlights issues such as bureaucratic delays, inconsistent standards and discretionary enforcement by border authorities at the various border points.

Hoekman and Shepherd (2016)³¹ provide one of the most influential analysis on service trade liberalization in the EAC. They demonstrate that restrictive domestic regulations in service sectors such as transport, finance and professional services, and significantly reduce merchandise export performance. Their study estimates that the reducing service trade barriers could increase exports in Uganda, Kenya and Rwanda between 13% and 20%. However, the authors focus primarily on economic modelling and do not engage deeply with legal obligations and enforcement mechanisms under the Common Market Protocol.

Institutional and Policy Literature

Institutional literature produced by the East African Community and development partners provides valuable empirical and policy based insights. The EAC Common Market Scorecards (2014, 2016 and 2018), developed jointly with the World Bank, assess partner states' compliance with Common Market obligations. These reports find that although partner states, including

²⁹ The East African Community Common Market protocol: A Legal Analysis (2012).

³⁰ Assefa. T, Regional Integration in Africa (2015)

³¹ Hoekman, B & Shepherd, B. (2016)

Uganda, Kenya and Rwanda have aligned their laws with common market protocol, significant gaps remain in implementation, particularly regarding non-tariff barriers and services liberalization .

The 2014 Scorecard³² notes that while internal tariff on goods were eliminated, partner states continued to impose administrative and procedural barriers inconsistent with Articles 13 of the Customs Union Protocol. Later Scorecards reaffirm that service commitments under Article 16 of the Common Market Protocol have been implemented unevenly, with professional services and transport sectors remaining highly regulated.

TradeMark Africa and the African Development Bank (AfDB) also contribute policy-oriented literature highlighting persistent NTBs within the EAC. TradeMark Africa³³ reports, indicate that thousands of Non-Tariff Barriers were reported between 2010 and 2023, many relating to customs procedures, roadblocks, and regulatory duplication. While these reports are data-rich, they often focus on infrastructure and trade facilitation rather than legal accountability and treaty enforcement, leaving a gap that this study seeks to address.

Legal and Jurisprudential Literature

Legal scholarship on the EAC Common Market frequently centres in the role of the East African Court of Justice (EACJ) in enforcing integration commitments. Gathi (2019)³⁴ argues that although the East African Court of Justice has jurisdiction to interpret and apply the Treaty and its protocols, its potential role in resolving trade and Common Market disputes has been underutilized. He hence attributes this to political sensitivity and limited access to justice for private actors.

Case law such as, *James Katabazi & 21 Others V Secretary General of the EAC*³⁵ underscores the binding nature of the EAC law on Partner States, affirming that Treaty obligations are not merely political commitments but enforceable legal norms. However, few decided cases directly address free movement of goods and services, suggesting a gap between legal rights under Common

³² East African common market scorecard 2014.

³³ TradeMark Africa (TMA).

³⁴ Gathi, J.T . “The Role of the East African Court of Justice in deepening integration “

³⁵ Reference No. 1 of 2007.

Market Protocol and their practical enforcement. Existing literature Identifies this gap but doesn't systematically analyze it's implications for goods and services trade within a specific partner states.

Critical Analysis and Identified Gaps

From the reviewed literature, several themes emerge. First, there's consensus that the EAC Common Market has established a comprehensive legal framework for the free movement of goods and services. Second, scholars and institutions agree that implementation has been inconsistent, with the NTBs and regulatory fragmentation persisting despite legal prohibitions. Third, there is growing recognition that services liberalisation is essential for the effective movement of goods and services, yet it remains one of the least implemented aspects of the Common Market.

However, notable gaps remain, as much of the existing literature adopts a broad regional approach and doesn't sufficiently focus on Uganda, Kenya and Rwanda despite their central role in the EAC trade. Additionally, many studies emphasize economic outcomes without adequately analyzing the legal mechanisms, enforcement challenges and accountability structures under the Common Market Protocol. Further more, limited attention is given to the interaction between goods and services liberalization, particularly how restrictions in services undermine the objectives of the free movement of goods.

Contribution of the Present Study

This study addresses these gaps by providing a focused legal analysis of the effectiveness of the EAC Common Market in promoting the free movement of goods and services in Uganda, Kenya and Rwanda between 2010 to 2023. Unlike existing studies, it integrates doctrinal legal analysis with empirical trade findings, without relying on interviews or surveys. By examining both the legal regime and practical outcomes, the study contributes to the scholarly discourse on regional Integration and offers a policy-relevant recommendation aimed at strengthening compliance and effectiveness within the Common Market.

METHODOLOGY

It elaborates the methods of data collection, techniques of analysis, and the justification for the chosen approach. Research Design, the study adopts a qualitative, doctrinal, and descriptive research design, as follows.

Doctrinal Legal Research, and this involves analyzing, the EAC Treaty (Articles 5, 7, 76, 104), the EAC Common Market Protocol, Articles 4, 7. Relevant regulations, partner state legislation, policy directives, and decisions of the East African Court of Justice (EACJ). Qualitative Descriptive Research, which is used to assess the implementation gaps, non -tariff barriers, administrative challenges, institutional effectiveness, and hence enabling deeper understanding of practical realities beyond the law.

Methods of Data Collection

Primary Data is obtained from Treaties, protocols, and official EAC documents. These include EAC Treaty, and EAC Common Market Protocol, Decisions of the EACJ, especially cases relating to non-tariff barriers, free movement, and state compliance.

Secondary Data, includes scholarly articles on regional integration, NTBs, and common markets, university dissertations, EAC Common Market Scorecards, EAC Annual Reports, peer-reviewed journals such as Kabarak Journal of Law and Ethics African Journal of International Economic Law, Journal of Eastern African Studies

Limitations of the Study

Some EAC reports may be outdated or incomplete.

Regional integration data may differ between partner states.

Few court decisions directly address free movement of services.

NTBs often change rapidly, affecting data consistency.

CHAPTER SYNOPSIS

Introduction

Provides an overview of the EAC Common Market and its role in facilitating the free movement of goods and services among partner states

Highlights the importance of regional economic integration and trade liberalization, particularly in Uganda, Kenya, and Rwanda.

Introduces the Coalition of the Willing, which fast-tracked the implementation of the Common Market Protocol in the three countries.

Establishes the central research focus on assessing the effectiveness of the Common Market in achieving its objectives.

Background

Discusses the historical evolution of the EAC and the establishment of the Common Market Protocol (CMP) in 2010.

Explains the legal framework under the EAC Treaty (Articles 5, 7, 76, 104) and Common Market Protocol (Articles 4, 7, Annex I, Annex V).

Analyses the practical realities of cross-border trade and service movement, including the persistence of non-tariff barriers (NTBs) and regulatory challenges.

Highlights prior integration initiatives and their successes or limitations.

Statement of the Problem

Identifies the gap between the ideal legal provisions of the CMP and the practical implementation in partner states.

Highlights the consequences of non-compliance, including restricted trade flows, limited services liberalisation, and economic inefficiencies.

Explains how persistent NTBs, weak enforcement, and fragmented regulations affect Uganda, Kenya, and Rwanda.

Objectives of the Study

General Objective

To assess the effectiveness of the EAC Common Market in promoting free movement of goods and services among Uganda, Kenya, and Rwanda from 2010 to 2023.

Specific Objectives

To evaluate the implementation of EAC trade commitments (tariff elimination, CET, standards) for goods.

To examine the liberalization of services sectors and mobility of service suppliers under the CMP.

To identify the main barriers (tariff or non-tariff) hindering goods and services trade within these countries.

To analyze trends in intra-EAC trade of goods and services in the focus countries (e.g. trade data, key exports/imports).

To propose legal, policy and administrative recommendations to enhance free movement in the EAC.

Research question.

How well have Uganda, Kenya and Rwanda implemented the CMP's provisions on free movement of goods?

To what extent have the services liberalization commitments been fulfilled, and how freely do services and service providers move among the three states?

What barriers (legal, regulatory or practical) still impede free trade in goods and in services among these countries?

How has intra-EAC trade among Uganda, Kenya and Rwanda evolved (in goods and services) since 2010? (Using trade reports and statistics).

What measures can further strengthen the EAC Common Market's effectiveness for goods and services?

Significance of the Study

Contributes to scholarly understanding of regional integration law and practice.

Provides policy insights for EAC institutions and national governments.

Helps traders and service providers understand challenges in cross-border operations.

Justification of the Study

Fills gaps in the literature, particularly in integrating goods and services analysis.

Offers country-specific insights on Uganda, Kenya, and Rwanda.

Supports policy and legal reforms to remove NTBs and harmonise regulations.

Highlights the relevance of compliance with CMP provisions to the success of the Common Market.

Scope of the Study

Temporal Scope, Examines developments from 2010 (CMP enforcement) to the present.

Geographical Scope, Focuses on Uganda, Kenya, and Rwanda.

Thematic Scope, covers legal, institutional, and practical aspects of the free movement of goods and services, including NTBs and services liberalisation.

Literature Review

Analyses theoretical, conceptual, legal, and empirical literature.

Highlights previous studies on NTBs, service liberalisation, and institutional effectiveness.

Identifies gaps, such as limited comparative studies, recent NTB resurgence, and enforcement challenges.

Methodology

Uses a qualitative, doctrinal, and descriptive design

Employs documentary review of legal texts, EAC reports, case law, and academic literature.

Applies doctrinal, content, and comparative analysis techniques.

Justifies methods as suitable for assessing both legal and practical effectiveness.

CHAPTER TWO

NON-LEGAL FACTORS AFFECTING THE FREE MOVEMENT OF GOODS AND SERVICES UNDER THE EAC COMMON MARKET

The East African Common Market Protocol entered into force in July 2010 with the intention of creating a single market in which goods and services would circulate freely among Partner States. While the Protocol establishes binding legal obligations, the extent to which these obligations have translated into effective free movement has depended largely on non-legal conditions within the region. Several scholars and institutions have observed that regional economic Integration cannot succeed solely through legal harmonization, but requires supportive economic, institutional and infrastructural authorities.

Economic Structure and Level of Development within the EAC.

A recurring theme in the literature on regional Integration is that the success of a common market is closely linked to the economic structure of the participating states. Bela Balassa, in *The Theory of Economic Integration* (1961)³⁶ argues that deeper forms of integration such as common markets yield benefits where economies are diversified, industrialized and capable of producing tradable goods and services.

Applying the framework to the EAC, several scholars have noted that partner states share similar economic characteristics, including reliance on agriculture, and extractive sectors, low manufacturing capacity and limited value addition. The United Nations Economic Commission for Africa (UNECA)³⁷, in it's assessing Regional Integration in Africa reports, observes that structural similarity among the East African states and economies has limited the expansion of the intra- regional trade, despite the removal of trade barriers.

³⁶ The Theory of Economic Integration, 1961.

³⁷https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.uneca.org/regional-integration-and-trade&ved=2ahUKEwj47Xoh4yTAxW_hP0HHcnEGLwQFnoECBkQAQ&usg=AOvVaw38eHXkhhACs0szdBBzDYIf

The services sector has faced similar constraints. Bernard Hoekman and Shepherd, in their 2016 international Growth Center policy paper titled Services Trade in the East African Community and Merchandise Exports³⁸, demonstrate that restrictive domestic services policies and underdeveloped service market have constrained regional trade.

They explain that inefficient transport, logistics and financial services increase transactions costs, thereby limiting the movement of goods even where legal market access exists. These economic realities have influenced the performance of the Common Market by restricting the volume and diversity of goods and services for cross-border exchange.

Infrastructure and Trade Facilitation Mechanisms.

Infrastructure has been widely recognized as a preconditions for effective market integration. The African Development Bank in it's East Africa Economic Outlook Series 2025³⁹, consistently identifies inadequate transport and trade infrastructure as a major impediment to regional trade. Poor road networks, limited railway connectivity and congestion at ports and border posts have increased the cost and time associated with the moving goods across EAC borders.

To address these challenges, the EAC and Partner States have implemented trade facilitation initiatives such as One-Stop Border Posts (OSBPs) and electronic cargo tracking systems. The World Bank, in the EAC Common Market Scorecard 2014⁴⁰, notes that OSBPs have contributed to reduced border clearance times in certain locations. However, the same report acknowledges that operational challenges including system failures and limited coordination among agencies at the border, have continued to undermine efficiency.

³⁸https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.theigc.org/sites/default/files/2016/06/Hoekman-Shepherd-2016-Policy-brief.pdf&ved=2ahUKEwj019uyvJKTAxXnVKQEHWtlEzgQFnoECCoQAQ&sqi=2&usg=AOvVaw3FGX7GI5_r0Wom1XizGLAM

³⁹<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.afdb.org/en/knowledge/publications/african-economic-outlook&ved=2ahUKEwintpqMv5KTAxUFnf0HHT2ZEHEQFnoECB0QAQ&sqi=2&usg=AOvVaw2RNlyT9wen82dEXJ433hCn>

⁴⁰<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.tralac.org/news/article/5657-east-african-common-market-scorecard-2014.html&ved=2ahUKEwie9vm1otGRAXUgVKQEHdBoCjgQFnoECB0QAQ&sqi=2&usg=AOvVaw0SgORLnawOHXpNyKdhqeqq>

TradeMark Africa⁴¹, in its Annual Non-Tariff Barriers Reports, reports further highlights that infrastructure bottlenecks often interact with administrative inefficiencies to delay the movement of goods. These challenges have also affected service providers, particularly in the transport and logistics sectors, whose operations depend heavily on functional infrastructure.

Administrative Practices and Institutional Capacity

The role of domestic administrative institutions in implementing Common Market commitments has received considerable attention in literature. The World Bank and EAC Secretariat through successive Common Market Scorecards (2014, 2016, 2018 and 2020) documents and reports state persistent gaps between legal commitments and actual practice. These gaps are frequently attributed to weak institutional capacity, overlapping mandates and inconsistent application of the rules by national authorities.

Customs authorities, standards agencies and licensing bodies often continue to apply domestic procedures that are not fully aligned with the EAC Common Market obligations. According to the World Bank (2016 Scorecard)⁴², traders and service providers encounter delays arising from duplicated inspections, inconsistent documentation requirements and discretionary decision-making by officials.

In relation to services, the World Bank notes that licensing and recognition procedures differ across partner states, creating practical barriers to cross-border service provision. While these requirements may be lawful under domestic law, their cumulative effect has constrained the mobility of service suppliers within the Common Market.

Persistence of Non-Tariff Barriers

⁴¹<https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://trademarkafrica.com/&ved=2ahUKEwjyiceko9GRAXWNRKQEHTtSFBoQFnoECCUQAQ&usg=AOvVaw0vwxEtP69Gxva5d3cBKCsq>

⁴²https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://scorecard.worldbank.org/en/home&ved=2ahUKEwjihOKmpNGRAXXMRkEAHSR5NloQFnoECBAQAQ&usg=AOvVaw0SrO9Wk7KGEPSZ_1KKbema

Non-tariff barriers have remained one of the most significant obstacles to free movement under the EAC Common Market. The EAC Secretariat⁴³ defines non-tariff barriers as administrative and regulatory measures that restrict trade without taking the form of tariffs. Despite the establishment of an EAC NTB monitoring and reporting mechanism, evidence suggests that such barriers continue to arise. TradeMark Africa's State of NTBs in East Africa reports indicate that barriers such as excessive documentation, arbitrary enforcement of standards and informal payments persist across the region. The reports further observe that NTBs often re-emerge after resolution, suggesting systemic weaknesses rather than isolated incidents.

The persistence of NTBs has affected both goods and services, particularly where regulatory discretion is exercised without transparency. This has reduced predictability and increased transaction costs for economic actors operating within the Common Market.

Private Sector Awareness and Utilization of Common Market Opportunities

The literature also highlights the importance of private sector awareness and engagement in the success of regional integration. The EAC Secretariat, in its Common Market Implementation Status Reports, notes that many traders and service providers are either unaware of their rights under the Common Market or lack confidence in enforcement mechanisms.

The World Bank (2014 Scorecard)⁴⁴ similarly observes that limited dissemination of information and weak stakeholder engagement have constrained the utilization of Common Market provisions. As a result, some businesses continue to operate primarily within domestic markets, despite the availability of regional opportunities. This limited utilization has affected the overall effectiveness of the Common Market in promoting free movement, particularly in the services sector where regulatory complexity is higher.

⁴³ <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eac.int/common-market&ved=2ahUKEwjS0bnQpdGRAXWmaqQEhQ4KGkQFnoECBkQAQ&usg=AOvVaw2TKl1-8-yJRSFuXVTIK0l>

⁴⁴ https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://scorecard.worldbank.org/en/home&ved=2ahUKEwU7ODiptGRAXUvUaQEhXZORwQFnoECBAQAQ&sqi=2&usg=AOvVaw0SrO9Wk7KGEPSZ_1KKbema

CHAPTER THREE

THE LEGAL REGIME GOVERNING THE FREE MOVEMENT OF GOODS AND SERVICES UNDER THE EAC COMMON MARKET.

The legal regime governing the free movement of goods and services under the East African Community (EAC) Common Market is one of the most ambitious integration frameworks on the African continent. It reflects the EAC's intention to move beyond cooperation into legally binding economic union in which national borders no longer constitute barriers to trade in goods and services. This regime is not contained in a single instrument but it is instead derived from a combination of international trade principles, regional principles, regional treaty obligations, protocols and institutional mechanisms.

This chapter thus examines the legal architecture governing the free movement of goods and services under the EAC Common Market between 2010 and 2023. It analyses the foundational treaty provisions, the EAC Common Market Protocol, the regulation of goods and services, the institutional enforcement framework, the role of the East African Court of Justice, domestication of the Common Market Obligations.

International and Regional Legal Foundations of the EAC Common Market

At the international level, the EAC Common Market operates within the broader framework of international economic law, particularly the rules of the World Trade Organization (WTO). The General Agreement on Tariffs and Trade (GATT) 1994⁴⁵ establishes the principle of non-discrimination and the elimination of quantitative restrictions on trade in goods. Similarly, the General Agreement on Trade in Services (GATS) promotes the liberalisation of services through market access and national treatment commitments.

⁴⁵https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.wto.org/english/doc_s_e/legal_e/26-gats_01_e.htm&ved=2ahUKEwi-z7r9qNGRAXV5U6QEHb0PNJQQFnoECCsQAQ&usg=AOvVaw2A6kS93lhTP5e3CJxP1RKp

The formation of the EAC Common Market is consistent with Article XXIV of GATT⁴⁶, which permits World Trade Organizations members like the East African Community regional economic bloc to establish customs unions and common markets, provided such arrangements do not raise barriers to trade with third countries. The EAC Common Market therefore represents a lawful form of regional economic integration that goes beyond multilateral commitments by creating deeper liberalisation among Partner States.

At the regional level, the Treaty for the Establishment of the East African Community (1999)⁴⁷ provides the legal foundation for economic integration. Article 5(2) of the Treaty sets out the objectives of the Community, including the establishment of a Customs Union, a Common Market, a Monetary Union and a Political Federation. Article 76 defines the Common Market as encompassing the free movement of goods, persons, labour, services and capital, as well as the rights of establishment and residence.

The Common Market Protocol and the Free Movement of Goods

The Protocol on the Establishment of the East African Common Market⁴⁸, adopted in 2009 and entering into force in 2010, operationalises the treaty relating to the Common Market and it's binding in all partner states that ratified it.

Article 6 of the Common Market Protocol guarantees the free movement of goods within the East African Community. It requires Partner States to eliminate tariffs, quantitative restrictions and measures having equivalent effect on trade between them. This provision builds upon the EAC Customs Union framework by addressing barriers that persist beyond tariffs, particularly non-tariff barriers.

⁴⁶[https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm&ved=2ahUKewi-](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm&ved=2ahUKewi-z7r9qNGRAxV5U6QEHb0PNJQQFnoECCsQAQ&usg=AOvVaw2A6kS93lhTP5e3CJxP1RKp)

[z7r9qNGRAxV5U6QEHb0PNJQQFnoECCsQAQ&usg=AOvVaw2A6kS93lhTP5e3CJxP1RKp](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm&ved=2ahUKewi-z7r9qNGRAxV5U6QEHb0PNJQQFnoECCsQAQ&usg=AOvVaw2A6kS93lhTP5e3CJxP1RKp)

⁴⁷https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eacj.org/%3Fpage_id%3D33&ved=2ahUKewjw48ugqtGRAxWfcaQEHYcoJXcQFnoECB0QAQ&sqi=2&usg=AOvVaw19NexKgGnd9feeAtTrxcAM

⁴⁸ <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://eacj.org/wp-content/uploads/2012/08/Common-Market-Protocol.pdf&ved=2ahUKewjHt4roqtGRAxWbVqQEHdsJDFoQFnoECB4QAQ&usg=AOvVaw3lBKbfBoapzQQJjaL5No9l>

The Protocol⁴⁹ recognizes that the free movement of goods must coexist with legitimate regulatory objectives. Accordingly, Partner States retain the right to adopt measures relating to standards, public health, safety and environmental protection. However, such measures must not be applied in a manner that constitutes arbitrary discrimination or a disguised restriction on trade. This balance reflects principles found in international trade law, particularly under GATT.

The Protocol is supplemented by annexes dealing with technical regulations, sanitary and phytosanitary measures, and standards. These annexes aim to promote harmonisation and mutual recognition, thereby reducing regulatory fragmentation. Despite these provisions, reports by the EAC Secretariat and the World Bank Common Market Scorecards indicate that regulatory divergence and inconsistent enforcement have continued to affect the movement of goods.

Legal Regulation of the Free Movement of Services

The legal framework governing the free movement of services under the EAC Common Market is set out primarily in Articles 7 and 8 of the Common Market Protocol⁵⁰. Article 7 obliges Partner States to remove restrictions on the free movement of services and service suppliers. Article 8 provides for the progressive liberalisation of services in accordance with schedules of commitments.

The Protocol adopts a sector-based and progressive approach to services liberalisation, mirroring the structure of the GATS. Partner States are required to specify the service sectors and modes of supply in which they undertake commitments relating to market access and national treatment. This approach reflects the sensitivity of services regulation and the desire to preserve domestic regulatory autonomy.

⁴⁹ <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://eacj.org/wp-content/uploads/2012/08/Common-Market-Protocol.pdf&ved=2ahUKEwjHt4roqtGRAXWbVqQEHdsJDFoQFnoECB4QAQ&usg=AOvVaw3IBKbfBoapzQQJjaL5No9l>

⁵⁰ <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://eacj.org/wp-content/uploads/2012/08/Common-Market-Protocol.pdf&ved=2ahUKEwjHt4roqtGRAXWbVqQEHdsJDFoQFnoECB4QAQ&usg=AOvVaw3IBKbfBoapzQQJjaL5No9l>

However, the legal framework for services has been characterized by uneven and incomplete commitments. The World Bank Common Market Scorecards note that some Partner States have not fully scheduled commitments in key service sectors, while others maintain regulatory requirements that restrict cross-border service provision. Licensing requirements, qualification recognition and establishment rules have continued to affect service mobility. As a result, while the Protocol establishes a legal right to the free movement of services, the incremental nature of commitments and the retention of regulatory discretion have influenced the extent to which this right is realised in practice.

Institutional Framework for Implementation and Monitoring

The implementation of the Common Market legal regime is supported by a range of EAC institutions. The EAC Secretariat headed by the Secretary General plays a central coordinating role, including monitoring compliance, facilitating harmonisation and reporting on implementation progress. Instruments such as the EAC Common Market Scorecard have been developed to assess the extent to which Partner States have fulfilled their obligations relating to goods and services. The Council of Ministers provides policy direction and oversight, while sectoral committees address technical issues relating to trade, services and standards. These institutions collectively form the administrative backbone of the Common Market.

Judicial Enforcement and the Role of the East African Court of Justice

The East African Court of Justice (EACJ) is the principal judicial organ responsible for interpreting and applying EAC law. Under Articles 23 and 27 of the EAC Treaty⁵¹, the Court has jurisdiction

⁵¹https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eacj.org/%3Fpage_id%3D33&ved=2ahUKEwjw48ugqtGRAXWfcaQEHYcoJXcQFnoECB0QAQ&sqi=2&usg=AOvVaw19NexKgGnd9feeAtTrxcAM

over disputes concerning the interpretation and application of the Treaty and related protocols, including the Common Market Protocol.

The jurisprudence of the EACJ has consistently affirmed the binding nature of EAC law. In Prof. Peter Anyang' Nyong'o & Others v Attorney General of Kenya (Reference No. 1 of 2006), the Court held that Partner States are bound by the Treaty and must act in good faith in fulfilling their obligations. In James Katabazi and 21 Others v Secretary General of the EAC (Reference No. 1 of 2007), the Court emphasised adherence to the rule of law as a fundamental principle of the Community.

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Domestic Implementation of Common Market Obligations

The effectiveness of the Common Market legal regime ultimately depends on domestic implementation. Article 54 of the Common Market Protocol⁵² requires Partner States to take all necessary measures, including legislative and administrative reforms, to give effect to the Protocol. In practice, domestication has been uneven, as some domestic laws and regulations have remained inconsistent with Common Market obligations, particularly in areas relating to standards enforcement and services regulation. The reliance on domestic institutions for enforcement has meant that national administrative practices significantly influence the operation of the legal regime. This has resulted in variations in implementation across the region, affecting the uniformity and predictability of the Common Market.

⁵² <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://eacj.org/wp-content/uploads/2012/08/Common-Market-Protocol.pdf&ved=2ahUKEwjHt4roqtGRAXWbVqQEHdsJDFoQFnoECB4QAQ&usg=AOvVaw3IBKbfBoapzQQJjaL5No9l>

CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

This chapter synthesises the central findings arising from the examination of the East African Community (EAC) Common Market and its role in promoting the free movement of goods and services between 2010 and 2023. It consolidates the legal, institutional and practical issues discussed in the preceding chapters and situates them within the broader objectives of regional economic integration. The chapter further draws conclusions on the extent to which the Common

Market framework has achieved its intended purpose and proposes recommendations aimed at enhancing its effectiveness and sustainability within the EAC integration agenda.

Summary of Findings

The study established that the EAC Common Market is anchored in a clearly articulated legal framework that provides for the free movement of goods and services as core elements of regional integration. The Treaty for the Establishment of the East African Community (1999)⁵³ sets out the legal vision of a Common Market, while the Protocol on the Establishment of the EAC Common Market (2009)⁵⁴ translates this vision into binding obligations. These instruments collectively impose duties on Partner States to remove barriers that impede trade in goods and services and to facilitate market access across national borders.

With respect to the free movement of goods, the study found that significant progress has been made through the elimination of internal tariffs and the adoption of common customs procedures. The Common Market Protocol reinforces these gains by addressing non-tariff barriers and requiring Partner States to refrain from measures that restrict intra-EAC trade. Nonetheless, the persistence of administrative bottlenecks, regulatory inconsistencies and procedural delays has continued to affect the seamless movement of goods. These challenges highlight the gap between formal legal commitments and operational realities within the region.

Regarding services, the study found that the Common Market framework adopts a gradual liberalisation model that reflects the regulatory complexity of the services sector. The Protocol allows Partner States to make sector-specific commitments, thereby recognizing national policy considerations. While this approach has enabled incremental progress, it has also resulted in uneven levels of liberalisation and continued restrictions in key service sectors. Professional

⁵³https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.eacj.org/%3Fpage_id%3D33&ved=2ahUKEwjw48ugqtGRAXWfcaQEHYcoJXcQFnoECB0QAQ&sqi=2&usg=AOvVaw19NexKgGnd9feeAtTrxcAM

⁵⁴ <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://eacj.org/wp-content/uploads/2012/08/Common-Market-Protocol.pdf&ved=2ahUKEwjHt4roqtGRAXWbVqQEHdsJDFoQFnoECB4QAQ&usg=AOvVaw3lBKbfBoapzQQJjaL5No9l>

services, transport, and financial services remain subject to varying national requirements that influence service mobility within the region.

The study further found that the institutional architecture of the EAC plays a central role in guiding and monitoring the implementation of Common Market obligations. The EAC Secretariat, supported by the Council of Ministers and Sectoral committees, facilitates coordination, reporting and compliance assessment. Instruments such as the EAC Common Market Scorecard have enhanced transparency by identifying areas of non-compliance and implementation gaps. However, the effectiveness of these institutions has been influenced by their reliance on cooperation rather than direct enforcement powers.

Judicial oversight through the East African Court of Justice was found to be an essential component of the Common Market legal order. The Court's jurisprudence has consistently affirmed the binding nature of EAC law and the obligation of Partner States to act in accordance with Treaty principles. Although litigation directly relating to the free movement of goods and services has been limited, the Court has laid down foundational principles that support legal certainty and compliance within the Common Market.

Finally, the study found that domestic implementation remains a determining factor in the realisation of Common Market objectives. The obligation on Partner States to align national laws and administrative practices with Common Market requirements has not always been uniformly fulfilled. Variations in domestic regulatory frameworks and enforcement practices have contributed to differing experiences of market integration across the region.

Conclusion

From the findings outlined above, several conclusions can be drawn regarding the effectiveness of the EAC Common Market in promoting the free movement of goods and services between 2010 and 2023.

First, it is concluded that the EAC Common Market represents a legally sophisticated and institutionally structured framework for regional economic integration. The Treaty and the Common Market Protocol establish clear rights and obligations that are legally binding upon

Partner States. This legal certainty provides a strong foundation for market integration and distinguishes the EAC Common Market from purely political or aspirational integration arrangements.

Second, it is concluded that the free movement of goods has been more firmly established at the level of legal obligation than at the level of practical implementation. While tariff barriers have been largely eliminated and legal safeguards exist against trade restrictions, non-tariff barriers have continued to affect trade flows. This demonstrates that the effectiveness of the Common Market depends not only on legal provisions but also on administrative coordination and regulatory discipline.

Third, the study concludes that services liberalisation under the Common Market has progressed at a measured pace. The sector-based commitment structure has allowed Partner States to retain regulatory autonomy, but it has also limited the depth of integration achieved during the period under review. As a result, the free movement of services remains less developed than that of goods.

Fourth, it is concluded that EAC institutions and judicial mechanisms have contributed to the implementation of the Common Market, albeit within structural constraints. The EAC Secretariat has enhanced monitoring and reporting, while the East African Court of Justice has reinforced the authority of EAC law. However, the absence of strong enforcement mechanisms has influenced the overall effectiveness of the Common Market framework. In general terms, the study concludes that the EAC Common Market has been partially effective in promoting the free movement of goods and services. The framework has laid a durable legal and institutional foundation, but its full potential has not been realised within the period under review.

Recommendations

In light of the conclusions drawn, the following recommendations are proposed to strengthen the effectiveness of the EAC Common Market.

First, Partner States should intensify efforts to eliminate persistent non-tariff barriers through coordinated administrative reforms and stricter compliance with Common Market obligations.

Emphasis should be placed on harmonizing standards, documentation requirements and border procedures to facilitate smoother trade in goods.

Second, greater attention should be given to deepening services liberalisation under the Common Market Protocol. Partner States should progressively expand their sectoral commitments and streamline regulatory frameworks governing service provision. Mutual recognition of professional qualifications and licensing regimes would significantly enhance service mobility within the region.

Third, the institutional capacity of the EAC Secretariat should be strengthened to improve monitoring and follow-up on compliance issues. Enhanced technical expertise and resources would enable the Secretariat to support Partner States more effectively in implementing Common Market obligations.

Fourth, increased utilisation of the East African Court of Justice should be encouraged as a means of clarifying Common Market rights and obligations. Greater awareness of the Court's jurisdiction among regulators, private actors and legal practitioners would contribute to the development of jurisprudence relevant to the free movement of goods and services.

Finally, Partner States should prioritise domestic legal and administrative alignment with Common Market requirements. Regular review of national legislation and practices would promote consistency and predictability in the application of Common Market rules.

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