ASSESSMENT OF KENYA’S IMPLEMENTATION OF THE EAST AFRICAN COMMUNITY ECONOMIC INTEGRATION PROTOCOLS

BY

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DECLARATION

Declaration by Candidate

I declare that this is my original work and has not been presented for award in any other University. No part of this project should be reproduced without the permission of the author and/ or School of Arts and Social Sciences of Moi University.

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This project has been submitted for examination with our approval as University Supervisors.

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DEDICATION

I dedicate this research project to my family members, particular my late father who often reminded us that the worst poverty is poverty of the mind.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACP: Africa, Caribbean and the Pacific

AU: African Union

CET: Common External Tariff

CU: Customs Union

EAC: East African Community

EAHC: East African High Commission

EPA: Economic Partnership Agreements

EU: European Union

FTA: Free Trade Area

GDP: Gross Domestic Product

MFN: Most Favoured Nation

NEPAD: New Economic Partnership for African Development

PSD: Private Sector Development

PTA: Preferential Trading Area

SACU: South African Customs Union

SSA: Sub-Saharan Africa

TDCA: Trade and Development Cooperation Act

VAT: Value Added Tax

ABSTRACT

Constantly evolving dynamics and growth in world economics have given rise to regionalism and regional integration initiatives. Regional alliances are common in Sub-Saharan Africa (SSA), and there are substantial initiatives to promote integration as a means of stimulating economic development. The East African Community (EAC) is one of the most promising partnerships on the African continent. However, both the Customs Union and Common Market stages of the East African Community integration process have not yet been fully-fledged, operationalized and completed. The objectives of this study were to analyze if Kenya has implemented the EAC economic integration Protocols (Customs Union and Common Market Protocols), to examine how Kenya has implemented the EAC Custom Union and Common Market Protocols and to assess whether Kenya has implemented the free movement of labour between Kenya and EAC member states. This was a descriptive surveys research design. The target population were select employees at the various Government of Kenya entities and the private sector, mainly the exporters and the importers in the East African region. In this study, the sample size was determined using the Krecie and Morgan table. The study used primary and secondary data which was collected using structured questionnaires and interview schedule. Data analysis was done using SPSS version 21. Due to the fact that the dependent variable was qualitative with two categories, this study adopted a binomial logistic regression model. Qualitative data was analysed using content analysis which involved interpretation of narratives from the informants. The study which was based on the concept that for a successful integration process to occur within East Africa, each Partner State, must formulate and implement certain laws and regulations to comply with the Customs Union and the Common Market Protocols, showed that the likelihood of having certainty on the overall implementation of two EAC Protocols in Kenya was found more likely to have been implemented. The likelihood of having a high level of implementation of the EAC protocols in Kenya was found to be more likely higher than of low implementation. The likelihood of having free movement of persons on the implementation of the EAC Protocols in Kenya was found to be more likely to have been achieved than the contrary. Kenya has also improved in allowing freedom of movement of persons from the EAC countries within her territories, an assertion also supported by secondary data.

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DEFINITION OF OPERATIONAL TERMS

Customs Union Protocol: Agreement between two or more (usually neighbouring) countries to remove trade barriers, and reduce or eliminate customs duty on mutual trade unrestricted and equal association, as in society or an organization.

Common Market Protocol: An agreement between two or more countries to establish a free trade area where goods, services and capital can move freely across their common borders, without tariffs or hindrances.

Implementation: refers to the carrying out, execution, or practice of a plan, a method, or any design, idea, model, specification, standard or policy for doing something.

Integration: The bringing of people of different racial or ethnic groups into

CHAPTER ONE: INTRODUCTION

1.1. Background to the study

The changing dynamics of the world economic order in the post-Cold War period has given rise to regionalism and regional economic integration initiatives at both international and regional levels. The proliferation of regional economic integration and cooperation groupings in the world today can be interpreted as a response to the changes in the world economic order after the end of the Cold War. It has become an important tool for economic development in both developed and developing countries. Regionalism dates back to the Cobden Treaty of 1860 when a number of European countries that had already established customs unions among themselves sought to establish trading alliances with France based on Most Favoured Nation (MFN) clauses similar to the MFNs agreed between France and Britain (De Rosa, 1998; Bagabo, 2012).

Regional integration refers to the process by which previously sovereign states establish a mechanism for regular collective decision making among member states (Bagabo, 2012). The collective policy making is aimed at setting up uniform rule application mechanisms in order to eradicate barriers to mutual exchange of goods, services and the movement of factors of production (Feng and Gena 2003; Bagabo, 2012). This can be accomplished through an inter-governmental arrangement or a supranational organization (Sverdrup 2004). However, actual execution of regional protocols is generally left to member states. Integration entails one or more of the following successive stages: the Preferential Trading Area (PTA), an arrangement under which partner countries impose lower import tariffs on goods from fellow members compared to those from non-members; Free Trade

Area (FTA) refers to a PTA under which member states eliminate import tariffs on goods from member states and maintain

separate tariffs against non-member countries; Customs Union (CU) is a free trade area in which member countries adopt a common external tariff, quantitative restrictions and other measures to limit imports from outside the bloc; Common Market arrangements involves freedom of movement of goods, services as well as factors of production (labour and capital) within the region; Monetary Union is a common market which collectively agrees to adopt a common currency and a central monetary authority; Political Federation refers to an arrangement with harmonised legislation and political institutions (Maruping 2005; De Rosa 1998).

Regional alliances are common in sub-Saharan Africa (SSA), and there are substantial initiatives to promote integration as a means of stimulating economic development. This has been necessitated by globalization which has brought about the bigger challenge of integrating into the world economy (Otieno, 2011). Africa's share in the world trade has been shrinking due to the multilateral trading system by the developed world where African countries have little or no voice to influence issues. Under the circumstances, therefore, the only hope for African countries is to come together and negotiate as a block (Wanjiru, 2006). The economic integration in sub-Saharan Africa dates back to the establishment of the South African Customs Union (SACU) in 1910 and the East African Community (EAC) customs union in 1919. Since then a number of regional economic communities have been formed across the continent, particularly since the 1970s. Currently there about 10 regional economic groupings in Africa with the respective countries belonging to at least one of them. The restructured African Union (AU) and the New Economic Partnership for African Development (NEPAD) exemplify this growing commitment towards African cooperation and unity. On a smaller geographic level, the East African Community (EAC) is one of the most promising partnerships on the African continent.

In 1977, the East African Community collapsed after ten years partly due to demands by Kenya for more seats than Uganda and Tanzania in decision-making organs, other East African leaders' disagreements with Ugandan dictator Idi Amin and the disparate economic systems of socialism in Tanzania and capitalism in Kenya (Christian Science Monitor, 2006). The three member states lost over sixty years of co-operation and the benefits of economies of scale. Each of the former member states had to embark, at great expense and at lower efficiency, upon the establishment of services and industries that had previously been provided at the Community level. By the early 1990's, however, a push for regional integration was again making itself felt. Presidents Moi of Kenya, Mwinyi of Tanzania, and Museveni of Uganda signed the Treaty for East African Co-operation in Arusha, Tanzania, on November 30th, 1993 and established a Tri-partite Commission for Co-operation. A process of re-integration was embarked on involving tripartite programmes of co-operation in political, economic, social and cultural fields, research and technology, defense, security, legal and judicial affairs. The Treaty for the re-establishment of the East African Community was signed on November 30th, 1999 and it came into force on July 7th, 2000 twenty-three years after the total collapse of the defunct erstwhile Community and its organs (Pantazi 2012). A Customs Union was signed in March 2004 and it commenced on January 1, 2005. The EAC Charter envisaged that the Contracting Parties shall establish an East African Customs Union and a Common Market as transitional stages to higher integration levels of the Community.

The Customs Union and a Common External Tariff (CET) envisaged a free trade area with common external tariffs (set at zero per cent on raw materials, 10 per cent on semi-finished products and 25 per cent on finished goods except for a negotiated list of sensitive products which attracted higher CET) but allowing member countries to use different import quotas. Rwanda and Burundi joined the community in July 2007. On 1st July 2010, the Common Market Protocol came into force (EAC Secretariat, 2012). The Customs Union and the Common Market protocols were aimed at enabling the realization of the full benefits of economic integration. The main instrument for free trade provided under the Customs Union was the elimination of tariffs and Non-tariff trade barriers (NTBs) within the partner states in order to increase economic efficiency and promote political and cultural relationships among the partner states. As the EAC partner states liberalised trade through the Customs Union with a Common External Tariff, the protocol provided for the development of a mechanism to identify, monitor and eliminate NTBs in intra EAC trade. Article 2 section 4 (a) of the EAC Customs Union provides for the removal of all "non-tariff barriers to trade among the Partner States" in order to "further liberalize intra-regional trade in goods on the basis of mutually beneficial trade arrangements among the Partner State" (EAC Secretariat, 2012).

The East African Community currently comprises five partner states: Kenya, Tanzania, Uganda, Rwanda and Burundi. Together they cover an area of around 1.82 million km^2, with a population of 143.5 million people and GDP of $110.3 billion and average GDP per capita is $ 769 (EAC Facts & Figures Report, 2014).

In recent years, a more down-to-earth attitude to the ambitious goals has been adopted among the member state. The Common Market Protocol has been in force since 1 July 2010, but implementation at national levels is still faltering.

The EAC itself acknowledges that the implementation of the agreed decisions is inadequate. Practical implementation of the Common Market Protocol is therefore increasingly being regarded as a process that must take place over time. The Secretary General of the EAC, Richard Sezibera, admitted that implementation would probably take decades (Sezibera, 2011). In the light of the preceding integration stages, this sober prediction is understandable. When the Customs Union was introduced in 2004, it was not possible to immediately implement it in full: gradual reductions in duties on goods from Kenya protected Tanzania and Uganda from their economically strong neighbor (EAC, 2004). As the EAC pointed out in its Annual Trade Report 2009, non-tariff barriers are still a problem (Heinz-Michael, 2005). National Monitoring Committees monitor the removal of these barriers. In addition, it is hoped that cooperation with the East African Business Council (EABC) will ease the finding of a prompt solution (EAC, 2008). However, it remains uncertain whether efforts to eliminate non-tariff barriers will succeed. Further the full realization of a monetary union is not expected to be realized until 2024 despite the fact that the Monetary Union Protocol was signed in December 2013.

From the above therefore, the pertinent question often asked is whether the new EAC stands a better chance of success than its predecessor. It is claimed that most of the problems remain the same and many of the personalities involved have only been recycled. It is asserted, furthermore, that the ‘statist’ or ‘interventionist’ mode of thinking is so ingrained in at least some of the civil services of the partner countries that the ostensible policy reorientation is merely superficial. Today the Member States are faced with the challenge of insecurity which is threatening peace of the region. The Member States perceive their partners with suspicion. Political unrests, such as the recent attempted coup in Burundi and the continued instability is a hindrance to the integration process. Kenya’s economic muscle has more than doubled that of its partners. Customs valuation procedures have been resulting in different computed values for taxation (Mindaye, 2012). Since 2005, Uganda has produced a list of industrial products that are exempted from the CET. A similar list of industrial inputs is in place for Rwanda and Burundi. On this basis the prediction is made by some observers that the integration process is likely to be slower than expected and that fast-tracking is not feasible. The extreme pessimists and cynics claim that ten years down the line the EAC will either have ground to a halt or collapsed yet again (Kibua & Tostensen, 2005). The establishment of the “Coalition of the Willing” in 2013 by Kenya, Rwanda and Uganda to fast tract implementation of region is also viewed as a threat to the EAC.

1.2 Statement of the Problem

Ever since the revival of the East African Community in 1999, the partner States on the 1st of January 2005, launched the Customs Union as the first entry point into the integration process (Braude, 2008). Subsequently, a common market came into effect on 1st July 2010 as the second stage of integrating the region. However, both the Customs Union and Common Market stages of the East African Community integration process have not yet been fully-fledged, operationalized and completed, due to the fact that most of the areas of cooperation have either stalled or are yet to realize full integration (Ng’eno et al, 2007; Braude, 2008). It is therefore imperative to assess the impact of economic integration of the East African Community with the view of understanding the challenges facing the integration process in Kenya. This study therefore focused on this issue in order to fill a knowledge gap.

Several Studies have been done on the East African Community Integration. Reith and Boltz, (2011) did a study on the EAC: *Regional Integration – Between Aspiration and Reality*. Otieno (2013) did a study on the impact of economic integration on the trade growth with main focus on the EAC. A study by Wanjiru (2006) was on *The "New" East African Community: Effects on Trade, Welfare and Productive Activities in East Africa*. While these studies are of benefit to the researcher, none of them was done on the assessment of implementation of East African Community economic integration process in Kenya, hence a knowledge gap. It is therefore this gap that the researcher pursued to fill.

1.3 Purpose of the Study

The purpose of this study was to assess the implementation of economic integration protocols of the EAC with major focus on Kenya.

1.3.1 The specific Objectives of the Study

The specific objectives of the study were:

1. To analyze if Kenya has implemented the EAC economic integration Protocols (Customs Union and Common Market Protocols).
2. To examine how Kenya has implemented the EAC Custom Union and Common Market Protocols.

3. To assess whether Kenya has implemented the free movement of labour between Kenya and EAC Partner States.

1.4 Research Questions

1. What is the level of implementation of the EAC economic integration Protocols (Customs Union and Common Market Protocols) in Kenya?
2. How has Kenya implemented the EAC Custom Union and Common Market Protocols?
3. To what extent has Kenya implemented the free movement of persons between Kenya and EAC Partner States?

1.5 Significance of the Study

The study will help shed light on the level of EAC economic integration process in Kenya since its inception. The study will also be of benefit to the policy making organs in Kenya as they will be able to make informed policies of the factors affecting the EAC economic integration. The Government of Kenya will benefit from the study from enhanced understanding of the factors affecting the EAC economic integration. The study will add to the limited body of literature on the East African Community economic integration.

1.6 Scope of Study

This study was carried out in Kenya among individuals who in the course of duty are responsible for EAC integration issues including trade issues and various aspects regarding implementation of EAC protocols. The study sought to examine the level of imlemtnation of the Customs Union and the Common market Protocols in Kenya and the extent to which Kenya has enabled the free movement of persons within its territories, within the context of the EAC Treaty. Implementation of Protocols is effected through the ratification of the legal instruments and the establishment of the institutions and formulation of regulations to conform with the Treaty. The study will add to the body of knowledge on the implementation of the two key protocols in Kenya.

1.7 Summary

This chapter provided a background on the evolution of regional integration, the establishment of the East African Community and highlights the problem on EAC regional integration.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

In this section the researcher reviewed related literature under the following subtopics: empirical review, theoretical review, the concept of economic integration, determinants of economic integration and the conceptual framework.

2.2 Empirical Review

The completion of the customs union requires the achievement of two separate but related tasks; first, the removal of all internal customs duties and quantitative restrictions having equivalent effect, and second, the harmonization of tariffs to third countries, to create a Common External Tariff (CET) towards non-member states. In theory, once internal customs duties are eliminated, barriers to trade within the customs union are effectively quashed, and the signatory states can shift their focus to building a common commercial policy to the outside world (EAC, 2009). According to EAC (2009), generally, by 2008, the economic performance of the entire EAC region improved greatly; this is in terms of growth in output and per capita income of the member states.

Yongzheng and Gupta (2005) using time-series data, conducted a study on Regional Trade Arrangements in Africa. Their findings show that the impact of the RTAs on intra-African trade seems to have been small or insignificant. As a share of the continent's global trade, intra-African trade declined over much of the 1970s before it recovered in the 1980s and the first half of the 1990s. It was not until the early 1990s that intra-African trade recovered to its early 1970 levels. Intra-RTA trade in the major RTAs (SADC, COMESA, ECOWAS, West African Economic Monetary Union (WAEMU), and Central African Economic and Monetary Community (CEMAC)) has also grown erratically relative to their trade with the rest of the world, often showing no obvious trend over time except perhaps WAEMU, whose intraregional trade has increased in recent years due to the improved performance of the CU. They further argue that for many RTAs, intra-arrangement trade as share of their total external trade remains below intra-African trade as share of total African external trade prospective.

Using the WITS-SMART simulation model, Otieno and Shinyekwa (2011) in their paper provides insights on the effects of the East African Community Customs Union principle of asymmetry on Uganda with regard to trade, welfare and revenue effects since 2005. The end to the phased tariff reduction on category B products (these products were treated as sensitive products in 2005) increased trade creation and welfare effects. This effect shall have a reflection on consumer surplus in terms of reduced prices. The results also suggest that government shall incur a tariff revenue loss which should not be ignored given the fluctuating growth in the general trade tax revenue; hence the need to strengthen domestic ability to mobilise revenue or seek alternative source of funding.

Odhiambo (2010) argues that NTBs in EAC, like in any other region, result in delays and increased costs which ultimately hinder the free movement of goods and services. Removal of NTBs is much more effective in boosting intra-regional trade than the method of tariff liberalization. This is to say that, returns in terms of welfare gains, growth, employment generation and poverty reduction are more likely to be realized by addressing NTBs, than through tariff liberalization.

Mugisa and Mugoya (2009) conducted their study on evaluating the implementation and the impact of EAC-CU covering the three original Partner States, namely Kenya, Tanzania and Uganda. Using descriptive statistics, their results were that there are some uncertainties regarding the establishment of the regional integration and others saw it as unrealistic although the general finding was that the EAC-CU has generally led to increased cross-border and EAC extra regional trade in all Partner States.

Geneva Resource Centre (2010) conducted a study on the Non-Tariff Barriers in trading within the East African Community (EAC), focusing on trade trends among member countries before and after the introduction and implementation of the protocol. The study which is based on the documentary review found out that, there has been decreasing trend in the intra EAC trade among the member countries.

The reviewed literature has shown that the countries eliminated duties and qualitative restrictions which resulted into an improved economic performance in the region (EAC, 2009; Odhiambo, 2010). The review also revealed a mixed reaction to the effectiveness of customs union with Mugisa and Mugoya (2009) stating that other stakeholders saw it as unrealistic while others thought it to increase the cross boarder regional trade. However, none of the studies focused on the extent to which Kenya one of the member states has implemented the policies on the customs union, hence a knowledge gap. This study intends to investigate the extent to which Kenya has implemented the customs union policies.

Ratification is a principal's approval of an act of its agent where the agent lacked authority to legally bind the principal. Ratification defines the international act whereby a state indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act. In the case of bilateral treaties, ratification is usually accomplished by exchanging the requisite instruments, while in the case of multilateral treaties the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties informed of the situation. The institution of ratification grants states the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty.

There are many ways to think about the influences on governments' commitments to international trade treaties. One is to think of a treaty commitment as a low-cost opportunity to express support for a cooperative international endeavor. Hathaway has proposed that governments ratify treaties because ratification allows states to make a costless expression of support for the principles treaties contain. Those who ratify reap "rewards for positions rather than for effects" (Hathaway 2002). Because trade agreements are not effectively monitored, "the expressive benefits that countries gain from the act of joining the treaty will be enjoyed…regardless of whether they actually comply with the treaty's requirements" (Hathaway 2002). In this view, international legal arrangements are weak, enforcement is unlikely, and any costs of noncompliance are low. Why *not* ratify, and gain some support or at least praise from the international community for doing so? The act of ratification, in this view, is driven by the potential benefits of signing an agreement that goes unmonitored. Two kinds of benefits are often asserted to be available: *tangible* economic benefits and *intangible* social "legitimation." Together, we refer to these mechanisms as *rewards theory*.

Goodliffe and Hawkins note that norms supporting ratification of the CAT may spread through a "logic of consequences" in which "other states and third party actors (corporations and NGOs) reward that state through investment, trade, aid and positive political relationships" (Hawkins and Goodliffe 2006). Boockman asserts that international aid could influence the decision to ratify international treaties (Boockmann

2001). Posner (2008) lists "pressure from western states that tied aid and other benefits (such as EU membership) to treaty ratification" as the first reason developing states ratify trade treaties. And Trachtman (2012) finds other explanations for treaty ratification "less plausible" than a quid pro quo logic of rewards. Moreover, despite recognition that the multilateral aid organizations such as the World Bank do not explicitly link their assistance to treaty ratification, the idea persists in the literature that "International organizations also encourage ratification by linking a treaty with material goals, such as economic aid" (Oberdörster 2008).

The reviewed literature demonstrated that the member countries were committed to the ratification of the trade treaties. However, it was highlighted that some states are not committed to the treaty but want to enjoy the benefits that come with it as stated by Hathaway (2002). Further, these studies looked at the general performance of the integration of the community, but none focused on the extent of implementation of the economic protocols. An in-depth analysis of the extent of integration by each member state was however lacking, hence a gap. The aim of this study is to assess the level of integration of the EAC in Kenya.

2.2.1 Analysis of Kenya's implementation of the EAC economic integration Protocols

The term 'integration', literally means to bring parts of an object in to a complete whole, while in economic terms, it would indicate, in narrowest sense, the coordination of economic activities within a nation for the purpose of improving the development of that particular nation (Negasi, 2009). Negasi further renders the term a wider meaning, and indicates that it implies the process of integration of various economies in a given area or region into a single unit for the purpose of regional economic development. In a more precise way, economic integration occurs when two or more nations carry out policies that result in greater mutual economic interdependence.

Regional integration, or more crudely ‘regionalism’ is “any policy designed to reduce trade barriers between a subset of countries regardless of whether those countries are actually contiguous or even close to each other” (Winter, 1996) . Integration aims at abolishing discrimination between local and foreign goods, services and factors (Salvatore, 1997). Economists have defined the term ‘economic integration’ in various ways over period. Economic integration is a process of eliminating restrictions on international trade, payments and factor mobility (Carbaugh, 2004). Economic integration thus results in the uniting of two or more national economies in regional trading agreements. According to Biswaro (2003), regional economic integration involves the process of trade, economic and financial convergence of integrating states.

The economic integration literature clearly distinguishes between regional economic integration and regional economic cooperation. Regional economic cooperation is seen more as an ad hoc and temporary scheme, which is mainly based on contractual agreements with regard to projects of mutual interest between member states. Such projects could involve two or more countries in the region. On the other hand, regional economic integration involves agreements that are more permanent.

The classical trade-oriented economic integration sees regionally coordinated development of infrastructure as an issue of cooperation rather than integration. Balassa (1961) point out that economic cooperation denotes the suppression of discriminatory practices is usually embodied in trade agreements, and like Carbaugh (2004), he agrees that economic integration implies an elimination of trade restrictions. In addition, other economists argue that there cannot be integration without cooperation. However, it is clear from these descriptions that both these concepts are means to an end, and not ends in themselves. According to Negesi (2009), the process of economic integration can be at various stages in its development, embrace some aspects of economic cooperation efforts which are fully supported by this study.

Biswaro (2003) points that regional integration is characterized by the establishment of joint institutional mechanisms and a degree of shared sovereignty. Although this may be true in theory, the practicality of it is very difficult, particularly in Africa, as it involves ceding a percentage of the country's power to take decisions. This is confirmed by Biswaro (2003), when he argues that existing regional integration schemes in Africa function in a governmental rather than a supranational mode, and the actual sharing of sovereignty is minimal.

The Protocol inaugurating the East African Community (EAC) Common Market came into force on 1 July 2010, resulting from the agreement by all the five Partner States of EAC. The EAC "Common Market" strives for the integration Partner States' markets into a solitary market where by there is unrestricted movement of people, labour, goods, services and capital; and the right of establishment and habitation. This necessitates comprehensive institutional and legislative reforms, harmonization and estimations across the region. The execution of the EAC Common Market protocols is guided by four vital principles, namely: non-discrimination of nationals of other Partner States on grounds of nationality; equal treatment to nationals of other Partner States; transparency in matters concerning the other Partner States; and sharing information for the smooth implementation of the Protocol.

Preceding to the Common Market Protocols, Kenya had regulations that subdued unrestricted movement of other nationalities in the country. These regulations included; the Kenya Citizenship Act (Cap 170), Immigration Act (Cap 172), Alien Act (Cap 173) and Visa Regulations. These regulations have since been rescinded and substituted with the following new regulations: the Kenya Citizenship and Immigration Act No. 12 of 2011 and, Kenya Citizens and Foreign Nationals Management Act No.31 of 2011.According to Ogalo, (2012),the government of Kenya also embarked on policy and legislation restructuring that have since seen a host of fresh regulations, amendments and rules that address discrimination of citizens and workers from other Partner State seeking occupation in Kenya through the following laws: the Employment Act No. 11 of 2007; the Labour Relations Act No. 14 of 2007; the Labour Institutions Act No. 12 of 2007;the Occupational Safety and Health Act No. 15 of 2007;Work Injury Benefits Act, 2007; Kenya Constitution 2010; and Industrial Courts Act No. 20 of 2011.

2.2.2 Examination of how Kenya has implemented the EAC Customs Union and Common Market Protocols

In accordance with Article 76 and 104 of the EAC Treaty, the CMP under Article 2, paragraph 4 provides for all factors of production within the EAC (East African Community Secretariat). In order to achieve this, the Protocol provides for: free movement of goods, free movement of persons, free movement of labour, the right of establishment, the right of residence, the free movement of services; and free movement of capital. Article 10 of the CMP requires the Partner States to ensure that workers do not face discrimination in employment, remuneration and other conditions of work because of their citizenship. The EAC Partner States also committed, in Article 11 of the CMP, to mutually recognize academic and professional qualifications granted by the states. In this context, the Partner States are required to harmonize their curricula, examinations, standards, certification and accreditation of educational and training institutions. Article 12 of the CMP envisaged the EAC Partner States to harmonize their labour and employment policies, national laws and programmes so as to facilitate the free movement of labour across the region. This commitment extends to national social security policies, laws and systems in the region. Further, Article 39 of the CMP obliges the EAC countries to coordinate and harmonize their social policies so as to promote and protect decent work and improve standards of living of the citizens (East African Community Secretariat).

Article 10 of CMP provides for non-discrimination of nationals on grounds of nationality in matters relating to employment under Annex II on Free Movement of Workers Regulations 6 to 8. As a rule, under CMP, Partner States are prohibited from denying work permit on grounds of nationality of another EAC Partner State. For a worker to process and obtain a work permit, the law provides for temporary arrangements under which a person is issued with a visitor's pass remaining valid for six months. The pass allows the worker to initiate the process for obtaining a work permit and allows time for relevant Authorities to complete the necessary administrative procedures under Annex II, Regulation 5(2), (3) and (4) of the Common Market Protocol. The worker is under obligation to apply for a work permit within 15 working days from the date of signing an employment contract under Annex II, Regulation 6(3) of the Common Market Protocol (East African Community Secretariat).

The law provides for a special pass to be issued to a worker whose contract does not exceed ninety days under Annex II, Regulation 6(6) of the Common Market Protocol. As part of the framework for cooperation, the partner states committed, in Article 5 of the CMP, to ease cross-border movement of persons and eventually adopt an integrated border management system. They were also to remove restrictions on the movement of labour, harmonize labour policies, programmes, legislations, social services, provide for social security benefits and establish common standards and measures for association of workers and employers. The partner states were also to establish employment promotion centres and eventually adopt a common employment policy. Further, the partner states are to facilitate the right of residence of the citizens of the EAC.

Under Annex III, Regulation 6(4) of the CMP, the relevant State Authorities are bound to issue work permits within thirty days from the date of lodging the application. Of paramount importance is the requirement for a harmonized classification of work permits, fees, forms and procedures under Annex II, Regulation 6(9) of the CMP. In the same vein, the law requires partner states to ensure removal of all restrictions on right of establishment based on nationality of companies, firms and self-employed persons under Article 13 of the CMP. Furthermore, under Annex III, Regulation 5(3) of the Common Market Protocol the delay to issue work permit does not prejudice right to reside as the worker awaits the permit. Article 7(6) of the Common Market Protocol is to the effect that should there be any limitations to impose on grounds of public policy, public health or public security; other partner states must be duly notified (East African Community Secretariat) (Kanyangoga, 2010).

Kenya has implemented the EAC Custom Union and Common Market Protocols by having significant improvement in the number of EAC citizens granted six (6) months automatic stay and with necessary infrastructure and electronically interconnected border management systems border posts opened on reciprocal basis and manned for twenty-four hours. Many students granted gratis student passes to stay in Kenya and also with existence of a system for issuance with necessary infrastructure and electronically interconnected border management standardized systems machine that are readable. Some of bilateral agreements have been signed by Kenya in relation to the use of machine-readable and many more such as; List of Laws and regulations discriminating citizens of other Partner State seeking employment amended by a Partner State, work permit applications received from other Partner States Citizens and work permits applications granted, a number of employment contracts have been concluded by Citizens provided in the schedule for the free movement of workers.

Kenya has experienced less complaints lodged by workers of other Partner States in relation to unequal treatment. It has accorded a number of labour inspections undertaken to ensure same treatment is rendered to the workers from other Partner States as is accorded to the nationals.

According to EAC. 2011, Kenya has also implemented policies, laws and programs to facilitate the free movement of labour. A number of National Social Security policies, laws and systems have also been harmonized to provide for social security for self-employed persons. Kenya recognizes academic qualifications, experiences obtained, licenses and certifications of workers from the other partner States. Kenya has also harmonized education and training institutions with matched curricula, examinations, standards and certifications in each Partner State with most of education and training institutions certified and accredited with education curricula, examinations and standards harmonized to fit that of other member Partner States.

Kenya is also signatory to the East African Community Monetary Union Protocol (EAMU) an indication of Kenya's compliance to EAC economic protocols. A parliamentary committee on regional integration has however proposed constitutional amendments to enable Kenya to comply with the provisions of the protocol. According to the 24-member committee, adoption of the protocol as it stands would lead to Central Bank of Kenya (CBK) losing its constitutional mandate of formulating monetary policy. Under the Protocol, the EAC Partner States are expected to surrender monetary and exchange rates policies to the East African Central Bank leading to a single currency regime within the region, whereas national central banks would remain with the mandate of managing fiscal policy, fiscal discipline and harmonise them with the other Partner States' national central banks.

2.2.3 Assessment of Kenya's implementation of the Free Movement of persons

Free movement of workers is often defined as a significant element of the attainment of the freedom of movement for persons guaranteed under Article 7 of the Common Market Protocol. To this end, Partner States are required to enable without any discrimination citizens of other partner States entry without a visa; free movement within the territory; freedom to stay within and exit the territory without any restrictions and the right to full protection in accordance with the laws of the Partner State. The right of free movement of persons applies to citizens of a Partner State who move to stay in and exit another Partner State for purposes of a visit, medical treatment, transit, education and training or any other lawful purpose other than as a worker or as a self-employed person (Kanyangoga, 2010). For purposes of clarity, the free movement of persons and free movement of workers are distinct rights under the Protocol.

Contrary to common public opinion the free movement of persons under the Protocol, does not eliminate immigration border controls and accordingly any citizen who seeks to enter or exit the territory of another Partner State has to do so at the entry or exit points designated in accordance with the national laws of the partner State and has to comply with established immigration procedures. According to Article 1of the CMP, "a citizen" means a citizen of Burundi, Kenya, Rwanda, Tanzania and Uganda. The procedures for entry and exit of a Partner State that are provided for in the Protocol maintain the old order in as far as they require a citizen of another Partner State to present to the immigration officer a valid common standard document and declare all information required for entry and exit (Friedrich Ebert Stiftung, 2012) (Kanyangoga, 2010).

The new matter in this respect is that a citizen may instead of a passport or common travel document present a national identity card where the Partner State has agreed to the use of a machine readable electronic identity card as a travel document (Reg. 5 Annex I of Protocol). It should also be clearly understood that the acceptance of a machine readable identity card as a travel document is an advantage that only citizens of East Africa may enjoy.

Kenya has improved in allowing freedom of movement of persons within her territories. Study by Ogalo (2012) shows that there were a total of 185,552; 375,468 and 107,165 persons from other Partner States who travelled to Kenya in the period 2010, 2011 and as at May 2012 respectively. There has been no report of irregular denial of an EAC citizen entry into Kenya at all seven border posts that are operational on 24 hour basis, which are; Jomo Kenyatta Airport (JKIA), Mombasa International Airport (MIA), Namanga, Lunga Lunga, Taveta, Malaba and Busia. All these borders together with Kisumu International Airport are electronically interconnected and have integrated border management systems. In 2011 and by May 2012, there were 2,890 and 875 students from other Partner States granted gratis visas in Kenya.

On the amendment of national laws to ensure non- discrimination against citizens of other Partner States, Kenya has made great improvements on laws that inhibited free movement of people. These laws including the Kenya Citizenship Act (Cap 170), Immigration Act (Cap 172), Alien Restriction Act (Cap 173) and Visa Regulations. These laws have since been repealed and replaced by the following new laws: Kenya Citizenship and Immigration Act No. 12 of 2011 and Kenya Citizens and Foreign Nationals Management Act No.31 of 2011. To this point the common standard travel document is the EAC Passport and many are using it. No agreement exists but there is an understanding between Kenya and Rwanda and Uganda for use of machine-readable and electronic national identity cards as travel documents.

Kenya has also made significant improvement on free movement of workers in relation to occupation and wage without discrimination based on their nationalities, Ogalo (2012). Amongst the new laws that have enhanced free movement of East African Citizens to Kenya as workers without discrimination include; The Employment Act No. 11 of 2007, Labour Relations Act No. 14 of 2007, Labour Institutions Act No. 12 of 2007, Occupational Safety and Health Act No. 15 of 2007, Work Injury Benefits Act, 2007, Kenya Constitution 2010, Convention 100 and Convention 111 and Industrial Courts Act No. 20 of 2011. A total of 2,755, and 810 work permits were applied for and issued to workers from other Partner States in 2011 and as at May, 2012 respectively. This also mirrors the number of employment contracts concluded in Kenya for EAC workers. Consequently 75 and 23 dependents of workers had been employed in 2011 and 2012 respectively. Some complaints have been lodged but not according to the nationality of the worker .In 2011, 11,297 labour inspections had been undertaken in Kenya but the inspections did not capture the element of the same treatment to the workers from other Partner States.

In education science and technology matters, Kenya has undertaken the process of the harmonization of curricula, examinations, standards, certification and accreditation of educational and training institutions that in support of the free movement of persons policy.

2.3 Overview of the East African Community

2.3.1 The Former EAC

East Africa as a region has had a history of collaboration stemming from colonial times when customs collection arrangements existed between Kenya, Uganda and Tanzania. These arrangements date the early 20th Century, where various common arrangements were established by the British, the then colonisers of the East African region (Katembo 2008). As stated by Kamanga (2001), a customs collection centre for Uganda was first established in Mombasa in 1900. This was required as Uganda was a landlocked country. It therefore did not have a port and goods entering its territory passed through the port of Mombasa in Kenya before being transported to Uganda by road. In addition, a Customs Union (CU) was established between Kenya and Uganda in 1917. Tanganyika (now Tanzania and Zanzibar) joined the CU in 1922. The establishment of the East African CU was done under a high degree of fiscal and monetary policy integration (Mkenda 2001). Elements of the CU included a harmonized and joint customs, excise and income tax administration and other common services such as medical, industrial research, education, transport, communication and agriculture.

As East Africa was a British protectorate and the sterling was the currency of exchange, a currency board was set up in 1905 to issue currency to Kenya and Uganda. This was then converted to the East African currency board in 1919, when Tanganyika and Zanzibar joined. The role of the board was to issue and redeem local currency for sterling, among other responsibilities (Mkenda 2001).The currency union existed until it was abandoned in 1967, when the countries felt a monetary union was restrictive with respect to their power to administer effective monetary policy (Robson 1968). A creation of three separate but policy harmonised central banks, resulted in the creation of three currencies that could be used interchangeably. These were exchanged on a one to one basis and thus a closely linked currency area still existed. The tight currency link was severed with the nationalisation of Tanzanian banks in 1967.

This resulted in, firstly, the imposition of exchange controls against Kenya and Uganda to avoid capital flight (Mkenda 2001) and secondly, the suspension of the free circulation and redemption of Tanzanian notes in Kenya and Uganda. In 1970 Uganda followed suit by announcing a nationalisation policy that resulted in capital outflow. This had similar effects to the Tanzanian nationalisation drive. These policies created further tension between the three states.In 1948, the East African High Commission (EAHC) was established. The Commission was tasked with the ratification of policy decisions and was made up of the then three governors of Kenya, Uganda and Tanzania, with a secretariat based in Nairobi. It was from the premise of the above collaborations that a legal treaty establishing the EAC was signed in 1967 (Kamanga 2001).

The main objective of original EAC of 1967 was: “To strengthen and regulate industrial, commercial and other relationships of the partner states” (Mkenda 2001). This was to ensure that there would be accelerated, harmonious and balanced development and sustained expansion of economic activities, with the benefits being shared equitably amongst the original member states of Kenya, Uganda and Tanzania. The strategy for achieving the above objectives were, “the harmonisation of economic policy, formulation and consultation in the planning, preparation and implementation of joint projects in areas such as agriculture, education and manpower, energy and power, industry, tourism, balance of payments, transport and communications amongst others” (EAC Co-operation Treaty, 1967).

However, in 1977 the co-operation collapsed due to a variety of reasons. The ideological differences amongst the respective Heads of State are cited as the main reasons that added to the tension already created by the nationalization policies (Mkenda, 2001). Tanzania followed an African socialist-oriented route to economic development i.e. famously known as the Ujamaa system, Kenya was a capitalist state and Uganda had witnessed several ideological shifts in policy. At the time of the collapse, Uganda was following a socialist-oriented path known as the common man’s charter. These ideological differences were further enhanced by the need to align with the then East/West divide that further polarized the world into capitalist nations (Kenya fell into this group) and socialist states (Uganda and Tanzania) (Hazlewood, 1979).

Apart from the above, there were feelings of misalignment of benefits shared from the common market, where Uganda and Tanzania were of the opinion that Kenya was receiving the lion’s share of the benefits. This was the case, given the different levels of industrialization between the three states (Musonda, Mjema, Anders & Anders, 1997). Kenya being a more industrialized country attracted a higher share of investment. This also meant that the trade balance was in favor of Kenya as they exported more than they imported from their fellow partner states (Musonda et al. 1997; Rothchild, 1974). To compensate for the investment and trade imbalances, an EAC fund was set up to facilitate redistribution and compensation. This however did not effectively address the imbalances (Ndung'u & Goldstein, 2001). In addition the World Bank (2003) and East African Community (2010) stated that, due to minimal involvement of civil and private sector society in the running of the community, the EAC was seen as a government organization that was not relevant to the people and the community it was supposed to serve. The reasons mentioned above created a major rift between the three countries. This resulted in the eventual unwinding of the community in 1977. A memorandum of understanding was at the time signed with the view to re-examine co-operation arrangements in the future amongst the then members, Kenya, Uganda and Tanzania.

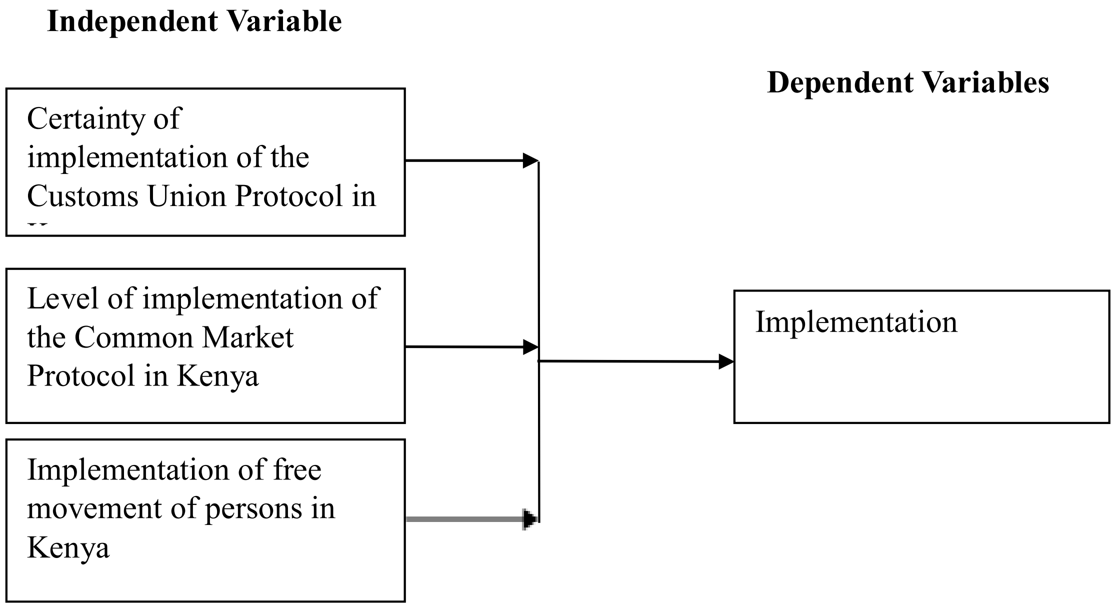
2.3.2 The re-established East African Community

In a renewed spirit to accelerate economic and social progress through regional integration, Kenya, Uganda and Tanzania initiated measures that would provide a platform for the renewal of cooperation. In that regard several milestones were put in place to create the required environment for restoration (Katembo 2008). On a wider scope, the consolidation of the economic and political environments within individual African countries, as well as the promotion of inter - African unity and co-operation was viewed as the solution to East Africa's disjointed and weak, political and economic conditions (Museveni, 1992). Furthermore, the small nature of the individual countries' internal markets made them marginalized players in the international trade arena.

This sentiment highlighted the need to re-establish a regional body amongst the East African countries. A permanent tripartite commission was therefore established on 30 November 1993 and a community secretariat on 14 March 1996, marking the beginning of the EAC's revival. The EAC's sole mandate was to deepen co-operation among member states in economic, political, social, security, defense, cultural and legal areas of operation. This was followed by the agreement and signing of the EAC Treaty by the respective heads of state for Kenya, Uganda and Tanzania on the 30th November 1999, re-establishing the community as the new East African Community (EAC). On 7 July 2000, the treaty was ratified and the EAC was officially launched on 15 January 2001 under the leadership of the former presidents of Kenya, Uganda and Tanzania (East African Community 2010).

In addressing the reasons for the failure of the earlier EAC arrangement, the current EAC Partner States are all pursuing market oriented economic policies, unlike their previous divergent pursuits. With respect to the market approach, the private sector and civil society participate in regional activities organised by the regional bodies. The East African Business Council is a case in point. It was set up to promote cross border trade and investment, and to facilitate lobbying for business-friendly policies in the region (EAC Private Sector Development (PSD) Strategy 2006). In response to the commitment of the member countries, a more stringent withdrawal process has been put in place and consensus among members is the mode of decision-making (Muluvi & Odhiambo, 2013)

2.4 Conceptual Framework



2.5 Theoretical Review

This study was anchored on the Functionalism Theory particularly David Mitrany's study entitled "A Working Peace System" (1966) and Jacob Viner's (1950) Custom Union Theory.

2.5.1 Functionalism Theory

Regional integration efforts in Africa have faced the challenge of refusal by member states to always stand by their obligations as stipulated in the objectives and regulations governing regional arrangements. This is both politically and economically driven (Muuka, 1998). The first aspect can only be addressed through a political process. Member states must realize the benefits accruing to their citizens from the process of regional integration. Upon weighing the welfare benefits to citizens vis-à-vis the costs of ceding some level of control to a regional body, a country is at a better position to determine whether they should pursue an integration process further. Muuka (1998) argues that sustained political and ideological will on the part of individual member governments is critical to the success of any regional economic grouping.

As a theory, Functionalism was postulated for explaining or advocating the need for creation of regional organizations. Mitrany argued that the link between authority and a definite territory can be broken and that the attainment of a regional organization would not be rooted on the territorial confines of the states forming it. In a world characterized by economic interdependence, functionalism assumes that social, technical and humanitarian problems can be prioritized and solved. This is because in a world of economic interdependence common economic interests create the need for international institutions and rules (Anadi, 2005).

Functionalism has however been criticized for its assumption that states are able to cooperate even in areas where their vital interests are at risk of being ceded to a supranational organization. This would result in a state-like supranational organization that could easily be dominated by the powerful states in the regional arrangement.

With regard to the EAC, the application of functionalism recognizes that regional integration takes place at an intersection of diverse interests of the multiple states which differ in political culture, ideology, economic, political and legal systems. These differences have to be managed in the right manner if any sustained relationship among the integrating states is to be realized. From a functionalist angle, it is not enough that the individual citizens of the countries have some welfare gains to be realized from the integration. There must be the will by the authorities at the leadership of these countries to work together towards a mutual good for all states. Should there be a feeling that one state or some states are deriving more benefit than the others, then the cooperation is in jeopardy (Oppong, 2007).

Mitrany in his view, in postulating the approach of functionalism, saw regional organizations as likely to result in inter-regional conflict. This was due to the reluctance by states to cede their authority to a regional/supra-national body. In the case of the EAC concept of a political federation, there is need for sovereignty of the partner states to be transferred to a regional body. With properly crafted expectations and obligations, greater cooperation can be enhanced. It is this notion that leads to the functionalist principle that people can consequently be weaned away from loyalty to the nation-state by the experience of fruitful international cooperation (Schmitter, 2007).

For this to be realized, great and deliberate organization must be in place as a result of a common understanding of the end result desired. This in the case of the EAC led to a move towards negotiation for harmonized policies towards a market driven integration initiative. There were however some concerns that at the time of undertaking the integration exercise, some members were at an advantaged position over others. A case in point was with regard to taxation and in particular Value Added Tax (VAT) and excise duty. This was to lead to the arrival at a Common External Tariff (CET) for the region.

2.5.2 Customs Union Theory

In his book *The Customs Union Issue*, Professor Viner draws the distinction between the trade-creating and trade-diverting effects of a customs union. In any theory of customs unions this must be a fundamental distinction. However, after defining the two terms, Viner goes on to conclude that, in some sense, trade creation may be said to be a 'good thing' and trade diversion a 'bad thing'.

When a customs union is formed, relative prices in the domestic markets of the member countries are changed because the tariffs on some imports are removed. These price changes are likely to have two important initial effects. First, they may influence the world location of production in the several ways carefully analysed by Viner. Secondly, they will have a parallel effect on the location of world consumption. Usually one would expect to find the union members increasing their consumption of each other's' product while reducing imports from the rest of the world. Changes of the first type will be classified under the general heading, *production effects of union,* and changes of the second type *consumption effects of unio*n. It must be emphasized that even if world production is fixed, a customs union will cause some changes in patterns of consumption due to changes in relative prices in the domestic markets of the member countries. The consumption effect, therefore, may operate even if there is no production effect.

The proposition that a change brought about by a customs union is in general, good or bad necessarily implies a welfare judgment. But the effect of a customs union on welfare must be a combination of its effect on the location and hence the cost of world production and on the location, and hence the 'utility' of world consumption. In the EAC the member countries were to increase the consumption of their products and services by reducing the tariffs on their products and services while at the same time reducing on the imports from the rest of the world.

2.8 Summary

This study was based on the concept that for a successful integration process to occur within East Africa, each partner State, must formulate and implement certain laws and regulations to comply with the Treaty on the Establishment of the EAC, such as the Customs Union Protocol and the Common Market Protocols. As the key pillar for the integration process, the functioning of the Customs Union Protocol is dependent on the laws the State Governments will formulate and implement. The formulated regulations would require regular reviews to identify any bottlenecks that may hinder the implementation of the Protocols. The success of the EAC integration process in Kenya will therefore ultimately depend on how the formulated regulations of the Customs Union Protocol, as well as the Common Market Protocol, are being implemented.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

This chapter presents the procedures that were used in conducting the study. It is organized into the following sub-headings: introduction, research design, target populations, sampling frame and size, data collection and data analysis.

3.2 Research Design

This was a descriptive surveys research design. According to Orodho (2004), the purpose of survey was to produce quantitative descriptions of some aspects of the study population. Survey analysis was primarily concerned with relationships between variables. This study sought to assess the extent to which Kenya implements the EAC Customs Union and Common Market Protocol. Survey research was a mixed method. Descriptive research design enables researchers to describe the attitudes, opinions, behaviors, or characteristics of the population based on data collected from a sample or a population.

3.3 Target Population

The EAC integration function is under the responsibility of a specific Ministry accordance with the requirements of the EAC Treaty. The ministry co-ordinates all activities related to the EAC integration process but implementation of programs and projects cuts across several ministries, departments and agencies of Government. Key individuals targeted were in decision and policy making positions, in departments charged with enforcement of regulations, revenue collection and border controls.

3.4 Sample Size and Sampling Techniques

A sample is the subset of the whole population which is actually investigated by the researcher and whose characteristics will be generalized in the whole population (Kasomo, 2007). The Central Limit Theorem (CLT) proposes that a sample should be big enough for the sample statistic to be a good estimator of the population parameter. With a known level of significance (α), it is possible to determine the standard error (se) and the sample size (n) from a large population as in this case. In a study of this nature, it is acceptable to make conclusions at 95% confidence level. Using Cochran (1977), the following is the computation of the sample size for an infinite population:

$$n_0 = z^2 * \frac{p(1-p)}{e^2}$$

Where:

n_0= The Sample size

$Z_{\alpha/2}$ = 1.96

e = Precision/Error level (set at 5%)

p=Estimated population proportion (set at 50%)

Using precision level of 5% the appropriate sample size for the study becomes

$n_0 = 385$ However, since the population represented by the number of officers who can give accurate information on EAC matters is finite (N=305) the sample size (n) is adjusted to:

$$n = \frac{n_0}{1 + \frac{(n_0 - 1)}{N}}$$

$$= 170.20 \approx 170$$

The sample size for the study was 170 selected form a population of 305 officers. A stratified sample was then selected from the target population and distributed as presented in Table 3.1

Table 3.1: Sample size

Department	**Target Population**	**Sample size**
Accounting	4	2
Clearing	4	2
Communication	11	6
Export offices	53	30
Export business	20	11
Finance	6	3
Inspection	27	15
Strategy	4	2
Tax	66	37
Trade	110	62
Total	**305**	**170**

3.5 Research Instruments

The study used both structured questionnaires and interviews Mugenda and Mugenda (2003) argue that, questionnaires are used to obtain important information about the population and the researcher was able to reach large audience at minimum cost. The sources of secondary data have been cited. The interview schedule gave in-depth information of the study.

3.6 Reliability

Reliability is a measure of the degree to which a research instrument yields consistent results or data after repeated trials Mugenda and Mugenda (2003). To test the reliability, the researcher conducted a pilot study. The pilot study data was analysed, interpreted and the instruments reviewed in readiness to the main data collection study. The test retest method was used to establish instrument reliability. The reliability was tested using Cronchbach's Alpha coefficient. Cronbach's Alpha is a measure of internal consistency that is how closely related a set of items are as a group. A high value of alpha is often used as evidence that the item measures an underlying (or latent) construct. The reliability coefficient of 0.7 is recommended by Mugenda and Mugenda (2003). The reliability coefficient of 0.81 was obtained.

3.7 Data Collection Procedure

Prior to actual data collection the researcher secured a letter of introduction from the University, which states the purpose of the study. Data was collected through Open Data Kit, which involved automation of the questionnaire and using mobile devices to collect both responses and location of the respondents. Further, the interview schedule was automated using Google Forms and the online interviews sent to key informants for response.

3.8 Data Analysis

3.8.1 Binary Logistic Regression

Logistical regression model was used to predict the effect of the independent variables on the dependent variable. This is because the data had two categories of the dependent variable (implementation). Therefore it's applicable where the independent variables are categorical, or a mix of continuous and categorical, and the dependent variable is categorical. Since the dependent variable was dichotomous that is Agree and Disagree thus we cannot predict a numerical value, so the usual regression least squares deviations criteria for best fit approach of minimizing error around the line of best fit cannot be used. Instead, binary logistic regression was used. This model employs binomial probability theory in which there are only two values to predict: that probability (p) is 1 rather than 0, i.e. the event/individual belongs to one group rather than the other.

Binary logistic regression forms a best fitting model using the maximum likelihood method, which maximizes the probability of classifying the observed data into the appropriate category given the regression coefficients. Like ordinary regression, logistic regression provides a coefficient 'b', which measures each independent variable's partial contribution to variations in the dependent variable.

Since logistic regression calculates the probability of success over the probability of failure, the results of the analysis are in the form of an odds ratio.

3.8.2 The Binary Logistic Regression Model

The binary logistic regression model is:

$$\log[p(x)] = log\left(\frac{P(x)}{1-P(x)}\right) = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \ldots\ldots\ldots X_{ip}\beta_{kj}$$

This looks just like a linear regression and although logistic regression finds a 'best fitting' equation, just as linear regression does, the principles on which it does so are rather different. Instead of using a least-squared deviations criterion for the best fit, it uses a maximum likelihood method, which maximizes the probability of getting the observed results given the fitted regression coefficients. A consequence of this is that the goodness of fit and overall significance statistics used in logistic regression are different from those used in linear regression. The qualitative analysis was presented in the form of narratives of the interviewees.

3.8.3 Ethical issues in consideration

The researcher adhered to ethical considerations with relation to professional practice, with regards the respondent, and with relation to other researchers.

Researcher's Professional Practice

The researcher ensured accurate data gathering and data processing and employed high professional standards, using a systematic and objective procedure and well-accepted ethical considerations in this regard. Additionally, a relevant research methodology was chosen as required by the research objectives for this study, with appropriate and full interpretation of data. Bias was avoided and methods employed in data collection and analysis clarified and any errors and distortions that would have arisen were stated in the final report. There was no fabrication or falsification of data in this study. The researcher, before proceeding to the field for actual data collection sought permission from the relevant statutory authorities to collect data. The university was requested to issue letters introducing the researcher and authorizing for data collection.

Researcher to Respondent

The researcher gave the respondent proper identification and avoided any false impressions of the research or the institution to which the researcher belongs. The researcher was also clear at the outset and inform the respondent and on the types of questions, the degree of sensitivity of the questions and the possible consequences of their responses where necessary. In addition, the researcher was concerned for the welfare of the respondent, ensuring their safety and comfort, that they provide free consent, have a right to privacy, anonymity and confidentiality where they desire. All subjects chosen for the study was given a letter of informed consent. Each participant was kept anonymous to the public, and all information retrieved from the subjects kept confidential and used only for the academic purpose of this research.

Researcher to other Researchers

The researcher ensured there was no misleading ascription of authorship in this research, or any plagiarism. Authorship and ideas were accredited where necessary.

CHAPTER FOUR

DATA ANALYSIS, FINDINGS AND INTERPRETATION

4.1. Introduction

Data was collected and analyzed through SPSS and the findings were reported in this section. The findings are reported as per the objectives of the study, which were to analyze if Kenya has implemented the EAC economic integration Protocols (Customs Union and Common Market Protocols), to examine how Kenya has implemented the EAC Custom Union and Common Market Protocols and to assess whether Kenya has implemented the free movement of labour between Kenya and EAC member states.

4.2. Demographic characteristics

The departmental affiliations of the respondents included accounting, clearing, communication, export, finance, inspection, strategy, tax, and trade. Most of the respondents were in the trade department (52, 37%). Diplomatic, academic, government..etc..

Table4.1: Demographics on departmental affiliation

Department	*Freq.*	*Percent*
Accounting	2	1.2
Clearing	2	1.2
Communication	5	3.2
Export office	27	17.1
Exports business	10	6.3
Finance	2	1.2
Inspection	14	8.8
Strategy	2	1.2
Tax	36	22.8
Trade	58	37.0
Total	158	100

Further analysis was done on the years that the respondents had worked in the department or activity that they stated. A majority had worked in exports and communications for over 10 years as is depicted in the graph analysis below.

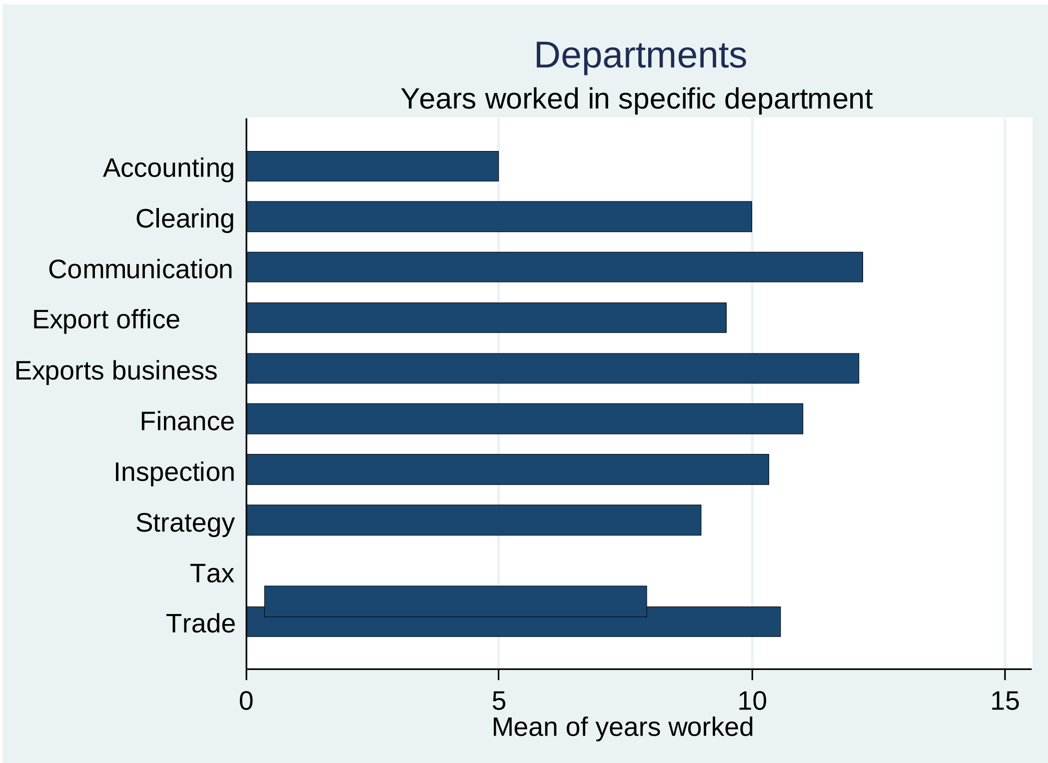


Figure 4.1: Department and years worked

The roles of the respondents varied from enforcing taxation laws for those in customs offices to engaging in export and import trade. Most of the respondents worked in customs offices enforcing taxation laws (38%) whilst a significant number engaged in export (13%), advising (7%), facilitating trade (7%), and importing (6%).

Table 4.2: Roles of respondents

Role	**Numbers**	**Percentage**
Enforce laws e.g taxation laws, trading laws e.t.c	80	50.6
Facilitating economic stability	20	12.7
Exports services and quality	21	13.3
Imports	9	5.7
Advice	11	6.9
Facilitating Trade	11	6.9
Accountability and taxpayer services	4	2.5
Inspection	2	1.3
Total	**158**	**100**

4.3. Level of implementation

The level of implementation for different components of the EAC was assessed. The implementation of the Common External Tarrif (CET) was perceived by 66% of the respondents to be at a significant level while only 27% regarded its implementation as very significant. On the implementation of the elimination of tariffs, and this is a crucial implementation in the EAC integration, 68% reported that it was to a significant level. Finally, 94% of the respondent stated that the general implementation of the EAC economic integration was successful. Figure 4 below presents these findings in detail.

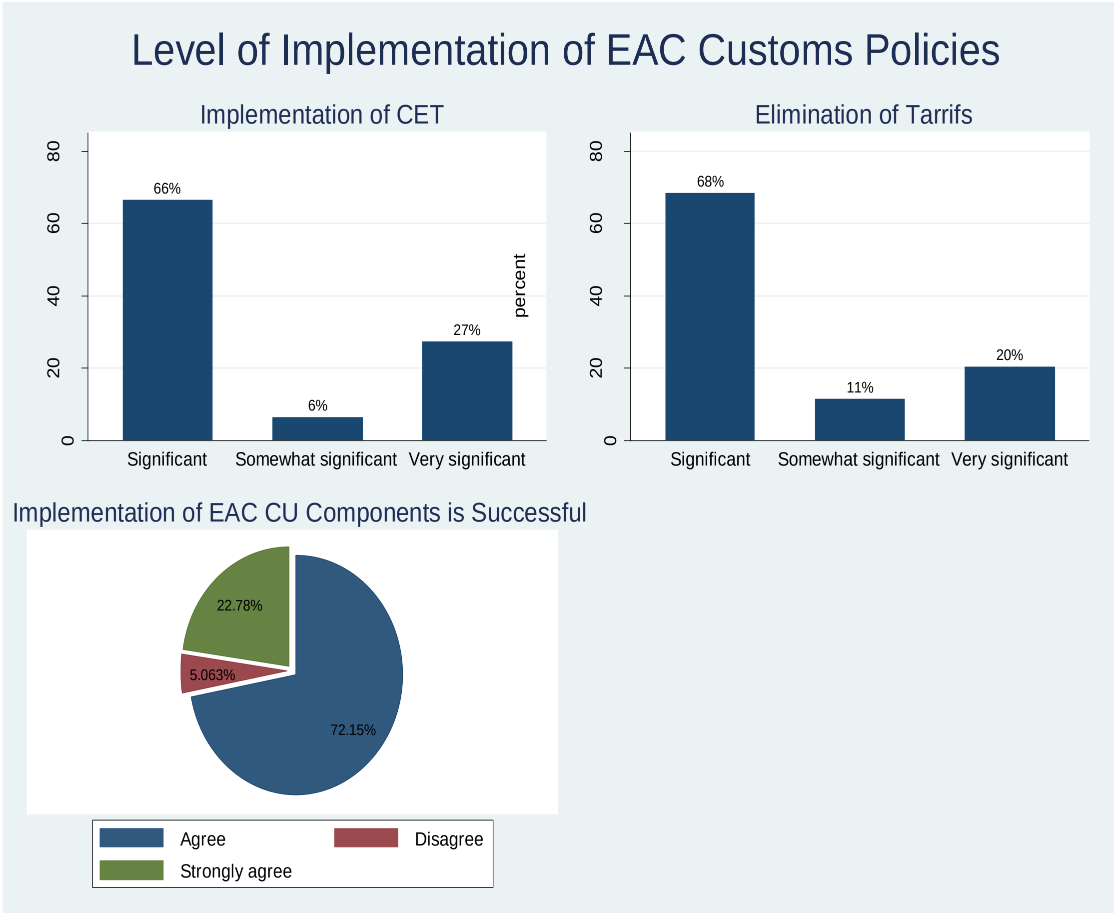


Figure 4.2: Level of implementation of EAC in terms of Customs Union Policies

According to the key informant interviews, various respondents gave opinions on the level of implementation of the EAC economic integration protocols. The key informants all agreed that there was a considerable level of implementation of the EAC integration with regard to the two protocols. The level of integration was reported through delineating the various ministries, departments, agencies, organizations, and principal personnel involved in the EAC economic integration protocols. A majority of the key informants asserted that the Ministry responsible for Trade and departments and agencies closely affiliated to that Ministry are all involved in the EAC economic integration process. One informant clearly stated the State Department of EAC affairs coordinates the implementation of EAC directives and decisions.

The level of implementation is further illustrated by the laws and regulations legislated to support the EAC economic integration. On this issue, the respondents majorly affirmed the presence and ratification of protocols supporting the economic integration. However, some notable responses were negative with an assertion that the laws meant to support the economic integration were not fully implemented. Further, the research indicated the lack trade of policies that would enable implementation of some aspects of the protocols. The informanants compared the situation in Kenya with that of Burundi, Rwanda, Tanzania and Uganda which they felt had the necessary policies, particularly in the case of Rwanda. An important perspective was brought out by one of the respondents, that there are appropriate legislation but they do not cover issuance of work permit for cross-border workers.

The enthusiasm of the EAC in facilitating economic integration is enshrined in the East African Community Treaty, Article 5(2). The Article states that the first stages of the integration involves formation and implementation of the Customs Union. The four elements of the Customs Union – the establishment of EAC rules, the development of the Common External Tariff, elimination of tariffs, elimination of Non Trade Barriers have all experienced varied levels of implementation (Makame, 2012). According to Makame (2012), the steps by the EAC to implement the Customs Union Protocol attracted other countries, namely Rwanda and Burundi, to accede the Treaty in 2007. The Republic Sudan acceded to the treaty in 2016 which is demonstration of the potential of the economic integration measure.

Studies record measurable impact of the EAC economic integration in both inter and intra-regional trade. Findings from studies on the EAC also reveal that Foregin Direct Investments have also increased. In tandem with findings from this research, the level of implementation of the EAC economic integration is also marked by the number of laws passed and missions that have been implemented including the One Stop Border Posts that have been made possible through implementation of the community's policies. In recent times, the EAC Customs Valuation Manual has also been ratified. The manual provides directions on the manner of implementing EAC Customs provisions within the community, assisting in overcoming the challenges.

While the level of implementation is significant, this study and literature highlight an incomplete picture of partial implementation. According to the Common Market Scorecard (2016), the East African Community is yet to fully implement its components, including the common market protocols. From the quantitative analysis, discrepancies on the level and method of implementation were clear, synonymous with the CMS (2016), which states that the countries in the EAC still run their distinct and separate markets. Burundi, Rwanda, Tanzania, Uganda still conduct their businesses in varied ways due to the bottlenecks in the EAC regulations. This study also showed the presence of legal barriers, taxation while the CMS reports double taxation as a major hindrance to the free flow of trade.

Non-conformity to trade rules, pointed out in the quantitative findings, are also depicted in EAC studies as the major limitation to full implementation of the EAC economic integration and its protocols. Non-conformity still abounds despite presidents of the EAC signing the freedom of movement treaty to facilitate movement of goods, services, labor, and capital. In principal, the free movement persons is a significant gain in the EAC economic integration and has facilitated trade since 2009 during its inception. Eiryo (2013) acclaims that more progress may be realized since states make efforts to conform to trade liberalizations.

4.4. Manner of Implementation

Key informants provided various responses showing the manner in which Kenya coordinates monitors and enforces EAC Protocols. A key input was that the Summit of EAC Heads of State led to the development of frameworks assisting in the implementation of the EAC economic integration. Among the frameworks are directives for the elimination of Non-tariff Trade Barriers (NTBs), the establishment of an online platform through which parties encountering NTBs are able raise issues and get resolutions, the various activities conducted by Ministry of Trade and its related agencies, the facilitation by the EAC Secretariat and technical support to implementation of protocols by the East African Business Council. Some respondents cited that the issuance and use of the East African Passport has enable movement of persons. Other aspects pointing to the impleemtnation of the EAC economic protocols are evident through the convening of round table forums for stakeholders in the EAC matters and domestication and mainstreaming the EAC processes. Only a few of the respondents lacked knowledge regarding the manner in which the implementation of the economic integration is done in Kenya.

Further, the analysis showed that a majority of the key informants were convinced that the implementation and enforcement of the EAC protocols was evident in Kenya. The EAC-NTBs Act 2015 passed by the East African Legislative Assembly, which has already ratified by Kenya was mentioned as evidence of enforcement of EAC protocols. In addition, the issuance of the East African passport was evidence of the enforcement of the EAC protocols. A number of the key informants mentioned the implementation of the free movement of goods as reliable evidence showing the enforcement of the protocols for the economic integration. The enforcement was noted to be visibly clear at the ports of entry and ports of exit of the country where a counter for East African citizens is available.

A clear listing of the organizations, agencies, and institutions involved in the implementation of the EAC economic integration was made possible from the key informants' responses. The Kenya Revenue Authority (KRA) was highlighted as having a key responsibility in the implementation of CET, enabling goods to move freely provided they have a certificate of origin. Other institutions established that point at implementation of the economic protocols the Lake Victoria Basin Commission which is hosted in Kenya and is responsible for management of the water resources around the lake, the Ministry responsible for EAC affairs to coordinate EAC matters in the country , the Competition Authority, and the One Stop Border Posts for ease of cross border trade and movement of persons. Further, Kenya has established national institutions such as the Kenya Plant Health Inspectorate Services that regulates matters regarding plant health and the Kenya National Highways Authority that manages and develops international trunk road that are crucial to the enhancement of cross border trade. Kenya is also a member of the World Trade Organisation and UNCTAD whose roles were highlighted as significant in the smooth running of trade in the EAC community.

4.5. Free movement of persons

In the assessment of the implementation of policies and procedures necessary for free movement of persons within the EAC, analysis on the most attractive element, least attractive element, and barriers was conducted. It emerged that a majority of the respondents (66%) stated that increase in trading activities was the most attractive element while 26.4%, 25.6%, and 23.9% reported corruption, lack of coordination, and conflicting interests as the least attractive elements. Barriers listed as main hindrances in the EAC CU policies implementation included cumbersome processes (34%), corruption (25%), and non-tariff barriers (20.2%). The analysis is presented in the group of graphs below.

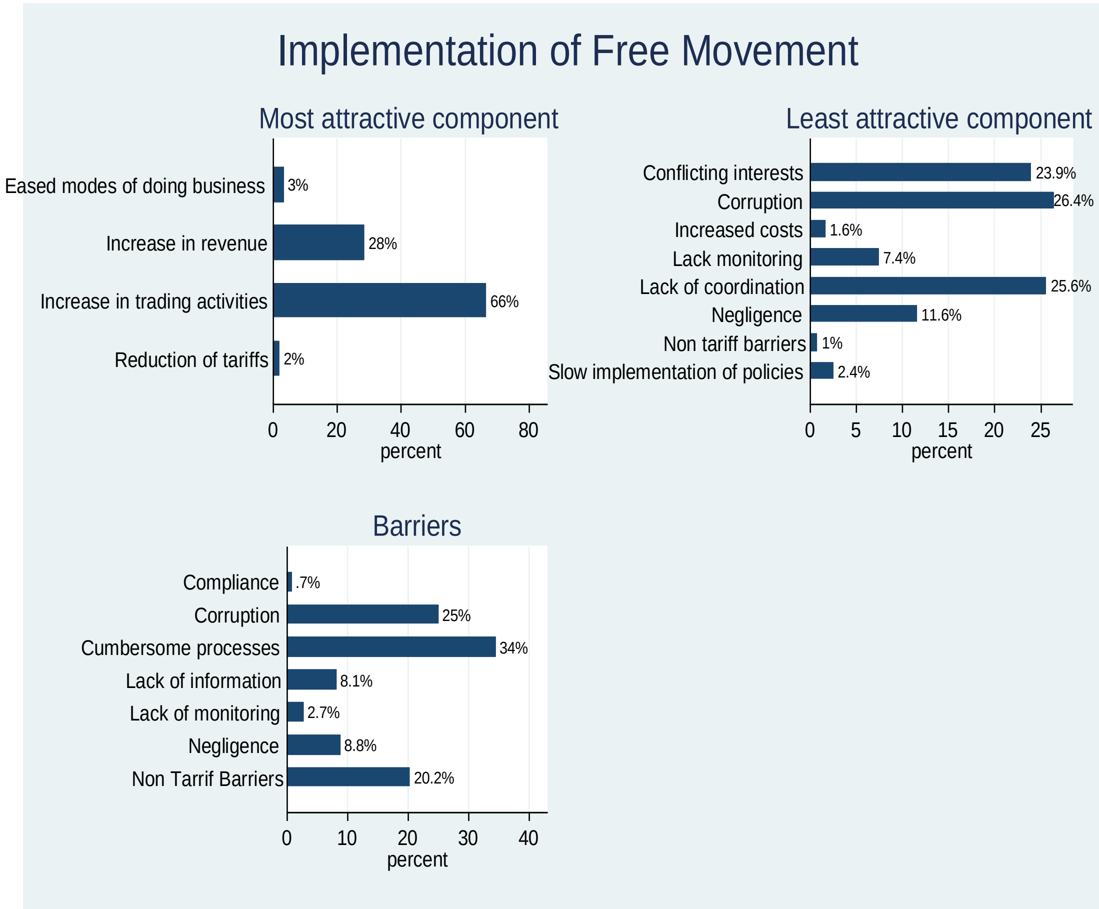


Figure 4.3: Implementation of free movement of persons

Further analysis was done on the levies charged to ascertain the extent of free movement of goods within the EAC. According to the analysis, 92.4% (almost all of the respondents) agreed that levies were charged. Importantly, a significant number (48.4%) stated that the levies were only to a small extent.

4.6: Model explanation

Hypothesis

***H_0*:** Predictor (independent) variables are not significant in the model

H_1: Predictor (independent) variables are significant in the model

Table 4.3: Variance explained by the model 1

Model Summary

Step	-2 Log likelihood	Cox & Snell R Square	Nagelkerke R Square
1	227.463[a]	.331	.471

Table 4.3 comprises the **Cox & Snell R Square** and **Nagelkerke R Square** values, which are equally techniques of computing the explained variation in the model (*pseudo* R^2 values). The explained variation in the independent variables (certainty in implementation of EAC protocols, level of implementation of the EAC protocols and implementation of free movement of labour) centered on this model, this variation ranges from 33.1% to 47.1%. Since Nagelkerke R^2 is a modification of Cox & Snell R^2, we see that this model explains 47.1% variations in implementation.

Table 4.4: Variance explained by the model 2

Classification Table[a]

	Observed		Predicted		
			IMPLEMENTATION		Percentage Correct
			Disagree	Agree	
Step 1	IMPLEMENTATION	Disagree	0	23	.0
		Agree	0	135	100.0
	Overall Percentage				88.0

From the table 4.4 above, we can conclude that between 33.1% and 47.1 of the variation in implementation can be improved by the model in table 4.3. The correct classification rate has increased to 88%.

Table 4.5: Variables in the Equation

		B	S.E.	Wald	df	Sig.	Exp(B)	95% C.I.for EXP(B)	
								Lower	Upper
Step 1[a]	Certainty in implementation	.192	.571	1.113	1	.036	1.212	.796	5.745
	Level of implementation	1.164	.753	2.389	1	.022	3.203	.732	13.048
	Free movement of persons	2.336	1.026	5.190	1	.023	10.339	1.566	67.171
	Constant	1.872	.207	70.824	1	.000	6.501		

From table 4.5 see that, certainty in implementation, level of implementation, free movement of labour have their p-value < 0.05, this shows that they were significant to the model/prediction. This can also be confirmed by Wald's test .The significant variables have values greater than one.

To predict the probability of an event (agree, implementation) occurring based on one unit change in an independent variable when all other independent variables are kept constant, then the following explanation holds from table 4.5.

Table 4.5 shows that the odds of certainty of implementation of the two EAC protocols in Kenya were 1.212 times more likely to be implemented than those of the protocols not being implemented.

The odds of having the level of implementation of the two EAC protocols in Kenya were 3.202 times more likely to be higher than those of lower.

The odds of Kenya implementing free movement of persons were 10.342 times more likely to be true than those of being false.

4.7: Model fitting

The coefficients for the model are restricted in the column headed B. A negative value means that the odds of sustainability drops.

$$\log\left(\frac{P}{1-P}\right) = 1.872 + 0.192X_1 + 1.164X_3 + 2.336X_4$$

Where:

$X_1 =$ Certainty in implementation

$X_2 =$ Level of implementation

$X_3 =$ Free movement of persons

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter covers the summary of the results in this study, the conclusions and recommendations for practice and suggestions for further research

5.2 Summary

The objective of this study was to assess the implementation of economic integration protocols of the EAC with a focus on Kenya. Most of the respondents worked in exports and communications for over 10 years and are in enforcing taxation laws whilst a significant number engaged in export, advising, facilitating trade including with regard to policy formulationand implementation and in the import business. According to findings, Kenya's implementation of the Common External Tarrif (CET) and implementation of the elimination of tariffs was perceived to be significant with informants citing gazette notices as a popular source of information. In the assessment of the implementation of policies and procedures necessary for free movement of persons within the EAC, it emerged that a majority of the respondents stated that increase in trading activities and increase in revenue was the most attractive element while corruption, lack of coordination among different departments, and conflicting interests, as the least attractive elements. Almost all of the respondent agreed that levies were charged but to a small extent.

Accordingly, the likelihood of having certainty on the overall implementation of EAC protocols in Kenya was found more likely to have been implemented. The likelihood of having level of implementation on the overall implementation of EAC protocols in Kenya was found to be more likely to be higher than those of low implementation. The likelihood of having free movement of persons on the overall implementation of EAC protocols in Kenya was found to be more likely to have been achieved. According to Ogalo (2012), Kenya has improved in allowing freedom of movement of persons within her territories.

5.3 Conclusion

In order to further enhance the level of integration in the EAC, Partner States should improve their internal systems by complying with the provisions of the EAC Treaty and the relevant protocols. At the moment, full integration has not been realized, one of the reasons being that Partner States fear losing their sovereignty and appear non-commital to fully commit to implementation of directives. In view of the history of the EAC, which in previous years broke-up, there is need for renewed political will at the leadership level for the integration process to be fully beneficial to the citizens of the Community. Political goodwill would give impetus to elimination of non-conforming acts and discrepancies that negatively impact the effective and efficient functioning of the EAC integration. With reference to Kenya, it can however be concluded that on the basis of the research, there is substantial evidence to indicate that implementation of the Customs Union Protocol and Common Market Protocol Kenya is at an advanced level.

5.4 Recommendation and Suggestions for Further Research

Based on the above conclusion therefore, the following section details the recommendations on the implementation of economic integration protocols in the East African Community in Kenya.

i. There is need to address the issues affecting full implementation of the EAC economic integration protocols in Kenya including cumbersome processes, corruption, and non-tariff barriers .

ii. Automation of processes for exporters and importers within the EAC region will reduce cumbersome processes highlighted as a challenges impeding full implementation of EAC economic integration protocols.

iii. Partner states need to work in faith of each other to increase their contribution and support in the economic integration. Kenya's contribution in unearthing the political goodwill of its neighbors and partners in the EAC economic integration will go a long way in ensuring the level of implementation within Kenya is increased.

iv. Measures to ensure efficiency and effectiveness of the economic integration should include espousing measures taken from other regional blocs around the world in dealing with cross-border movement of goods, services, and labor. As such, free movement across the East African bloc should ensure that it is as seamless as possible to promote trade and increase integration.

v. This study recommends emphasizing the dominant departments charged with monitoring and aligning matters concerning the East African Community economic integration to improve on reporting, addressing of matters, and promoting compliance to EAC protocols.

The current study used a binomial logistic regression model because of the nature of the response variable, future research should consider changing the response variable and use other models.

A significant amount of the researcher's data emanated from Kenya Revenue Authority whereby the key informants relied on gazette notices. The use of Google Forms also provided limited information compared to scheduled interviews. Future researchers would benefit more from scheduled interviews.

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APPENDICES

APPENDIX I: QUESTIONNAIRE

SECTION A: DEMOGRAPHIC INFORMATION

Provide appropriate answer to the following questions;

1. State your gender? Male [ ] Female[ ]
2. What age bracket do you belong? Less than 25 years [ ] 25 – 30 years [ ] 31 – 40 years [ ] 41 – 50 years [ ] Over 50 years [ ]
3. What is your highest level of education? Secondary education [ ] Tertiary college[ ] Bachelors degree [ ]
4. How long have you worked in the department? Less than 5 years [ ] 5 – 10 years [ ] 11 – 15 years [ ] 16 – 20 years [ ] Over 20 years [ ]

SECTION B: IMPLEMENTATION OF CUSTOMS UNION POLICIES

5. To what extent are there barriers to trade in Kenya?

   Not at all [ ] Small extent [ ] Moderate extent [ ]

   Large extent [ ] Very large extent [ ]
6. What forms of barriers do you get in doing business?

   ____

   ____
7. a) Are there levies levied on imports from the EAC? Yes [ ] No [ ]

   b) Explain your answer ____

   ____

8. To what extent does the government levy taxes on exports to the EAC partner states? Not at all [ ] Small extent [ ] Moderate extent [ ] Large extent [ ] Very large extent [ ]

9. a) How would you rate doing business in East Africa?

   Very difficult [ ] Somewhat difficult [ ]

   Somewhat easy [ ] Easy [ ]

   b) Explain your answer____

   ____

   ____

10. a) To what extent are the relevant economic integration the policies enforced in Kenya? Not at all [ ] Small extent [ ] Moderate extent [ ] Large extent [ ] Very large extent [ ]

   b) Explain your answer____

   ____

   ____

11. Has the enforcement eased trade in East Africa? Yes [ ] No [ ]

12. In your opinion, what should the government do to enforce the Customs Union Protocol?

   ____

   ____

   ____

SECTION C: IMPLEMENTATION OF COMMON MARKET PROTOCOL

13. What does movement of labour entail for Kenya in the EAC integration process?____

____

____

14. How will Kenya benefit in the free movement of labour under the Common Market Protocol?

____

____

____

15. To what extent have the people of Kenya benefited in the right of free movement of persons/labour as provided for under the Common Market Protocol?

Not at all [ ] Small extent [ ] Moderate extent [ ] Large extent [ ] Very large extent [ ]

16. In your opinion, how has Kenya implemented the Common Market Protocol?

____

____

____

APPENDIX II: INTERVIEW SCHEDULE

Provide appropriate answer to the following questions;

1. State your gender? Male [ ] Female[ ]
2. What age bracket do you belong? Less than 25 years [ ] 25 – 30 years [ ] 31 – 40 years [ ] 41 – 50 years [ ] Over 50 years [ ]
3. What is your highest level of education? Secondary education [ ] Tertiary college[ ] Bachelors degree [ ]
4. How long have you worked in the department? Less than 5 years [ ] 5 – 10 years [ ] 11 – 15 years [ ] 16 – 20 years [ ] Over 20 years [ ]
5. How many laws have Kenya formulated laws on customs union protocol? ____
____
____
6. How similar is the Customs Union Protocol to existing legislation and institutional arrangements?____
____
____
____
7. To what extent has the government communicated and sensitized the Customs Union among its traders? ______________________________________
____
____
8. Which organizations are responsible for enforcement of directives on the EAC integration process in the country?______________________________________
____

9. Were they in existence or created as a result of the implementation of the Protocol?____

____

____

10. Describe the capacity of the regulated agencies to monitor and ensure adequate application of the Protocol? ____

____

____

11. What systems are adopted for the coordination, monitoring and enforcement of the Protocol? ____

____

____

12. Describe the relationship between the regulators and the regulated agencies.

____

____

13. How do you assess the enforcement performance of the EAC protocols in Kenya?

____

____

14. What factors are responsible for the enforcement performance of your country?

____

____

15. What commitments have already been made by Kenya in the implementation of the Common Market Protocol on Movement of Labour?
____
____
____

16. In your opinion, what do you think are the limitations faced by Kenya on the implementation of the Common Market Protocol with reference to the Free Movement of Labour ? ________________________
____
____
____