

The Private Sector in the East African Common Market

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Introduction

The EAC Common Market established in July 2010 sought to integrate all markets of Partner States into a single market in which there is free movement of persons, labour, goods, services and capital; and the right of establishment and residence. Since the EAC integration process is private sector-driven and this sector is also the main actor at the market, the expectation has been that the private sector as the main beneficiary of this market would enthusiastically embrace the common market to foster regional integration. Nevertheless, little is known about the response of the private sector to the establishment of the wider EAC common market as well as the challenges the sector has so far faced in the market. The purpose of this paper, therefore, is to assess the opportunities and challenges facing the private sector in an expansive Common Market with a view to highlighting its contribution to regional integration. Available evidence shows that the EAC common market has expanded the trading space for the private sector, to which the latter has responded by increased participation in intra-regional trade. Indications suggest that the common market has also sparked greater private sector investment in the region. Nevertheless, the full potential of the private sector is likely to be realized only after the on-going implementation of the provisions of the Common Market Protocol. In the meantime, the sector has encountered a number of challenges in its endeavour to enhance

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regional trade. The bulk of the challenges revolve around the persistence of non-tariff barriers (NTBs) to trade; the lack of adequate information among private sector actors; limited movement of capital in the region; and the politics of regional integration that has resulted into concealed protectionism. The paper concludes that though the private sector is increasingly contributing towards the realization of the common market goals, the challenges seem to overwhelm its capacity to exploit the business opportunities so-created. The enormous challenges ahead require that the sector re-engineers its effort in order to be successful in steering regional integration. The re-engineering process should include strengthening its organizational network to effectively lobby for the elimination of NTBs; advocating for further liberalization of trade to create a competitive business environment; negotiating for regulations that facilitate capital movement in the region; and mobilizing capital for investment in new technologies.

The Private Sector in East Africa Conceptualizing the Private Sector

The term “private” has always been contrasted with “public” that means state ownership; with the result that private has been associated with non-state ownership. By the term private sector, we refer to business enterprises, companies and organizations that are not owned or controlled by the government. These are basically profit-oriented enterprises owned by individuals or groups of people that primarily carry out their activities in order to make a profit that is shared out among the owners. They are in contrast to state institutions such as government agencies and publicly owned enterprises that carry out activities to provide services to the public. In terms of ownership, private sector enterprises may be classified into three broad categories, namely sole proprietorships, partnerships and corporations. A sole proprietorship is a business owned by one person, who may operate on his/her own or employ others. The proprietor has overall responsibility over the management of the business as well as total and unlimited personal liability of the debts incurred by the business.

The second type of enterprise is a partnership, which is a business owned by two or more people for the common goal of making profit. Each partner has total and unlimited personal liability of the debts incurred by the business.

There are, however, three typical classifications of partnerships that have implications on the responsibilities and liabilities of partners. These are general, limited and limited liability partnerships. A general partnership is an association of persons or an unincorporated company that is established by agreement between two or more persons who share equally in both responsibility and liability. Thus, all partners are referred to as general partners.

A limited partnership is similar to a general partnership, except that in addition to the general partner(s), there are also limited partner(s) who have limited liability. This means that there are two types of partners called general and limited. Whereas limited partners are only liable on debts incurred by the firm to the extent of their registered investment and have no management authority, general partners share equally in both responsibility and liability. Thus, general partners carry more responsibility and liability than the limited partners.

Finally, a limited liability partnership is an enterprise in which all partners (depending on the jurisdiction) have limited liability and one partner is not responsible or liable for another partner's misconduct or negligence (Sullivan and Sheffrin, 2003: 190). In this way, limited liability partnerships exhibit some features of corporations. Nevertheless, unlike corporate shareholders who have to elect a board of directors that in turn hires corporate staff to exercise the legal responsibility of managing the business in the corporation's best interest, the partners here have the right to manage the business directly.

The third type of private sector enterprise is a corporation, which is a business company established for the purpose of undertaking a venture to make profit for the members, but it has a separate legal personality from its members. As already pointed out, a corporation is owned by multiple shareholders and is overseen by a Board of Directors elected by shareholders, which hires the company's managerial staff to carry out day-to-day management activities. A corporation may be privately held or publicly traded. A privately held company is one that does not offer its shares to the general public through the stock exchange. Such companies are also referred

to as unquoted or unlisted companies, meaning that their ownership is closed to a few people. Conversely, publicly traded companies list their shares on the stock market, allowing for more diversified ownership as anyone who purchases their stock becomes a partial owner and is able to receive a portion of its profit. It should, however, be clarified that despite the usage of the term "public", a publicly listed company does not entail state or public ownership because it is not owned by the whole society. It just means that shares of the company are for sale to anyone in the general public who wishes to purchase them.

This exposition clearly shows that the concept private sector is a conglomerate that includes a multiplicity of business ventures that ranges from individual entrepreneurs to large corporations that are formal and informal as well as local and foreign. The nomenclature thus includes all types of business ventures involving street hawkers, shopkeepers, wholesalers, suppliers, farmers, artisans, hoteliers, manufacturers, transporters, among others. Since the triumph of capitalism over socialism in the early 1990s, the private sector has been expected to play a leading role in the provision of services to people. This expectation in service provision further enhances the significance of the private sector not just in national development, but also in regional integration. It is in this regard that it is imperative to review its role in the EAC common market. To do this, it is imperative to begin with an overview of the manifestation of the private sector in East Africa.

An Overview of the Private Sector in East Africa

As already pointed out, the private sector in East Africa is quite diverse and heterogeneous. It consists of micro, small and medium size enterprises as well as large-scale enterprises. The large-scale enterprises are either local partnerships and corporations or subsidiaries of multinational corporations. The presence of multinational corporations among the EAC partner states is strongest in Kenya. The overall structure of the private sector in the region is, however, dominated by micro, small and medium size enterprise (MSMEs). It has been estimated that MSMEs (especially those engaging 1-10 persons) account for 87 percent of all enterprises in the region (EABS, 2003). Indeed, some countries have reported even a higher percentage of these enterprises.

For instance, over 90 percent of businesses in Rwanda are MSMEs. These MSMEs are, therefore, a very significant part of the private sector in terms of number of enterprises and the number of jobs they create. On average, MSMEs contribute more than 70 percent of nonagricultural employment in the region.

The significance of the private sector in the East African economies is exemplified by the fact that it accounts for over 80 per cent of the Gross Domestic Product (GDP) in all partner states. However, the low level of savings in the region has resulted into low gross capital formation. This has in turn resulted into low levels of investment that have not been sufficient to guarantee rapid growth of the sector, especially the capital-intensive manufacturing component. Despite the relatively low growth rate, it is important to note that the private sector is spread in all major economic activities of each country, namely agriculture, natural resources, commerce, services, and manufacturing.

Agriculture and natural resources are predominant sources of the main economic activities in the region which have a significant presence of private sector activities. In agriculture, the private sector is active in cash crop farming, livestock and dairy production, horticulture, and marketing farm inputs and implements as well as the produce, but there are still enormous investment opportunities in infrastructure and technology. Agribusiness also has a large potential, but little has been done to promote value addition and tapping new market opportunities.

With regard to investments in natural resources, the private sector is present in fisheries, forestry and mining. The region has rich fishery resources both in the Indian Ocean and in the region's lakes and rivers. It is significant that fishing has primarily been a private sector venture. Private sector engagement in fishing ranges from small operators using rudimentary and often destructive technology to large-scale trawlers largely operated by foreign companies. In recent years several fish processing factories have been established, mainly around Lake Victoria, for processing fish for export. However, capacity for policing, controlling and actually enforcing fishing

regulations have not helped to develop private sector participation in a sustainable manner.

The private sector is also predominant in forestry activities and there are immense opportunities for further development. However, forestry resources tend to be exploited for timber and the fuel needs of the low-income populations, often to the detriment of environmental conservation. The capacity for management and regulation of private sector activity in the exploitation of forestry resources is still inadequate in the region.

The region's minerals have not been fully mapped or quantified and a considerable part of the present mining activity by the private sector is small-scale and informal. Recent foreign mining investments, largely in Tanzania, have considerably increased large-scale mining in the region. Nevertheless, these large-scale mining operations by multinational corporations have also raised the challenge of ensuring that foreign investment makes a significant contribution to the regional economy and in particular to the development rather than displacement of the local small-scale miners.

Finally on natural resources, water is increasingly becoming a scarce resource despite the existence of many lakes and rivers in the region. The private sector actors are engaged in water resource development as suppliers, and as consultants and contractors for water supply and sanitation services projects. Initiatives continue to be undertaken in most countries to restructure and privatize water supply and management systems especially in urban areas, which is increasingly giving greater space to private sector participation.

The private sector in East Africa is probably more visible in commercial activities than even in the agricultural ones. The commercial sector attracts all categories of private enterprises in the region. Most of the micro and small enterprises are engaged in trading in both new and used manufactured products that range from household utensils and clothes to motor vehicles. Indeed, most of such enterprises fall under the domain of the informal economy. The informal economy is basically unregulated business activities that are carried out in situations where similar businesses are regulated. It is

generally characterized by small scale, self-employment, easy entry, high proportion of family workers and apprentices, little capital and low technology, low level of skills and organization, lack of access to organized financial markets and supporting services. Two main categories of informal economic activities in the private sector have been distinguished as first, family enterprises that are own-account enterprises without permanent employees, which include street traders, motor vehicle mechanics, metal workers, carpenters, hawkers and shopkeepers, among others; and second, microenterprises as informal employers with permanent employees.

In the services sector, the hospitality industry is predominantly run by the private sector. Furthermore, wildlife and tourism resources of East Africa are internationally renowned, with most hotel and travel facilities owned and operated by private firms. The private sector is also active in the provision of health, educational, insurance and financial services in the region. The latest private sector entrants in the services sector are the increasingly many investments in information and communication technology, where private firms are also in the lead.

Finally, the formal manufacturing or industrial sectors of the partner states are generally underdeveloped and uncompetitive in international terms, because of the small size of the national markets and also because they were originally created under import substitution regimes involving high levels of domestic protection. Nevertheless, of the five East African Community countries, Kenya has a more developed manufacturing private sector than the rest. Kenya's dominance in industry is a product of factors such as the colonial legacy, location and policies that tended to promote free market economy. Its transportation advantages have also helped to spur industrial development in the country. While Tanzania has equally good transport advantages, previous policies pursued by the government did not promote industrial development. Uganda, Rwanda and Burundi have all experienced the transport disadvantages of a landlocked country. In the recent past, industries attracted to East Africa by size of the market and by the protection of privileges granted under the common tariff have tended to cluster in

Kenya. This has generated a higher rate of industrial development in Kenya than in the other EAC countries (Odhiambo, 2011: 28).

The Organization of the Private Sector in East Africa

The foregoing overview suggests that the private sector in East Africa is quite disparate. It requires some form of organization to be effective in lobbying for favourable business environments both at the national and regional levels. It is in this regard that it is important to review the organization of the private sector in the region as an indicator of its effectiveness in steering regional integration through the common market. There is on-going organization of the private sector in the region, both at the national and the regional levels. The vibrancy of the national organization of the private sector, however, tends to vary with the degree of economic sophistication and the extent of independence of the private sector from the state in the respective country.

As already pointed out, Kenya enjoys a relatively more sophisticated economy and the organization of the private sector at the national level is relatively free from state manipulation and interference. Consequently, the private sector has been quite vibrant that it has been involved in discussions, not only directly touching on business but also broader national issues like the constitutional review and implementation. At the lowest level, there are business associations formed along types of enterprises to promote their interests. Consequently, there is a variety of associations for bankers, insurers, traders, *Jua Kali* artisans, just to name a few. Informal economy workers have also formed the Association of Small and Medium Enterprises in Kenya (ASMEK) that attempts to bring together small and medium size entrepreneurs to facilitate the growth and development of a larger pool of SMEs by lobbying and agitating for equal and fair rights and legislations ideal for the establishment of a conducive business environment. ASMEK also endeavors to serve as an effective platform for the success of local enterprises by offering entrepreneurs training and linkages to other supportive institutions. These business associations are affiliated to national federations like the Kenya Association of Manufacturers (KAM) and the Federation of Kenya Employers (FKE).

At the national level, the Kenya Private Sector Alliance (KEPSA) is the apex body of the private sector in the country. It was formed in 2003 to provide one voice for the private sector in advocating for an enabling business environment. KEPSA's membership comprises more than 60 Business Membership Associations and in excess of 180 corporate organizations. KEPSA seeks to integrate the private sector so that it can be recognized as the economic pillar and engine of growth in national development. In this regard, it engages government in dialogue for the purpose of creating an enabling business environment. It also mobilizes its members from different sectors of the economy, big and small, to create synergy and articulate issues of common interest, thereby amplifying the voice of the private sector in Kenya. This has enabled KEPSA to record many successes not just in securing a conducive business environment, but also in influencing public policy and other national discourses like the making and implementation of the new constitution in Kenya (KEPSA, 2010).

In Uganda, the Private Sector Foundation Uganda (PSFU) is the national apex body of the private sector. It is made up of 157 business associations, corporate bodies and the major public sector agencies that support private sector growth. It was formed in 1995 to serve as the national focal point for the organization, promotion and development of private sector initiatives and capacity building. Since then it has remained the leading partner with Government in the development of a globally competitive Ugandan private Sector. PSFU has been the Government's key implementation partner for several projects and programmes aimed at strengthening the private sector as an engine of economic growth. Such programmes include the Business Uganda Development Scheme (BUDS), the Northern Uganda Post Conflict Recovery and Development Programme (NUPRDP), the BUDS-Energy for Rural Transformation (ERT) programme and the Second Private Sector Competitiveness Project (PSCP II). This partnership has enabled it to sustain a positive dialogue with Government and continues to advise the government on positive policy reforms for private sector development (PSFU, 2011). It should, however, be noted that this partnership could be an indicator of the Government's concealed hand in organizing and influencing the private sector in Uganda.

In Rwanda, the private sector is led by the Private Sector Federation (PSF) that was established in 1999 as a fusion between the then Chamber of Commerce and Industry and the employers' organization. Currently the Federation groups together nine professional and promotional Chambers, seven of which are sector specific and two are cross-cutting. The nine chambers that form the Rwanda Private Sector Federation are the Chamber of Agriculture and Livestock; the Chamber of Industry; the Chamber of Commerce and Services; the Chamber of Tourism; the Chamber of Financial Services; Chamber of Crafts, Artists and Artisans; the Chamber of Liberal Professions; the Chamber of Women Entrepreneurs; and the Chamber of Young Entrepreneurs. The sector-specific chambers bring together business associations within the respective sectors for advocacy and assistance in meeting business challenges (PSF, 2010). This is in line with the overall mission of PSF, which is to represent and serve the interests of the entire private sector through lobbying and advocacy, while at the same time providing timely and relevant business development services that lead to sustainable private sector-led economic growth and development. As is the case in Uganda, the Government has been active in the organization of the private sector.

The Tanzania Private Sector Foundation (TPSF) is the apex national organization of the private sector in Tanzania. It was established in 1998 by various stakeholders as a company limited by guarantee to promote private sector-led social and economic development in the country. The membership of the Foundation is open to "properly" established business associations. The Articles of Association provide for Ordinary, Corporate and Associate membership. Whereas corporate membership is open to corporations supporting the aims and objectives of the Foundation, associate membership is for private sector business support organizations and Government agencies providing specialized services to businesses. Ordinary membership is open to four categories of associations: National Coverage Associations; Medium Sized Associations; Regional Coverage Associations; and Small and Emergent Associations. As of 2009, TPSF had a total of 134 members, consisting of 44 corporate members and 90 associations. The Federation

generally serves its members in the areas of policy and advocacy; enhancing competitiveness; building international linkages; and business development. TPSF also works closely with different ministries of the Government of Tanzania and local governments to highlight policies that can unleash entrepreneurship, liberalize the business environment and generally make it easier to do business (TPSF, 2011). This, coupled with the associate membership granted to government agencies by TPSF, suggests a significant influence of the Government in the organization of the private sector in Tanzania.

In Burundi, the organization of the private sector is still at its infancy largely because the development of the sector has faced many unique challenges. First, doing business in Burundi is quite expensive partly due to the continental location of the country that leads to high transportation expenses. Besides the country being landlocked and cut off from market outlets, the private sector also encounters supply constraints which include outdated machinery, high import duties, and lack of financial services. Second, the leading export and import trade in coffee and tea is dominated by foreigners who have direct connections to the political elite. This has heavily politicized the trading sector. Third and following the latter, there are still many state-controlled companies that tend to monopolize some business ventures. This has confined the fledgling private sector to the import of luxury and durable consumer goods, a limited number of services (hotels, restaurants, car rentals, security guards, etc.) and a few industries (notably brewing).

In any case, local entrepreneurs are reluctant to invest due to political instability in the country. Fourth, the nascent private sector has limited absorption capacity, even for highly qualified staff and it is, therefore, structurally not self-sustaining. Finally, there is no organized network or lobby group for the private sector to engage the government and other stakeholders. The Chamber of Commerce in Burundi ceased to function many years back and every enterprise is currently struggling to survive on its own (Specker, Briscoe and Gasana, 2010). This suggests that the private sector in Burundi is literally under the tutelage of the Government. This partly explains the Government's decree in 2010 to establish a framework for

Consultations for Development of the Private Sector (CCPD) that was to lay the foundation for the national organization of the private sector in Burundi.

Nevertheless, there are on-going initiatives outside the government to organize the private sector in Burundi. For instance, the European Union recently supported the creation of a Federated Business Chamber of Commerce in Burundi (Specker, Briscoe and Gasana, 2010). In addition, leading private sector stakeholders established Burundi Business Incubator (BBIN) in 2010 as a nonprofit association to develop entrepreneurship and general business skills in both established and new Burundian Small and Medium-size Enterprises (SMEs). The key stakeholders behind this initiative included banks, telecoms, trade associations, insurance providers, and universities. With the mission of developing entrepreneurship and general business skills in both established and new Burundian SMEs, the BBIN offers a variety of services including office support and information technology, business plan, networking and capacity development.

The foregoing overview of the organizational status of the private sector in the East African Community partner states implies that the sector is at different levels of development in these countries. Whereas Kenya's private sector may be said to be the most advanced in the sense that it is quite independent from the Government and its federations as well as the apex organization are quite vibrant, Burundi's is the least developed. Uganda and Rwanda are closely racing to catch up with Kenya despite the difficulties associated with being landlocked countries and significant political interference, while Tanzania's private sector is in the tow, though ahead of Burundi.

This status of the private sector in the region has been influenced by at least two historical factors. First, colonial policies deliberately favoured the promotion and development of groups other than indigenous Africans in many categories of private sector activity. Consequently, the presence of a large population of white settlers and Asians in Kenya relative to the other East African countries saw the initiation of colonial policies that supported the development of private enterprises among these communities; thereby

giving Kenya a head-start in the development of the private sector in the region. Indeed, some of the large businesses in Kenya are owned by Whites and Asians.

Secondly, the initial three EAC countries expressed concern in the mid 1960s about the political economy associated with domination of the economy by alien groups in the countries. In response, they chose and pursued different ideologies and strategies for countering this non-African domination of their economies. Kenya adopted the approach of a mixed economy through Africanization in the context of capitalism that was christened “African socialism”; Tanzania approached the challenge by adopting socialism in 1967 that saw the nationalization of what were viewed as major means of production and distribution; and Uganda was on the verge of following Tanzania in adopting socialism before Iddi Amin took power in 1971 and approached the challenge by forcefully expelling Asians from Uganda. Whereas Tanzania’s approach nipped the development of the private sector in the bud, the political instability that followed Amin’s reign of terror halted the growth of the private sector altogether. Similarly, political instability is partly responsible for the relative underdevelopment of the private sector in Rwanda and Burundi.

Whatever the explanation for the variations in the development of the private sector in these countries, it is clear that there is need for a common approach towards enhancing the participation of the private sector in the common market and integration of the EAC countries. Such an approach should entail facilitating the development of the private sector by aligning business policies with market-driven development in the region. It is only then that a conducive environment for doing business will be established in the region to spur private sector development and regional integration. It is significant that a regional association of the private sector has been created to pursue this agenda. This regional association is the East African Business Council (EABC).

The EABC was formed in 1997 as the apex body of business associations in the region, but became more active from 2003 during the EAC Customs

Union Protocol negotiations. It is now widely recognized as the voice of business associations and corporate institutions in the East African Community region. Its 131 members are drawn from all the five EAC Partner States. The members are classified into three broad categories. First are the ordinary members, who include National Chambers of Commerce and Industry, Manufacturers' Associations, Private Sector Apex Bodies, Federations of Employers, and private sector national federations in banking, tourism, insurance, agricultural and transport sectors, and business associations, among others. Second are associate members that comprise of business facilitating government agencies such as Port Authorities, Bureau of Standards, Investment Promotion Agencies, Export Promotion Councils and Export Processing Zones Authorities, among others. And third are corporate members consisting of individual companies, including small and medium enterprises (EABC, 2011).

EABC's guiding vision is to be an effective change agent for fostering an enabling business environment for a diversified, competitive, export-led, integrated and sustainable economy. With the mission of promoting the Private Sector's regional and global competitiveness in trade and investment, its core objectives include to: (i) facilitate and promote all aspects of private sector development in East Africa; (ii) promote the creation of an enabling environment for business in East Africa; (iii) coordinate the efforts of the private sector in enhancing trade and investment in East Africa; and (iv) provide a joint forum which enables the private sector to speak with one East African voice while maintaining a routine and institutionalized interaction with EAC Secretariat and dialogue with governments of EAC partner-states.

In pursuit of these objectives, EABC has recorded some successes. In the period 2003-2005, it managed to overcome divergent nationalistic interests among the business community and succeeded in unifying interests to offer to the EAC a consolidated private sector view on the Common External Tariff (CET) under the newly established Customs Union. Through lobbying and policy dialogue with the EAC Secretariat, governments and private sector actors, EABC has also succeeded in establishing several cooperation projects

such as the Non-Tariff Barrier (NTB) Monitoring Mechanism, the Annual Media Summit, and Trade and Investment Promotion. The publicity generated from top level lobbying has given EABC the leverage to raise issues both at the national level of partner states and at the EAC level, which has enabled it to position itself as a privileged policy dialogue partner in the region. As a result of working closely with the East African Community Secretariat, the East African Legislative Assembly, governments, regional economic communities, multilateral groups and the business community to improve the region's trade and investment climate, EABC has always enjoyed Observer Status at the EAC since the beginning of its operations. It is now pursuing an application to become an independent collaborating institution of the EAC.

With this organizational network, both at the national and regional levels, the expectation is that the private sector should be in a position to deepen regional integration in East Africa by playing an active role in the newly established common market. This assumption then begs the question: What has been the response of the private sector to the establishment of the East African Community's Common Market? What opportunities has the Common Market presented to the private sector and what challenges has the private sector faced in this market? We now turn our attention to these questions.

The Private Sector in the EAC Common market

The common market for the East African Community (EAC) trade bloc became operational on 1st July 2010, opening up the borders of Uganda, Kenya, Tanzania, Rwanda and Burundi to free movement of persons, labour, goods, services and capital; and guaranteeing the right of establishment and residence in these countries. The partner states undertook to observe the principle of non-discrimination of nationals of other partner states on grounds of nationality; accord treatment to nationals of other partner states, not less favourable than the treatment accorded to third parties; ensure transparency in matters concerning the other partner states; and share information for the implementation of the Common Market Protocol.

To realize these principles, the partner states were expected by Article 5 of the Protocol to make some undertakings. First, they were to eliminate tariff, non-tariff and technical barriers to trade; harmonize and mutually recognize standards and implement a common trade policy for the EAC. Second, they were to ease cross-border movement of persons and eventually adopt an integrated border management system. Third, states were to remove restrictions on movement of labour, harmonize labour policies, programmes, legislations, social services, provide for social security benefits and establish common standards and measures of association of workers and employers, establish employment promotion centres and eventually adopt a common employment policy. Fourth, they were to remove restrictions on the right of establishment and residence of nationals of other partner states in their territory. Fifth, states were to remove measures that restrict movement of services and service suppliers and harmonize standards to endure acceptability of services traded. Finally sixth, states were to eliminate restrictions on free movement of capital; ensure convertibility of currencies; and promote investment in capital markets, eventually leading to an integrated financial system (Odongo, 2011) that would be capped by the Monetary Union in the next stage of regional integration.

As it may be apparent, the implementation of these provisions was expected to take some time and it is perhaps due to uncertainty on how long this would take that the Common Market Protocol was not given a time frame. Consequently, the implementation of the Protocol is only at the initial stages. Nevertheless, the action of creating the Common Market established an integrated market of over 133.5 million consumers (Odongo, 2011) with a combined GDP of over US\$. 100 billion (Dahir, 2011). The single and larger market for goods and services than the domestic ones created many business opportunities for the private sector.

The immediate one it that it increased trade opportunities for the business community just as it widened consumer choices for products and services. Thus, the private sector could now trade beyond their national borders and consumers in different countries could get access to many goods and services that were previously not available within their countries. The Common

Market also expanded the pool of human and natural resources that could be harnessed for economic and social development of the people in the partner states. The resultant availability of professionals could now enable the private sector to invest in mineral exploration and mining, tourism, fisheries, water supply, energy, and forestry, among other natural resources. Since all partner states have largely agricultural economies, the expanded market increased the demand for manufactured goods, thereby giving the private sector the impetus to increase investment in manufacturing. Furthermore, the widened market in the midst of a largely underdeveloped infrastructure presented yet another opportunity to the private sector to invest in road construction, railway network expansion and modernization, air transport, transportation of goods across the region, and telecommunication, among others.

Clearly, the common market created socio-economic opportunities that could be exploited by the private sector to enhance its economic interests and contribute to socio-economic development of the wider society. The question that arises then is: what role has the private sector played in the common market? How has it responded to the opportunities created by the market?

The Role of the Private Sector

With a pro-market and private sector-led approach to regional integration adopted by the EAC partner states, the private sector has a major role to play in the common market. The first key role in this regard is to take advantage of opportunities offered by the common market to expand trade in the region. This is in the interest of both the sector, given that the private sector is purely driven by increased profit that is likely to accrue from expanded trade; and the partner states that are keen to create more economic opportunities for socio-economic development of the region. The private sector seems to be playing this role relatively well given the increasing volume of intra-regional trade between the EAC countries. The 2010 statistics show that intra-regional trade has grown from US\$. 2.25 billion in 2005 when the EAC Customs Union was adopted to over US\$. 5 billion in 2010 (Dahir, 2011). Thus, trade in the region has more than doubled since the commencement of the EAC Customs Union in 2005.

However, trade in the region is not as rosy as the statistics may imply. One of shortcomings is the uneven flow of trade and investment opportunities among the member states. Kenya remains the dominant player in EAC trade, accounting for the bulk of the intra-EAC exports in spite of the fact that Kenya's exports to the EAC countries has been declining over the years, but more sharply since 2005. By 2008, Kenya's contribution to the total intra-EAC exports had declined from about 80 percent in the 1990s to around 61 percent. Conversely, the shares of the other EAC countries' exports to the region have increased, with Uganda's share rising from 13 percent in 2005 to about 20 percent in 2008. Tanzania's exports over the same period increased marginally from 6 to 8 percent (Odhiambo, 2011: 14). This trend in trade suggests that the private sector is increasingly taking the necessary initiatives to venture into the regional market.

For purposes of enhancing regional trade, the integration of the EAC stock exchanges is planned to take place in 2012. But even before this integration, it is worth noting that the partner states are already taking steps to enhance regional trade through stock exchanges. The first move in this regard has been the adoption of common automated trading and clearing platforms at the stock exchange markets. Kenya was first to introduce the automated trading system (ATS). Uganda has already adopted the same ATS, while Tanzania and Rwanda are expected to follow suit in due course. Burundi will have to come in later because it does not yet have a stock exchange. Besides the adoption of ATS, cross-listing of shares in the EAC is already occurring and has facilitated limited private capital flows within the region. The total market capitalization for cross-listed shares in the EAC region stands at about US\$2.88 billion, with 99.84 percent being taken up by the Nairobi Stock Exchange (NSE) whilst 0.16 percent is shared between Dar-es-Salaam Stock Exchange (DSE) and the Uganda Stock Exchange (USE). Unfortunately, all companies cross-listed and traded regionally are from Kenya. This is partly because Kenya defines a local investor as an EAC citizen and allows foreign participation of up to 75 percent. Conversely, Tanzania does not allow foreign participation in initial public offers (IPOs). Rwanda and Uganda require citizens to seek approval from their Central Banks to buy foreign IPOs (Wagh, Lovegrove and Kashangaki, 2011). Despite the little

participation of the other EAC countries on the stock market, the involvement of Kenyan firms is extending the frontiers of regional trade through stock exchange in East Africa.

The growth of regional trade is further exemplified by the fact that producers in the EAC countries, especially those in Uganda, have been able to find markets for their produce in other member countries. An increasing number of informal sector businesses are also benefiting from regional trade following the removal of tariffs among the EAC countries. Even more significantly, local firms are increasingly seeking a foothold in other EAC partner countries. Kenyan companies, especially banks, supermarkets and insurance and investment companies have established themselves in the region, mainly in Tanzania, Uganda and, to some extent, Rwanda. The most recent foray in this regard was an investment by a leading Kenyan supermarket in Rwanda.

Nevertheless, there is little evidence of significant investment by private sector companies from the other EAC countries outside their borders (Odhiambo, 2011: 14). Information provided by Kenyan investment banks suggest that the participation of Kenyan investors in other EAC markets is about 10 percent, whereas that of Uganda investors in other EAC markets is between two and five percent, and that of Tanzania is a maximum of 0.5 percent. Due to the lack of restrictions on capital flows from Kenya, a greater number of its retail investors participate in EAC markets, and this contrasts to Tanzania and Uganda where mainly institutional investors participate (Wagh, Lovegrove and Kashangaki, 2011). This skewed trading and investment in favour of Kenya is a challenge to the private sector in the other EAC countries to take advantage of the common market and invest in the region.

The second major role that the private sector is expected to play is to exploit the natural resources in partner states by investing in manufacturing and value addition activities. The East African region has a vast potential in mineral, water, energy, forestry, fishery and wildlife resources. It also has a huge agricultural, livestock, and tourism development potential. However,

there is limited manufacturing capacity in these countries. Kenya is generally considered to be the most industrialized East African country. Industries attracted to East Africa by size of the market and by the protection of privileges granted under the common tariff have tended to cluster in Kenya. This has generated a higher rate of industrial development in Kenya than in the other countries. This is changing rapidly, however, as the other EAC countries, through reforms and sound macroeconomic management, are attracting sizeable foreign investment. In recent times, it has been Tanzania that has led the EAC countries in attracting foreign direct investment (FDI). FDI into Tanzania has mainly gone into the mining and extractive sectors, which is not only capital intensive but it has limited linkages to the domestic economy and the regional market (Odhiambo, 2011: 28). The private sector should, therefore, take up the challenge of manufacturing consumer goods for the common market.

The third role of the private sector is to ensure the region becomes competitive by lobbying for improved infrastructure and an enabling business environment. Trade-related infrastructure within the EAC is highly inefficient and inadequate. Transport is still a major bottleneck of intra-regional trade in the EAC region. It is affected by disjointed links and inadequate networks in all modes, especially roads, railways and air transport. This has quite often resulted into inability to transport goods and people across the region efficiently. There are also energy shortages that have rendered the smooth operation of machinery and facilities difficult. Though mobile telephony is improving communication, telecommunication connectivity continues to be a major challenge. Then there are policy-related trade restrictions in some countries. Protectionism in such countries has seen the securing of their market shares and private companies being cautious or resisting entry into other countries' markets. This has largely stemmed from the fear that bigger economies in the region, especially Kenya, would have a competitive advantage in their national markets.

A combination of rigidities, protectionism and the underdeveloped infrastructure leads to high costs of doing business, thereby making business in the region extremely uncompetitive. Conversely, expansion or

improvement in the quality of infrastructural services can reduce the marginal cost and lower the minimum efficient scale of production, transportation and marketing. Lower costs and greater economies of scale raise the potential for increased or new sales in export as well as domestic markets. Indeed, it is efforts to take advantage of the economies of scale in production, procurement or marketing that lead private sector firms to look beyond national borders for both trade and investment opportunities (Odhiambo, 2011: 28).

Since the common market has already extended such national borders, it is the role of the private sector to promote competitiveness by embracing competition rather than fearing it or being cautious. There is no doubt that greater integration will bring greater competition among firms, but the private sector ought to spearhead the competition. In the short run, the firms that stand to gain most are those that are already competitive. The majority of these firms are likely to be in Kenya, given its relatively more developed economy. Indeed, it was with this consideration that firms in Uganda and Tanzania were allowed an adjustment period in the first phase of the implementation of the EAC Customs Union. In the medium to long run, it is expected that firms in these countries may overcome the lack of competitiveness, but this will require individual firms to take measures to enhance their competitiveness. Such measures should include additional investment in newer production technologies, as well as specialization and retraining of human resources to boost productivity. To enhance competitiveness, the EAC countries will have to take measures that facilitate the free flow of goods and services across the region (Odhiambo, 2011: 24).

The fourth major role of the private sector in the common market that is closely related to the promotion of competitiveness is to support the elimination of non-tariff barriers (NTBs) to trade. By NTBs we refer to wide ranging administrative, legislative and policy hindrances to trade that may take the form of bureaucratic red tape; infrastructural bottlenecks; deliberate policies and procedures imposed on firms and products from other countries; and corruption, among others. These last two continues to be among the sticky issues that have affected the speedy integration of the

economies of the EAC. As a remedial measure, the private sector should advocate and lobby for business friendly policies, the harmonization of trade regulations and procedures and transparent and accountable governance to eliminate NTBs. The private sector organizations already discussed earlier, especially KEPSA and EABC, are increasingly playing this role with some remarkable successes. However, much more needs to be done in some partner countries, especially in Burundi and Tanzania to eliminate NTBs.

This overview of the role of the private sector shows that there are a number of difficulties that the sector is encountering in its participation in the Common Market. It is now appropriate to attempt a summary of the main challenges the private sector has so far faced in the Common Market.

Challenges Facing the Private Sector in the Common Market

Though it is slightly over a year since the EAC Common Market Protocol became operational, hopes are still lingering about its potential to lift the lives of people in East Africa. Ideally, the Common Market stands for the four fundamental freedoms namely; the freedom of movement of goods, persons, labour and capital. These freedoms can only be attained after the elimination of trade barriers and lessening of restrictions to entrance and residence in other member states. However, it is evident from the foregoing analysis of the role of the private sector that the realization of these freedoms that are quite essential in entrenching the common market in the region has been hampered by some challenges. We highlight some of the key challenges below.

The Persistence of Non-tariff Barriers to Trade

Despite the tremendous efforts by the private sector and partner states in the elimination of NTBs, these barriers have quite often metamorphosed in different forms to inhibit the free movement of goods, persons, labour and capital in the region. Though most countries have removed internal tariffs on trade, a new set of barriers are persistently replacing such tariffs, which creates the same problem of increasing the cost of doing business. For instance, the fact that procedures and standard quality assurance testing and metrology systems are yet to be harmonized is already barring exporters to sell their products in other countries. Similarly, the absence of Mutual

Recognition for products bearing a mark of quality has led products from members states to be subjected to further tests and certification in the importing country, despite the fact that they already possess certification marks from the countries of origin; a practice that hurts business.

Some countries are reportedly rejecting goods from other countries on these two bases. As an illustration, the Ugandan exporters have complained that Kenya Revenue Authority does not recognize the Certificate of Origin for the galvanized iron sheets manufactured by Steel Milling Industries in Uganda. As a result, the Ugandan galvanized iron sheets are not being sold in Kenya. There should be increased mutual trust between the partner states in order to ensure the implementation of the Mutual Recognition Principle. The long term objective should be to operationalize the principle of "One Standard, One Test, One Mark, and Accepted Everywhere". This would enable partner states to recognize products bearing the standard marks issued by standardization and metrology bodies of the other partner states.

With regard to the free movement of persons, this has been hailed and welcomed by some partner states, but not others. For instance, Uganda has embraced the free movement of professionals and has hailed the Common Market for opening up the market for teachers, nurses, doctors and technocrats because that's where the country has been facing a deficit. Rwanda, too, has put in place very conducive and attractive terms to entice professionals, mainly doctors, university lecturers, teachers and architects from Kenya and Uganda. Conversely, Tanzania is still restrictive on the free movement of professionals into its borders. The free movement of professionals into Tanzania is not only affected by state policy, but also by the issue of work permits that is yet to be conclusively tackled by the EAC state partners. Whereas Rwanda has removed the requirement for work permits for all Kenyan workers and Kenya and Uganda have abolished work permit fees for all East Africans, Tanzania and Burundi are yet to take any decisive step in either of the directions. Indeed, the lack of agreement on work permits has limited workers' access to labour markets in other countries, yet the partners are not addressing it due to the different priorities by each member state. As much as the EAC Treaty is crafted on the

asymmetry principle that is expected to equalize opportunities for the partner states, it is imperative that all states waive the work permit requirement for EAC citizens in order to deepen the common market.

The other impediment to the private sector is the existing disparities with regard to national identification systems among the partner states. The fact that some countries have national identification cards (IDs) for their citizens and not the others is hindering the free movement of persons as well as the free flow of trade in the region. The lack of ID cards has particularly put Ugandans at a disadvantage as its professionals cannot move freely to Rwanda and Kenya for lack of proper identification despite the fact that the Rwandan and Kenyan governments have authorized Ugandans to work in their borders. The lack of IDs has also affected small traders who cross national borders to sell retail items like farm produce, fish, consumer goods and handicrafts, yet they form the bulk of intra-regional trade. Such traders reportedly get a lot of barriers at the borders, including police harassment. There is need for all the partner states to expedite the adoption of machine readable identity cards, which will facilitate easier movement of persons among the member states.

Another impediment to trade in the region that is affecting the private sector is the lack of harmonization of domestic tax and investment regimes. For instance, the different Value Added Tax (VAT) and Excise Duty regimes in different countries act as barriers to cross border transactions. In most cases, extra time and resources are spent on complying with different tax regimes. Trade facilitation at border points also continues to be problematic as red-tape at border controls affects the faster clearance of goods. The overall effects are high transaction and compliance costs that tend to perpetrate corruption and smuggling across borders. It is really ironical that small-scale traders are forced to engage in smuggling of duty free goods because of such needless compliance barriers. In order to provide a level playing field, there is need to harmonize domestic tax regimes in the EAC and finalize the work towards elimination of double taxation. It is also important to synchronize the time schedules at the borders of each partner state to facilitate faster movement of goods across the region (Maina, 2011).

Faster movement of goods across the region also requires harmonization of regulations on transportation of commodities within the region. For example, on transit loading procedures, there is no harmonization of regulations regarding axle loads and vehicle technical specifications within the EAC, which makes overload control management difficult. Though the EAC Customs Union Protocol has set the maximum axle load at 56 tonnes, most of the partner states have not yet implemented it. Whereas Uganda and Rwanda allows 53 tonnes, Kenya raised its maximum axle load from 48 to 56 tonnes only in November 2011. The differing axle weights would mean, for instance, that a truck from Kenya entering or transiting through Uganda has to strip off excess cargo at the border to avoid financial penalties. There are also different restrictions in the countries on gross vehicle mass, which means that certain types of vehicles cannot transit through some countries. A related problem is the poor enforcement of applicable rules and regulations across the EAC region, owing to inadequate institutional capacity and serious integrity issues arising among public officials who operate weighbridges (Odhiambo, 2011: 32). The said officials have quite often faced corruption allegations in clearing overloaded and noncompliant vehicles. The resultant rampant corruption especially along the major trading routes has ended up hampering trade flow in the region.

There is also need to urgently address issues related to the national legal and regulatory frameworks of the different countries that are not conducive for the success of the national market and which can prove detrimental to the various pillars of the Common market. It is commendable that Kenya is finalizing the drafting of Miscellaneous Amendment Bill which aims at realigning 27 pieces of legislation on trade to the EAC Common Market Protocol. Rwanda is also working on the same and it is expected that Uganda and Tanzania will also commence this exercise soon. This harmonization of national legislation with the Common Market Protocol should pave way for the provision of adequate regulatory frameworks at a regional level for trade in goods and services (Maina, 2011).

The other major stumbling block to the private sector's success is the disparity in infrastructural development in the five member states, which in

essence increases transportation costs within and between the countries. As already pointed out, transportation is still affected by disjointed links, inadequate networks and poor state in all modes of transport. This has quite often resulted into inability to transport goods and people efficiently. There are also energy shortages that have rendered the smooth operation of machinery and facilities difficult. In the same vein, telecommunication connectivity continues to be a major challenge to regional trade. The success and appeal of the internal market will be determined by freedom and ease of movement of goods and people across the region. East Africa needs to channel more resources and more investments towards infrastructural development in order to ensure all countries are at par and adequately interconnected. The private sector ought to take up the challenge of investing in infrastructure to speed up regional trade and, hence, integration.

Finally, implementation of the Common Market Protocol at the national level is slow and inadequate partly because there is no formal system of monitoring progress. There is, therefore, need to fast-track implementation and enforcement of regional directives at the national levels by strengthening mechanisms for tracking and monitoring implementation. To this end, partner states should agree on a timeline for translation of agreed actions and directives into activities. Failure to enforce agreements at the national level denies businesses access to internal markets. Increased mutual trust as well as political will and commitment are needed among partner states in order to ensure implementation of the Common Market Protocol.

Limited Movement of Financial Capital

The trade and investment opportunities created by the common market are enormous, but the private sector does not have matching financial capital, given the low level of savings in the region that has resulted into low gross capital formation. The solution is to develop financial markets by deepening regional financial integration to facilitate easier capital circulation. Despite the few gains that have been realized in this regard, particularly by the Kenyan banks and other financial institutions, several factors still constrain the growth and integration of the regional financial market. At the same time, there is reason to stay alert to the risks that come with increasing cross-

border financial links. Thus, the path forward should involve taking steps that on the one hand facilitate the movement of funds between EAC member states, and on the other hand ensure a more careful oversight of the volumes and the likely adverse consequences of these flows. This balancing act has presented some challenges to the private sector that require urgent attention.

The first challenge that private sector banks and financial institutions have faced are the different legal and regulatory frameworks that exist in the region. Each country has its own regulatory framework, resulting into discrepancies in licensing requirements, tax regimes and supervisory and other regulatory requirements. There is need to align banking regulatory and supervisory frameworks as well as reporting requirements to facilitate capital movement in the region. Single licensing of banks will also be an important aid to further financial integration. If introduced for banks, single licensing should also be extended to other financial institutions such as stock brokers and insurance companies in order to significantly reduce cross-border transaction time and costs as well as barriers to entry. Adopting single-licensing will have to be accompanied by mutual recognition among regulators and this will require that national regulators converge around some broadly defined international principles such as the Basle core principles for bank supervision and the International Organization of Securities Commissions (IOSCO), among others (Wagh, Lovegrove and Kashangaki, 2011).

Secondly, free movement of capital has also been hampered by discrepancies in the financial infrastructure in the region. Kenya, Tanzania and Uganda have made substantial progress in integrating their real time gross settlement systems (RTGS), but Rwanda and Burundi have not and, therefore, need to align their payments systems with the other partner states in the EAC. Similarly, it is necessary to ensure that other parts of national financial infrastructure, including central securities depositories (CSDs) and trading platforms for national stock exchanges, are compatible at the regional level.

Thirdly, information on current volumes of cross-border trade in financial products is generally sketchy and incomplete or largely nonexistent. This data gap is problematic, not just because policymakers are working with

limited information on the issues and opportunities that lie ahead, but also masks the benefits and costs of further integration by obscuring the extent of cross-border linkages. Porous borders, high volumes of unrecorded informal trade, and the widespread use of physical cash in transactions, further compound these issues. There is ample scope to build additional capacity on this front both at the national level and at the EAC Secretariat (Wagh, Lovegrove and Kashangaki, 2011).

Fourth, the EAC has worked with a post-membership convergence principle, which allows partner states to join the community and then work towards harmonizing their laws and regulations for the financial sector with other member states. It is on the basis of this principle that Rwanda and Burundi were allowed to join EAC despite their underdeveloped financial systems, with Burundi lacking even the convergent laws and regulations for its financial sector. One consequence of this approach is that parts of the financial sector may be exposed to cross-border activity and competition before the regulatory and supervisory frameworks are in place (as in the Rwanda and Burundi insurance sectors). Another is that financial institutions may enter from larger markets with a degree of sophistication greater than that of the host regulator, posing a risk that supervision will be inadequate. To avoid such scenarios, Burundi and Rwanda may be called upon to build financial capacity on a “crash basis”. These circumstances in turn may require a greater willingness to seek capacity-building solutions that may need some willingness to surrender a degree of sovereignty in order to gain the benefits of scale by both Burundi and Rwanda forming joint regulatory institutions (Wagh, Lovegrove and Kashangaki, 2011).

Lack of Information

As already pointed out, telecommunication connectivity in East Africa remains underdeveloped despite the recent improvements in mobile telephony and internet connectivity. In the midst of this poor telecommunication infrastructure, there are no information desks at the borders to advise investors, traders and travelers on business opportunities in different countries. There is also no concerted effort to spread and share information through the mass media on business opportunities created by the Common Market. This reality has quite often resulted into inadequate

and uneven flow of information in the region. Consequently, there is inadequate information in some parts of the region on the business potential that the EAC common market has made possible. Indeed, there is limited awareness among sections of the private sector on new EAC integration policies, market networks, competitors on the market, alternative investment opportunities, financial services, volumes of cross-border trade, trade regulations and procedures in the region and new production technologies, just to mention a few. This lack of the relevant information has significantly hindered the private sector from unleashing its business potential to exploit the opportunities created by the common market.

The Politics of Regional Integration

The private sector has also encountered the politics that surrounds regional integration initiatives and this politics has tended to affect its participation in the common market. Successful regional integration has tended to proceed from the economic dimension rather than (or before proceeding to) the political dimension. This probably explains why the roadmap for the East African Community integration process starts with the establishment of a customs union; then a common market, which will be followed with a monetary union and ultimately a political federation (Odongo, 2011). Regional economic integration schemes usually aim at promoting economic and social development. This includes self-sustaining development, economic growth, the alleviation of poverty, and the promotion and sustainable utilization of resources. Today, such regional integration agreements are also expected to strengthen peace and security and to involve not only states, but civil society and the private sector as well. Indeed, the objectives of the EAC do encompass all these and more, including gender equity and good governance (Odhiambo, 2011).

Whereas regional integration eventually generates economic benefits and losses to the partner states, the sharing of these quickly turns political. Perceived losses in the integration process are always politically sensitive as politicians seek to respond to complaints, real or perceived, from their constituents. Throughout the integration process in East Africa, there has been political suspicion over the disproportionate benefits in terms of growth in the GNP, foreign investment, international trade, the location of common

services, and the overall status of development in partner states. Indeed, the disproportionate distribution of benefits – among other things – fuelled the animosity among political leaders that ultimately led to the collapse of the EAC in 1977. The issue of distribution of costs and benefits also came up quite strongly in the negotiations for the common market and the fast-tracking of the East African Political Federation. The general concern over the years has been that Kenya is likely to benefit disproportionately from the enhanced integration process due to its relatively advanced economic status. This has resulted into political unease, which has tended to slow down the pace of integration, including the implementation of the common market protocol.

This political unease has particularly been pronounced in Tanzania. The general perception among both leaders and citizens in Tanzania has been that regional integration should be gradual so that the country can carefully weigh the benefits and losses from one step to the next. This has been attributed to differences in economic development between member states, the varying degree of competitiveness, and the disproportionate distribution of land and other natural resources among partner states. With arable land being the most sought after natural resource in Kenya, the fear in Tanzania has been that opening up the country to the region could see some “unscrupulous” Kenyans grab Tanzanian land and use it more to the advantage of Kenya than Tanzania. Tanzanians are also uneasy with the integration due to other political concerns like democracy and governance, sovereignty, defense and security, and ideological differences. Consequently, most Tanzanians are of the view that the integration, especially the formation of the East African Political Federation, should be gradual (Odhiambo, 2011).

Whereas Uganda has similar concerns that Kenya is likely to benefit disproportionately from the enhanced integration process, its landlocked nature demands that the integration be expedited in order to increase its economic opportunities that are likely to result from accessing the Kenyan port at Mombasa. Consequently, it is not strictly following Tanzania’s argument for a gradual approach to regional integration. Indeed, Uganda is by far ahead of all East African states in advocating for a political federation,

for which President Museveni has been accused of nursing the political ambition of becoming the leader of the region (Kasaija, 2004: 29). Thus, though Uganda may be supportive of the political federation due to the personal ego of its President, it remains uneasy with the economic advantage that Kenya has and may be reluctant to implement the common market obligations that, in its view, enhances Kenya's benefits.

In Kenya, the concern has mainly been related to the slow progress of the integration process and, lately, the distribution of common services. If allegations of the disproportionate benefit to Kenya hold, then Kenya will be happy with fast-tracking of the integration process in order to maximize on such gains. But Kenya's position should also be understood against the background of a market-oriented economy, with enterprising entrepreneurs that can easily thrive on an expanded market. Though Rwanda is a latter entrant to the EAC, it seems supportive of faster integration due to the economic benefits (relative to the losses) that are likely to support its economic revival initiatives under its reconstruction programme.

Clearly, the positions taken by the various partner states on the integration process tend to be motivated not just by the economic benefits, but also by the political (mis)interpretations of the same. It is the political interpretations that have quite often influenced the implementation of the various protocols of the EAC treaty, including the common market one. The private sector in Kenya has complained of the slow pace of implementation of the common market protocol, which has resulted into the persistence of NTBs (Maina, 2011). This slow pace of implementation should be understood against the background of this politics of regional integration.

Conclusion

It has been the purpose in this discussion to assess the opportunities and challenges facing the private sector in an expansive East African Common Market with a view to examining its contribution to regional integration. Available evidence shows that the EAC common market has expanded the trading space for the private sector, thereby boosting intra-regional trade. Although there is as yet no concrete evidence, chances are that the common

market has also sparked greater investment in the region by the private sector, given that the size of the market has increased while internal tariffs have declined. This suggests that the private sector is increasingly taking up the expanded trading opportunities created by the common market. Nevertheless, the implementation of the common market protocol is a gradual process and most of its provisions are yet to be realized. For instance, despite the existence of the Customs Union since 2005, the free movement of goods is yet to become a reality. There are also limitations on free movement of persons, labour and capital in the region. With such limitations, the rights of establishment and residence are yet to take root.

In the circumstances, the private sector has encountered a number of challenges in its endeavour to participate in the common market. The bulk of the challenges, nevertheless, revolve around the persistence and metamorphosis of NTBs that currently include the lack of harmonized procedures and standard quality assurance testing and metrology systems; the existing disparities in national identification systems among the partner states and the requirement for work permits by some states, both of which have hindered the free movement of persons; the lack of harmonization of domestic tax and investment regimes; the national market legal and regulatory frameworks that are not consistent with the common market protocol; and the disparity in infrastructure development. The other hindrances to the private sector include the lack of adequate information among private sector actors; limited movement of capital in the region due to underdeveloped financial markets; and the politics of integration that has revolved around the perceived distribution of benefits and losses among the partner states.

Given that the challenges to the private sector seem to overwhelm its capacity to exploit the business opportunities created by the common market, we conclude that the private sector is increasingly contributing towards the realization of the common market goals, but the enormous challenges ahead hampered its contributions. The role of the private sector in this regard is likely to smoothen with increased implementation of the Common Market Protocol provisions by the partner states. The private sector also needs to re-

engineers its effort in order to be successful in steering regional integration. The re-engineering process should include strengthening its organizational network in order to effectively lobby and advocate for the elimination of NTBs; advocating for further liberalization of trade to create a favourable business environment; negotiating for the harmonization of banking licensing, regulatory and supervisory frameworks as well as reporting requirements to facilitate capital movement in the region; and mobilize investment capital in the region, among others.

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