



# e-EAC

SPECIAL ISSUE

## SIXTEENTH MEETING OF THE COUNCIL OF MINISTERS OF THE EAST AFRICAN COMMUNITY



**T**he 16th Meeting of the Council of Ministers of the East African Community was held in Arusha on 13 September 2008. The Meeting was attended by Hon. Monique Mukuruliza, Minister for East African Community Affairs, Rwanda and Chairperson of the Council of Ministers of the East African Community who chaired the Meeting; Hon Sam Kuteesa, Minister for Foreign Affairs, Uganda, Hon Amason Jaffah Kingi, Minister of East African Community, Kenya, Hon Mohamed Seif Khatib, Minister of State, Vice President's Office, Tanzania, Hon. Venerand Bakeyumusaya, Minister for Regional Intergration and East African Community Affairs, Burundi, who led their respective delegations; and other Ministers of the EAC Partner States.

The Council handled an extensive agenda on the progress in the implementation of the

sectoral projects and programmes in the political and social areas, customs and trade, finance and administration; and the activities of the various organs and institutions of the Community

### **Ratification of Protocols/Institutional development of the Community**

The Council reviewed the status of ratification of various Protocols noting that a number of them have not been ratified; and decided that timely signature of the Protocols should be affected and timelines in future set for when the concluded and signed protocol should be ratified by the Partner States. The Council noted that except for the Republic of Uganda, which has ratified the Protocol on the Establishment of the East African Civil Aviation Safety and Security Oversight Agency, the Partner States

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have not ratified the following protocols (by 30th June 2008 as was required) Protocol on the Environment and Natural Resources - concluded on 03/04/2006, Protocol on the Establishment of the East African Science and Technology Commission – concluded on 18/04/2007, Protocol on the Establishment of the East African Civil Aviation Safety and Security Oversight Agency – concluded on 18/04/2007, Protocol on the Establishment of the East African Kiswahili Commission – concluded on 18/04/2007; and Protocol on the Establishment of the East African Health Research Commission – concluded on 18/04/2007. The Partner States were urged to ratify all the outstanding Protocols and deposit the instruments of ratification with the Secretary General by 31st December, 2008.

The Council directed the Secretariat to file a request for an advisory opinion on the application of the principle of variable geometry in the East African Court of Justice by 31st October, 2008. The Treaty provides that one of the operational principles of the Community shall be “the principle of variable geometry which allows for progression in co-operation among groups within the Community for wider integration schemes in various fields and at different speeds”. This provision, read together with the relevant interpretation of this principle in the Treaty, suggests: flexibility in the progression of integration activities, projects and programmes; and progression of such

activities, projects and programmes in co-operation by some of the Partner States as opposed to all the Partner States simultaneously. However, this interpretation is contestable on the basis of the fundamental requirement, under the Treaty and relevant annexes, for consensus as a basis for decision-making by the Summit of Heads of State and the Council of Ministers.

The Council considered various issues in the institutional development of the Community, finally establishing a Sectoral Committee on Public Service Management within the EAC institutional framework. The Council considered Proposal for the Institutionalisation of the East African Business Council in the EAC Institutional Framework; and directed that this matter be considered on the basis of the Criteria and Procedures for the Establishment of EAC Institutions once finalised and adopted.

### **Fiscal and Monetary Affairs – decisions of the Finance Ministers**

The Council considered a report of the Ministers of Finance of the EAC Partner States which was held in Nairobi, Kenya 2nd- 3rd June 2008 and noted the decisions of the Ministers touching on a wide range of fiscal and monetary affairs among them decisions that urged Tanzania to liberalise its capital account in the 2008/09 budget; urged Uganda, in the 2008/09 budget, to reduce withholding tax on interest income on

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listed long-term bonds (with a maturity of three years and above) from the current rate of 15 percent to 0 percent as is the case in Kenya and Tanzania; urged Uganda and Tanzania, in the 2008/09 budget, to adopt the graduated corporation tax structure as is the case in Kenya, (that is, 20% for firms offering 40% of their share capital to the public, 25% for firms offering 30% of their share capital to the public and 27% for firms offering 20% of their share capital to the public; took note that Kenya had extended the 5% withholding tax rate on dividends to citizens of all the Partner States in the 2007/08 budget; and urged Uganda to reduce withholding tax on dividend income for listed companies from 10 percent to 5 percent in line with Kenya and Tanzania, in the 2008/09 budget.

Other decisions of the Finance Ministers that the Council noted were those that urged Uganda and Tanzania, in the 2008/09 budget, to grant stamp duty exemption to the process of transferring assets to special purpose vehicles for purposes of issuing asset-backed securities, in the interest of market development in the region; urged Uganda and Tanzania to expedite the process of pension sector reforms and implement the decision of the Council in the 2008/09 budget; urged Uganda to grant tax deductibility of contribution to retirement benefits schemes up to a specific amount; taking note that Kenya has granted tax free status to investment income earned by registered retirement benefits schemes; urging Uganda and Tanzania to grant tax free status to investment income earned by registered pension schemes; urged all Partner States to convert public service retirement benefits schemes into funded contributory schemes; and urged all Partner States to liberalize the

pensions sector to allow for competition and thereby enhance efficiency in the pension industry.

The Council also noted the Ministers of Finance decisions on Policy towards a Consolidated Financial Services Regulatory Framework in the region with specific reference to appeal to Tanzania to finalize and share its report on consolidated regulatory framework with the other Partner States; and Kenya and Tanzania to put in place Memoranda of Understanding between their domestic financial regulators within the 2008/09 financial year. Other decisions related to Reservation of Minimum Equity Percentage Ownership for East Africans whereby the Finance Ministers took note that Kenya had, in the 2007/08 budget, implemented the previous Council decision to reserve at least 40 percent of Initial Public Offers (IPOs) for East Africans; and urged Tanzania and Uganda to implement Council decision to reserve at least 40 percent of the IPOs for East Africans in the 2008/09 budget.

On Mobilising Funds for Infrastructure, the Finance Ministers urged Uganda to exempt from withholding tax, interest income earned by investors from bonds listed as asset backed securities for the purposes of developing infrastructure, as is the case in Kenya and Tanzania and also to exempt from withholding tax, interest income earned by investors from listed bonds used to raise funds for infrastructure and social services, provided that the bonds shall have a maturity of at least three years, as is the case in Kenya and Tanzania.

On the Facilitation of the Establishment of Venture Capital Funds, the Finance Ministers urged Uganda and Tanzania, in the 2008/09

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budget, to provide a ten (10) year tax holiday for registered and qualifying venture capital funds, borrowing from Kenya's experience. The Council also adopted the Finance Ministers' recommendation to change the name of the Capital Markets Development Committee (CMDC) to Capital Markets, Insurance and Pensions Committee (CMIPC) given its expanded mandate and membership.

At the same Nairobi Meeting, the Finance Ministers had considered the region's Harmonisation of Statistical Frameworks and urged Burundi to broaden the coverage of the consumer price index (CPI) and speed up migration to the harmonised CPI for EAC as well the national statistical offices in Tanzania, Uganda, Burundi and Rwanda to speed up, as a matter of urgency, the compilation and publication of quarterly GDP to facilitate the assessment of the impact of monetary policy on the real economy, among other uses.

On the broad view of Economic and Financial Challenges, the Finance Ministers urged all the Partner States to undertake measures to enhance export sector competitiveness aimed at boosting productivity, reducing the costs of doing business, and adoption of technology and innovation, among others. They also urged Kenya and Uganda to hasten the enactment of their Legislation on Anti-Money Laundering (AML); and urged the Central Banks of the Partner States to come up with options for harmonising the East African Payments System (EAPS) Legal Framework business working hours to cater for the different time zones once Rwanda and Burundi start participating in EAPS.

The Finance Ministers also considered the issue of Internet Payments Policies, e-commerce and e-Banking Scheme and E-mail Policies and adopted the terms of reference for consultancy services to develop E-banking and E-commerce regulatory framework for the East African Community. They also urged all the Partner States to expedite the promulgation of new laws and amendments of existing laws to adequately govern electronic transactions and records and the admissibility of electronic evidence in courts of law.

Following their review of recent Economic and Financial Indicators in the region, the Finance Ministers urged all the Partner States to enhance measures to boost agricultural production and ensure food security in order to reduce the negative effects and exploit the positive aspects of the current high food prices; urged all the Partner States to enhance initiatives aimed at energy efficiency, sustainable usage of water resources and environmental protection; and urged Partner States to continue to prioritise the development of infrastructure, financial markets and address governance issues to provide a conducive environment for sustainable economic growth and development.

### **Extraordinary and Tripartite Summit Meeting**

The Council decided on the convening of the 7th Extraordinary Summit on 21st October, 2008 in Kampala that will address, among others, the Appointment of Judges of the East African Court of Justice to replace the President and the Principal Judge of the Court who will be retiring on 29th November, 2008; the proposed East African Community Anthem; and a Progress Report on the Institutionalisation of the

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East African Business Council into the EAC institutional framework.

The Council received a report from the Secretary General on the preparations for the Tripartite COMESA/SADC/EAC Summit to be held in Kampala on 21st October, 2008. The Secretary General indicated that tripartite contributions at technical level on budgetary issues, hosting arrangements and the ideal Chairmanship were at an advanced stage.

### Food crisis

The Council noted the decisions of the 9th Summit of Heads of State on the current regional food crisis specifically the high prices of food that threatens social stability in some parts of the world. The Council directed the Secretariat to implement the Summit directives concerning food insecurity in the region; formulate a mechanism for the way forward to promote effective collaborative arrangements with FAO, WFP and IFAD. IFAD has expressed willingness to work with the East African Community to develop a regional policy agenda on rural development and poverty reduction in this context the East African Community will formalise a collaboration arrangement with IFAD that will support the implementation of the East African Community Agriculture and Rural Development Strategy; promote and participate in network within the framework of IFAD supported initiatives in the region; and engage with the Coalition of Non-Governmental Organisations that focuses on organizing small land cultivators and the landless farmers, encouraging dialogue on land reform and providing supportive services for the review of macro processes and obstacles to land reform at sub-regional and country levels.

The East African Community will seek support of the World Food Programme in areas of food security and early warning systems, small holder development programme, research and agricultural census (in collaboration with FAO). In this regard a framework agreement for co-operation between FAO and the East African Community would be developed.

### Promotion of EA investments/EA Investment Conference, London

The Council directed the Secretariat to formulate a mechanism for the way forward for purposes of enhancing the Community's participation in collaborative programmes and activities with international organisations and development partners in the United Kingdom. This follows the Secretary General's consultations with the UK Department for International Development (DFID), that underscored the need for the Secretariat to work out a mechanism for follow up on matters that necessitate collaboration with the Department for International Development and the Business Community in London; consolidation of tripartite arrangements with COMESA and SADC for purposes of effective linkages with the international Community in such support programmes as the Regional East African International Support Programme (REASP), the global Anti-Counterfeiting Programme, and the Regional East African Integration Programme (REAP).

The Council further directed the Secretariat to undertake preparations for the planned East African Investment Conference and Symposium on East African in the week beginning 17 November, 2008.

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## Infrastructure

The Council considered a report of the 5th Sectoral Council on Transport, Communications and Meteorology (TCM) meeting which was held on 4 to 7 June 2008 and noted the decisions of the Ministers on, among others, the endorsement by the Summit of the EAC Council of Ministers recommendations that railways development in the region be on the basis of standard gauge and incorporating modern railways business management systems to ensure that railways transport plays an effective role as the least cost mode over long distances and bulky transport; urgent measures be undertaken to ensure that the EAC Power Master Plan is implemented, incorporating projects from Burundi and Rwanda to facilitate the sharing and pooling of power resources in the region; and fast track the projects on the enhancement of oil refineries capacities in the region and the development of pipeline transport capacity for gas and oil products.

The Council noted the ongoing extension of the Eldoret to Kampala oil pipeline that is also planned for extension to Kigali and Bujumbura and the planned Dar-es-Salaam – Mombasa gas pipeline; and directed that further review / consideration of the recommendations touching on the establishment of a regional institution to coordinate regional infrastructure development be undertaken as well as measures to reduce on the unnecessary road blocks, ports and border crossing dwell times and other causes of transit transport delays that increase the cost of transport particularly for the landlocked countries of Uganda, Rwanda and Burundi. The Council resolved to pursue measures to shorten the time it takes to conclude studies and to realize the implementation of infrastructure projects at the regional level; and directed the Secretariat to urgently develop an implementation framework for the Heads of State Directives for consideration by the 6th Sectoral Council on TCM in November 2008.

## Energy

The Council considered a report of the 3rd Meeting of the Sectoral Council on Energy which was held on 25 April 2008 and noted the decisions of the Ministers on, among others, approval of the Terms of Reference for preparation of New and Renewable Energy and Energy Conservation and Efficiency Master Plans; approval of the Project Document for Implementation of Activities of the Strategy on Scaling Up Access to Modern Energy Services; adoption of the Strategy on Development of Regional Refineries; approval of the East African Petroleum Conference (EAPC'09) budget of US \$ 934,675.50. The Council authorized immediate formulation of an emergency petroleum supply plan for the region; decided that a common policy on cross border electrification to address issues relating to tariffs, operation, ownership etc be developed; and recruitment of additional senior officers at the EAC Secretariat, one for each sub-sector, namely: Fossil Fuels; New and Renewable Energy and Energy Conservation and Efficiency; and Power ; and urged the Partner States to make provision for counterpart funding amounting to US\$ 130,000 for the studies to be financed by the African Development Bank under the NEPAD - Infrastructure Project Preparatory Facility (NEPAD-IPPF) Special Fund.

## Co-operation in Political Affairs

The Council extended the period of national consultations on EAC Political Federation of the Republic of Rwanda and the Republic of Burundi for a further period of three (3) months to enable them complete the process; established the EAC Forum of Heads of Electoral Commissions; directed the Secretariat that a study be commissioned to research on the cost of elections with a view to reducing costs. The study should be conducted by the Partner States experts while borrowing best practices from among other African countries; and directed the Secretariat, in consultation with the National Electoral Commissions to develop a project on capacity building and institutional

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development on democratization process in the region and present to their next meeting for adoption; took note of the Second Draft EAC Protocol on Preventing and Combating Corruption and directed the Secretariat to convene national stakeholder consultations and thereafter, convene a regional stakeholders meeting to consider the views and comments expressed at national level for input into the Protocol.

The Council established a Sectoral Committee on Preventing and Combating Corruption to comprise of the following: - Heads of anti – corruption agencies, representatives from the ministries responsible for anti-corruption, ethics and integrity, ministries responsible for prosecution and investigation of corruption cases and any other relevant agency; approved the proposed change of name of the Committee as the Sectoral Committee on Preventing and Combating Corruption; established technical sub-committees on prevention, enforcement and asset recovery and forfeiture; and urged the Partner States, in composing delegations to the Meetings of the Technical Sub- Committees when convened, to

ensure representation by persons who are competent, knowledgeable and experienced in matters of preventing and combating corruption.

The Council considered a draft Protocol on Peace and Security and directed the Secretariat to convene a joint meeting of the Sectoral Council on Defence, Sectoral Council on Foreign Policy Co-ordination and Inter State Security by 31st October 2008 to consider further inputs on the Draft Protocol.

### **Education, Science and Technology, Culture and Sports**

The Council considered a report of the 5th Meeting of the Sectoral Council on Education, Science and Technology, Culture and Sports which was held on 19th to 23rd May, 2008 and noted the decisions of the Ministers on, among others, adopting the Draft Protocol on the establishment of the East African Culture and Sports Commission, and; urged the Partner States to implement the decision to charge all students from Partner States the same fee as charged to the local students.



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