REGIONAL INTEGRATION: THE CASE OF
THE EAST AFRICAN COMMUNITY
John A. Mgaya

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DEDICATION

This thesis is dedicated to Justin, Joyce, Julius and my wife, Mary, without whose help and courageous endurance it would not have been completed.
DECLARATION

This sub-thesis is my own work and all sources used have been acknowledged.

In addition, the views expressed in this sub-thesis are my own, and are not necessarily to be interpreted as representing the official views and policies of Tanzania's Ministry of Foreign Affairs.

John A. Mgaya

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## ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>EAA</td>
<td>East African Airways</td>
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<tr>
<td>EAAC</td>
<td>East African Airways Corporation</td>
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<tr>
<td>EAC</td>
<td>East African Community</td>
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<td>EACSO</td>
<td>East African Common Services Organization</td>
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<td>EADB</td>
<td>East African Development Bank</td>
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<td>EAHC</td>
<td>East African Harbours Corporation</td>
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<tr>
<td>EAHC</td>
<td>East Africa High Commission</td>
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<tr>
<td>EAP&amp;TC</td>
<td>East African Post and Telecommunications Corporation</td>
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<tr>
<td>EARC</td>
<td>East African Railways Corporation</td>
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<tr>
<td>EAR&amp;H</td>
<td>East African Railways and Harbours Corporations</td>
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<tr>
<td>EAVRO</td>
<td>East African Veterinary Research Organization</td>
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<tr>
<td>GFS</td>
<td>General Fund Services</td>
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<tr>
<td>ILRAD</td>
<td>International Laboratory for Research on Animal Diseases</td>
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<tr>
<td>TAZARA</td>
<td>Tanzania-Zambia Railway</td>
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Canberra
August 1986

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1. East Africa

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Regional cooperation in the three East African countries Kenya, Tanzania and Uganda has developed over a number of years, taken several forms and had a chequered history. It was established by the British Administration in East Africa as a convenient contrivance for rationalising British hegemony in this part of Africa. When independence was won by the three countries, the institutions of East African cooperation, then known as the East African High Commission, were bequeathed to the three independent States and its name changed to East African Common Services Organisation (EACSO). The three countries tried to use EACSO as a nucleus for an East African Federation. The attempt failed in 1963. The enthusiasm for forming a federation temporarily concealed the weakness in the economic cooperation which had been inherited. After earlier attempts at federation had been frustrated, the Partner States became more concerned with economic cooperation and in correcting its weaknesses. The Kampala-Mbale Agreement of 1965 and the Treaty for East African Cooperation of 1967 were part of the effort to improve and strengthen economic cooperation instead of political unification.
1.1 THE FIRST STEPS

(a) The Common Market

One of the earliest steps towards regional economic integration was the establishment of a customs union (commonly referred to in East Africa as the common market). It came into existence in stages over a considerable period of time. A customs union between Kenya and Uganda was established in 1917 and Tanganyika was incorporated from 1923. A common external tariff was accepted in 1922. Free trade between Kenya, Uganda and Tanganyika in locally produced goods began in 1923, and the free movement of imported goods between them was established in 1927. The customs administration was operated jointly by Kenya and Uganda from 1917, but was not extended to Tanganyika until 1949. In addition, income taxation was introduced in Kenya in 1937 and in Uganda and Tanganyika in 1939. These countries adopted Kenya’s rates and tax structures and for this part of the revenue system joint administration was practised from the outset (including in Zanzibar).

(b) Common Services

A further aspect of East African cooperation concerned the operation of common services. The organisation of services began with the completion of the Kenya/Uganda Railway line from Mombasa to Kisumu in 1901. The line provided the main stimulus for a closer link between Kenya and Uganda, and from 1902 was run by a common administration. In 1911 a postal union was established between Kenya and Uganda.
Then, in 1920 Britain became Mandatory of Tanganyika and cooperation between the three East African territories was encouraged in various fields. From then until Independence was achieved between 1961 and 1963, the three countries were administered by the same colonial power (Britain), which meant a common language and similar traditions of government.

In addition to the joint administration of customs and excise and income tax, Britain encouraged the three countries to establish common services, especially in the field of major transport and communications, which would be operated by East African parastatal agencies. These included East African Railways and Harbours (1948); East African Airways (1946) which provided foreign as well as domestic services; and East African Posts and Telecommunications (1933). Apart from these, agricultural, medical and industrial research organisations, and the East African Court of Appeal were operated in common as were meteorological services and the University of East Africa. The former were termed 'self-contained' because, except for development finances, they were self-financing on the basis of fees charged.

Another important area of East African cooperation was in money and banking. The East African Currency Board was established in 1919. It issued an East African shilling as a common currency unit for use in all three countries, until separate central banks were established in 1966. Furthermore, during the period of monetary union, there was free movement of capital between the three countries; and
with minor exceptions there was free movement of labour as well.

The economic integration of the region, which resulted from the common market agreements and the common institutions was also reinforced by an 'East African attitude' in the private sector. The banks and many trading and manufacturing concerns treated East Africa as a unified area. There were large seasonal movements of bank funds between the territories, and businesses operating throughout East Africa moved funds between their branches as their activities required.

(c) The Governors' Conference

There was no formal machinery for integration of the common arrangements that had developed before 1926. In order to help coordinate them and promote economic development, Britain relied until 1948 on an informal consultative system, the Governors' Conferences of which the first was held in Nairobi in 1926. The three Governors\(^1\) met periodically to consider matters of common interest and keep under review how common services in the East African region could be provided without a formal federation. In a 1927 report to the Colonial Office, Sir Edward Grigg called for the:

establishment of a central East African Authority to control main transport services, the customs tariff, inter-territorial communication by land and air including posts and telegraphs, defence and fundamental research.\(^1\)\(^1\)
Further support for federation came from the Hilton Young Commission in 1929. However, until 1945, proposals for political federation were rejected by Britain in the belief that there was no common agreement among Kenya, Uganda and Tanganyika.12

The Governors' Conference became the basic integrative mechanism of the 1930's, with a permanent secretariat in Nairobi. Despite the failure to achieve the political union favoured by Grigg and others, administrative control was improved during this period by the consolidation of East African services.13

1.2 THE EAST AFRICAN HIGH COMMISSION

The Governors' Conference had no legal or permanent constitutional basis14 for the operation of the common services, and it functioned without public debate or discussion. Therefore, in order to rationalise the situation Britain through the 1947 Order in Council established a permanent Authority, termed the East African High Commission in January 1948, consisting of the Governors of Kenya, Uganda and Tanganyika, with its secretariat in Nairobi. There was also established a Central Legislative Assembly. The Commission met several times a year to determine policy for East Africa and, most important, to supervise and review the operation of an expanded network of common services.

What distinguished the High Commission from its predecessor was its greater sense of collective identity as a regional body.15
(a) The Central Legislative Assembly

This was the legislative arm of the High Commission; its members were partly appointed by the three Governors and partly elected by the unofficial members of the territorial legislatures. However, its legislative powers were limited and related chiefly to various aspects of the common services, including the structure (but not rates) of customs and excise and income taxation. The Assembly could be overruled by the High Commission, and in some cases the Commission could legislate without the Assembly's approval. Despite these limitations, the new system provided a firm legal basis for functional integration of the common market and the common services.

(b) The High Commission Activities

The primary responsibility of the East Africa High Commission was to administer a number of common services, including railways and harbours, posts and telecommunications, civil aviation, air transport, meteorology, central research, statistics and income tax and customs and excise collection (but not the determination of income tax and customs and excise rates, which were a territorial responsibility).

(c) Finances of the High Commission Services

Until its last year of existence in 1961, the High Commission did not have any source of revenue of its own. The most important common services such as railways, harbours, post and telecommunications were known as
'self-contained' services because they financed their running costs from their earnings, but the other 'non-self-contained' services were financed partly by annual appropriations from territorial revenues and partly by grants from the British Government and some other sources, particularly for the research services.

In 1961 the recommendations of the Raisman Commission led to the establishment of a Distributable Pool, one of the purposes of which was to provide an independent source of finance for the non-self-contained common services.

By 1960, however, both Colonial Office authorities and East African leaders recognised that the High Commission was in need of reform.

Though many factors contributed to this change, three stand out as particularly important.

First, there was a growing resentment in Uganda and Tanganyika about what were perceived to be the disproportionate benefits accruing to Kenya under the existing system. Statistics on GNP growth, foreign investment, and inter-territorial trade indicated a widening development gap within the region due, at least in part, to the effects of the common market and the policies of the High Commission.

Moreover, high protective tariffs appeared to subsidise the growth of the Kenyan economy, with its larger manufacturing base, at the expense of higher prices in Uganda and Tanganyika and the loss of revenue from important duties as increasing Kenyan industrial efficiency shut out foreign competitors. Equitable distribution of those customs revenues collected was hampered by the free movement of goods within the region. Thus, Hazlewood has written:
The Commission argued that some of the criticisms of the common market were properly criticisms of the effect of various impediments to the free operation of the market, arising mainly from statutory marketing, which led to clashes of interest between the territories.22

Kenya's East African partners were also concerned that the location of the High Commission secretariat and many of the common services in Nairobi not only brought increased employment to Kenya but also made the Organisation take greater interest in the wellbeing of the Kenyan economy.24

A second problem with the High Commission was its dependence on territorial contributions for much of the revenue needed to sustain the non-self-contained services. In addition to inequities created by a funding system that resulted in approximately equal contributions by territories at different levels of development, long-term planning was difficult since it was impossible to be certain that the necessary money would be contributed, should one of the territories become unhappy about the quality of assistance being provided.25

The final and most immediate reason for systematic reform was the impending independence of Tanganyika.26 Under pressure from the United Nations Trusteeship Council, the British had decided to speed up the timetable for Tanganyikan self-government. But, in order to avoid the three territories coming to independence outside a federal framework and at different times, Nyerere offered to delay Tanganyika's independence briefly to allow Uganda and Kenya to catch up.27 However, Britain refused, on the grounds that Uganda and Kenya were insufficiently prepared for independence by 9 December, 1961, the date set for
Tanganyika. A transitional structure was needed therefore which would be capable of preserving the common services until agreement could be reached on a permanent federal arrangement.

1.3 THE EAST AFRICAN COMMON SERVICES ORGANISATIONS

In June 1961, discussions were held in London between delegations from the United Kingdom, the three East African territories, and the High Commission administration to consider the future of the common services. It was agreed\(^{28}\) that, whatever constitutional changes might take place in East Africa, common services provided by the High Commission should continue to be maintained for the interest of all the territories. In that year the High Commission was transformed into the East African Common Services Organisation (EACSO), which came into existence with Tanganyikan independence in December 1961. Thus Rosberg has written:

> The change from the High Commission to EACSO was a change from a colonial institution to a political organisation built upon the representative institutions of the East African countries.\(^{29}\)

(a) The East African Authority

The overall policy and direction of a new Organisation was in the hands of the East African Authority, consisting of the three elected leaders of Tanganyika, Kenya and Uganda (and later the three Presidents).\(^{30}\) Decisions of the Authority had to be unanimous, and it had to determine its own procedure including electing a Chairman.
(b) The Triumvirates

To assist the Authority, four ministerial committees commonly known as 'triumvirates' were established consisting, in each case, of the three territorial ministers concerned with (a) Communications, (b) Finance, (c) Commerce and Industry, and (d) Social and Research Services. Later, a fifth triumvirate concerned with labour questions was created. According to Franck, 'The age of government by civil servants and technicians had drawn to a close' as politicians assumed increasingly prominent roles in the operation of regional institutions. The Committees met usually in Nairobi at the EACSO Secretariat so as to secure coordination of EACSO activities. To implement a decision on a matter of policy, unanimity was required in a triumvirate and if agreement proved impossible an issue was referred to the Authority for a decision. The common market itself, however, still received no formal recognition in the 1961 enactment, and its operations continued to rest until 1967 on its de facto acceptance by the three countries.

(c) The Central Legislative Assembly

The legislative arm of EACSO was still the Central Legislative Assembly; and it continued its functions with powers very similar to those exercised during the time of the High Commission. The Assembly, too, became politically responsive. It consisted of the Speaker (appointed by the Authority), fifteen members of the Ministerial Committees, the Secretary-General and the Legal Secretary of EACSO, and nine members from each territory - elected by the territorial legislature. The Assembly had powers to
legislate over the common services and responsibilities of the Organisation.

(d) **Common Services of EACSO**

EACSO took over most services run by the East African High Commission. The administration of EACSO was in the hands of a Secretary-General, assisted by a Public Service Commission, a General Manager of Railways and Harbours Administration, a Postmaster General, a Legal Secretary, a Financial Secretary and an Auditor General.32

More significant perhaps than these institutional changes were measures based upon recommendations of the Raisman Report to divide more evenly the benefits of East African cooperation and to provide the Authority with greater financial independence. The Distributable Pool was the instrument chosen to achieve both ends.

Actually established shortly before the EACSO came into formal existence, the Pool was funded from a fixed percentage of the customs and excise duties and corporate income taxes collected by each of the countries. One-half of the Pool's revenue was retained by the Authority to support the operations of the common services and the rest distributed equally among the three members. While the new system provided the Authority with a more dependable source of funds for long-term planning, the Raisman Commission and the territories clearly saw the Pool as a means of redressing the major complaint of Uganda and Tanganyika concerning the inequitable effects of the common market. The fact that EACSO and most of the common services were
based in Nairobi also provided a basis for future disagreement.33

(e) Finances of EACSO

EACSO took over the system which the High Commission had applied during its last year of existence. A Distributable Pool Fund thus provided a source of general revenue with which EACSO could finance the majority of non-self-contained services.34 Revenues intended to cover expenses for the non-self-contained services were paid into a General Fund. A Contingencies Fund was also established under the EACSO Constitution for the purpose of providing for urgent and unforeseen expenditure of the self-contained services.35

1.4 EFFORTS AND FAILURE OF FEDERATION IN EAST AFRICA

Federation36 seemed to imply a formula for achieving integration. As the danger of separate sovereignties in East Africa became more evident, in June 1960 Julius Nyerere offered37 to delay Tanganyika's independence so that all three East African territories could come to independence together as a federal unit. Thus, he has written:

I, for one, would be prepared to postpone the celebration of Tanganyika's independence for a few months and celebrate East Africa's independence in 1962 rather than take the risk of perpetuating the balkanisation of East Africa.38

During this period, Nyerere believed that the best path to East African Unity was through a regional association. He feared that if the three territories were to gain independence separately the effect might be to arouse national sentiments which would make negotiation of a
federation far more difficult. And he also believed that the attainment of complete independence by Tanganyika alone would complicate the establishment of a new political unit. He further argued that only by federation could the real benefits conveyed by EACSO be preserved and redistributed more equitably within a politically new East Africa. Thus, Nyerere has written:

Federation of at least Kenya, Uganda and Tanganyika should be comparatively easy to achieve. We already have a common market, and run many services through the Common Services Organisation, which has its own Central Legislative Assembly and an executive composed of the Prime Ministers of the three states. This is the nucleus from which a Federation is the natural growth.39

However, the offer was not accepted by Britain, and the reaction in East Africa was also disappointing. While people like Tom Mboya supported Nyerere, in Uganda the Kabaka's government and Obote's Democratic Party stated that Uganda was not ready for federation. Therefore, soon after Tanganyika's independence in December 1961 Nyerere stated that federation would now have to wait until all three countries were sovereign.41

(a) The Nairobi Declaration

As the other two East African territories achieved independence, serious talks on an East African Federation were instituted. On 5 June 1963, in Nairobi, the three East African leaders met and announced:

We, the leaders of the people and governments of East Africa assembled in Nairobi on June 5 1963 pledge ourselves to the political Federation of East Africa.43
The final decision to federate was made suddenly but not without preparation. A working party, including Ministers from the three countries was set up to work out the details of the Constitution of the Federation.

However, within a year it became clear that an East African Federation would not be easy to establish.

The optimism of the Nairobi Conference was short-lived because differences soon emerged within the working party. It can be argued that the most contentious and fundamental area of disagreement was the degree of centralisation to be built into the new federation. As Nekyon said later, he wanted to see the 'minimal alteration of territorial constitutions'.44 Since each country became independent separately it was difficult to keep them together. A sense of national belongingness and national interest emerged rapidly after independence. Despite a broad aspiration for African unity, nation-building and economic planning and development were soon accorded a higher priority than supra-nationalism.45

It was mainly Uganda's objection to the surrender of sovereignty, the desire to preserve its fragile internal unity, and the fear of Kenyan control over regional institutions which led to the failure of East African federation. In fact, President Obote had made a statement that the Nairobi declaration did not commit Uganda to federation and that the questions of relationships and powers were still in the 'exploratory stage'.46 For the Tanganyikans and Kenyans, regional unity involved 'the concept of a tightly constructed federation'.47 But for the
Ugandans, federation implied a loose plan of inter-territorial coordination:

Throughout the negotiations on East African Unity, Uganda's representatives strove to limit central authority in such fields as foreign affairs, citizenship, external borrowing, agriculture and animal husbandry, mines and higher education ...48

Moreover, opposition from Ghana's President Kwame Nkrumah, who claimed that a strong East African federation would serve to fragment the continent did not improve the negotiating atmosphere.49 By the end of 1963 the failure of the federation was clear. The last session of the Working Party was held in Kampala in May 1964, but the three Presidents found that the political union they had advocated so wholeheartedly was no longer feasible. It can be argued that national interests developed quickly in East Africa during 1963, as President Nyerere had prophesied:

We shall be increasing the number of human beings who have a personal interest in disunity - and because they are human beings most of them will be more conscious of the advantages of the present situation and the difficulties of change than of the long-term benefits which could come.50

The inability to achieve the goals of the Nairobi Declaration brought both frustration and a new sense of scepticism concerning the existing system of regional cooperation. The chief target of criticism was in the field of monetary policy. It was here that the most dramatic signs of disintegration became apparent:

In the interest of East African unity we have waited for four years before taking any action to dismantle the East African Currency Board and to transfer monetary authority to government. This is a very great sacrifice for any country to make, and particularly for a developing country which is anxious to promote the development of its own monetary institutions.51
The East African Currency Board had remained intact since independence due largely to Tanzanian willingness to forego the benefits of control over a national currency until permanent regional institutions could be established. With the failure of East African federation, relations between the three countries deteriorated so far as to make even the continued existence of the common services and the common market doubtful. In the words of Minister Bomani:

I have no wish to indulge in recriminations of any kind, but I find it slightly incongruous that Kenya should now seek to appear as the champion of the East African monetary system. We in Tanzania were prepared to make an East African central banking system possible by participating in a federation. Kenya and Uganda were reluctant to do so. Since Kenya has discarded the idea of a federation, I would like to ask whether its special pleading for the continuance of a common currency is really in the interest of East Africa as a whole ... the exercise of control over monetary matters is normally the exclusive prerogative of a sovereign Government.

Through 1964 and the first half of 1965 Tanzania's intention to create its own Central bank became increasingly evident and in June 1965 the three countries announced (in Finance Ministers' budget speeches) their intention to establish three separate currencies and Central Banks. The currency board report concluded:

Whatever the disappointment felt at the announce-ments of 10th June, therefore the decision taken can be welcomed for facing realities and ending a long period of wishful thinking.
THE KAMPALA AGREEMENT: AN ATTEMPT TO REGULATE THE COMMON MARKET

The common market in East Africa was essentially an example of laissez-faire integration. Being de facto and largely unregulated, it came under attack. While the external tariff was common to the three countries, there were no tariffs on trade between them, and relatively few other restrictions on inter-territorial trade. Tariffs and certain other taxes were kept at the same level in each country. Tanzania and Uganda perceived that such existing mechanisms unduly favoured Kenya.

In fact, even after the Raisman Commission, Tanzania and Uganda continued to express their dissatisfaction over the operation of the common market, arguing that it created inequalities in development and imbalances in inter-territorial trade. They resented Kenya's benefits and more rapid rate of industrialisation in the belief that it was due to the common market.

In support of the accentuation of the existing disparities, Tanzania and Uganda frequently pointed to inter-territorial trade statistics to show how the common market had aided Kenya in establishing a dominant position for itself in a manufacturing sector. Whereas Kenya's exports to the common market in 1962 were 17,320,000 pounds sterling, Uganda's and Tanganyika's combined exports amounted to 9,446,000 pounds sterling. And the gap continued to widen. Dharam Ghai concluded that:

taking the value of territorial exports as a criterion, Kenya has been the greatest beneficiary of the economic opportunities created by the wider East African market ...

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58
Moreover, the Distributable Pool was seen as insufficient to correct trade imbalances and the system of industrial licensing, which had been continued through the transition period to independence, had failed to satisfy Tanzania's desire for a conscious regional effort to promote industrial growth in all three countries.

In the face of Tanzanian threats to withdraw from the common market, East African leaders met in Kampala in April 1964 and again in Mbale in January 1965 to take corrective measures. The emphasis of the Kampala-Mbale Agreements was to encourage industrialisation in Tanzania and Uganda and redress unbalanced trade relationships. It sought the solution through the elimination of trade imbalances between the three countries.

In the Kampala Agreement there were five methods by which it was agreed the imbalances of inter-territorial trade could be rectified. These included: (1) increased production in a deficit country by certain firms which operated in two or more countries; (2) the allocation of selected major industries between the countries; (3) the application of a quota system to exports from a more industrially-advanced partner nation; (4) increased sales from a country in deficit in inter-territorial trade to a country in surplus; and (5) an agreement upon a system of inducements and allocations of industry to secure an equitable distribution of industries within the common market as a whole. A committee of Industrial Exports was to be appointed to determine which industries could be included in the quota system. As a result of the Agreement selected industries, such as those manufacturing motor tyres and
tubes; radio assembly; and the manufacture of lorries and trucks were located in Tanzania. Uganda was to have bicycle manufacture and a nitrogenous fertiliser plant; and Kenya was given electric light bulbs.

The industries concerned were to be scheduled under the territorial Industrial Licensing Acts and each government had to arrange with the East African Industrial Council that an exclusive licence be given to a firm operating in the agreed territory. Certainly these measures were the most important and constructive aspects of the Kampala Agreement. Hazlewood spelt out the hopes on which these measures were built:

If they worked they would provide a way of maintaining the benefits of the common market while offsetting its disequalising tendencies.59

Initially, shifts in production by inter-territorial firms did occur and several new industries moved into the countries designated by the agreement for exclusive production rights. Tanzania and Uganda were permitted to institute voluntary quotas on such products as beer, cigarettes, shoes and galvanised iron in order to give them an opportunity to build up their productive capacity and reduce reliance on Kenyan exports. Yet Kenya, perhaps annoyed by the impending collapse of the common currency arrangements, never ratified the Kampala-Mbale Agreements and soon undermined the industrial allocation provisions by permitting the establishment in Kenya of a tyre factory which should have been located in Tanzania.60 Tanzania held Kenya responsible for the failure of the Kampala Agreement61 and in August 1965, Nyerere imposed unilaterally a series of import restrictions, including quotas affecting 2,000,000
pounds sterling of Kenya's products. These actions brought forth bitter outcries among common market partners and enhanced the perception of gradual East African disintegration which had become increasingly widespread after the failure of the three countries to agree on a plan for federation.

In brief, the Kampala Agreement was not satisfactory to any country. Tanzania considered it ineffective and failing in its prime task of redressing East African trade imbalances. In Kenya, on the other hand, politicians and industrialists alike spoke resentfully of the hardships brought on by Tanzania's decision to invoke quota restrictions on a large number of items.

Because East Africa's Heads of Government were dissatisfied both with the drift towards disintegration and operation of the Kampala Agreement, they agreed to hold a number of meetings in late 1965 aimed at preserving the common market and common services. In September 1965 the three leaders decided to form a joint Commission headed by an independent Chairman - Kjeld Philip, a former Finance Minister of Denmark but then working for the United Nations, to undertake a comprehensive study of the problems faced and make new recommendations 'for continuing and strengthening East African cooperation'. Composed of three Cabinet ministers from each country in addition to himself, the Philip Commission was a 'vehicle for negotiation' rather than a dispassionate expert body, and played a key role in bringing the parties toward the compromise finally reached with the signing of the Treaty on 6 June 1967.
NOTES

1. Tanzania was formed by the union of Tanganyika (now mainland Tanzania) and Zanzibar in April 1964. But for the sake of clarity, in this chapter we shall use the modern name 'Tanzania' even though, in several instances it will refer to Tanganyika.

2. For a brief but comprehensive analysis of East African cooperation from the colonial period to the early 1960s, see C.G. Rosberg, Jr. with A. Segal, 'An East African Federation', International Conciliation, No.543, May 1963.


12. Rosberg and Segal, op cit, p.17.


14. Rosberg and Segal, op cit, p.17.


17. Ibid, pp.31-32.


23. A. Hazlewood, *op cit*, p.35.


29. Rosberg and Segal, *op cit*, p.22.


32. EACSO Constitution, Articles 40, 41, 18.


34. EACSO Constitution, Article 37.

35. Ibid, Article 36.


42. Uganda became independent on 9 October 1962, followed by Kenya on 12 December 1963.


47. T.J. Mboya, 'East African Labour Policy and Federation', in Leys and Robson (eds), *op cit*, p.103.


49. J.S. Nye, Jr., *op cit*, p.196.


57. A. Hazlewood, *op cit*, p. 94.


64. A. Hazlewood, *op cit*, p. 71.
2.1 THE TREATY FOR EAST AFRICAN COOPERATION

In May 1966, the Philip Commission reported to the three Governments and, on the basis of its report, the three Heads of State signed the Treaty for East African Cooperation at Kampala on 6 June 1967. It became effective on 1 December 1967.

The Treaty dealt with all fields of cooperation between the East African countries, and in 1967 established the East African Community and, as an integral part of that community, 'an East African Common Market'. Its most obvious achievement was to place within one framework both the Common Services and the Common Market. Thus, for the first time the Common Market acquired a solid legal foundation which hitherto had operated under a kind of gentlemen's agreement.

The Treaty attempted to resolve the inequitable distribution of benefits of the East African Common Market and strike a balance between the interests of the three states. In this sense it combined economic with political integration:

The plain fact is that inter-territorial organisations are political in their inception, termination, and basic arrangements even if the conflict factor is minimised in their daily operations. The decision to establish an East African Community and the framework in which its activities will be carried on are the consequences of political bargaining.
The Treaty was intended to put cooperation between the Partner States on a firm footing of mutual advantage, and not simply to paper over the cracks in the old structure of colonial relationships. The three East African countries desired 'balanced development', and the Treaty was signed in the belief that it would serve as an instrument in achieving it through cooperation. The Treaty proclaimed the principal aim of the Community to be:

*to strengthen and regulate the industrial, commercial and other relations of the Partner States to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities - the benefits whereof shall be equitably shared.*

The most important matter which the Treaty attempted to deal with was the distribution of benefits of cooperation. For an integration scheme to survive, every member had to be and remain satisfied with the distribution of benefits:

*What it does is to lay down a realistic basis for the cooperation, on equal terms, of three sovereign states. Its provisions were negotiated by us all, taking into account the problems and the aspirations of each country, and our overriding recognition of the mutual benefit which can come from united economic action.*

Subsequently, the Treaty set up a formal structure for administering the Community institutions and provided measures to achieve an acceptable distribution of benefits of cooperation between the three states. The main features were: the introduction of a transfer tax to give limited protection for industries in the less developed states against competition from those in the more developed; the establishment of an East African Development Bank (EADB) which was to allocate its investments disproportionately in favour of Tanzania and Uganda; the relocation of the
headquarters for some of the Common Services, so that they were not concentrated in Kenya. The Treaty also declared the establishment of a common agricultural policy to be a long-term aim.

2.2 THE POLITICAL STRUCTURE, FUNCTIONS AND MAIN INSTITUTIONS OF THE COMMUNITY

The institutions of an administrative union can contribute to economic integration by setting a framework in which future disputes can be resolved. Although the East African Community's machinery of cooperation generally reflected territorial rather than inter-territorial interests, it still possessed the capacity to play an important role in furthering coordination. Thus, the looseness of the arrangement and the stress upon sovereign equality of rights and obligations left politicians in all three countries with a great responsibility to negotiate their differences, as although the Treaty introduced a number of important innovations on both the administrative and economic sides, in many respects it merely confirmed the already existing arrangements of East African cooperation. In other words, this document, like its predecessor the Kampala-Mbale Agreement, emphasised continuity with the past rather than discontinuity, as well as endorsing national sovereignty:

The principle of sovereign equality is enshrined, since action still depends upon the unanimous agreement of the three heads of government.

a) The East African Community

As has been mentioned earlier, the East African Community was set up to strengthen and regulate the
industrial, commercial and other ties among the three partners with a view to bringing about accelerated, harmonious and balanced development. To achieve these aims the Community strove to establish and maintain a common customs and excise tariff, abolish generally trade restrictions between Partner States, coordinate economic planning and transport policies, and establish in the long run a common agricultural policy.

The Community was basically economic, but, unlike its colonial and transitional predecessors, it specifically related economic decisions, policies and programmes to political process. The Community's paramount concern was to preserve the contribution to economic development of the Common Market and Common Services while ensuring that there would be equitable distribution of the benefits accruing. What was, however, of significance in the Treaty was that for the first time it provided a machinery for the settlement of disputes.

(b) The East African Authority

From the functional point of view, firm executive control was retained by the three Heads of State who in terms of the Treaty and the Community collectively constituted the East African Authority. The Authority was responsible for the general direction and control of the performance of the executive functions of the Community. Moreover, it constituted the main link between the Community and the individual Governments; and the Authority's Chairmanship was by rotation. But, because the EA Authority could not give attention to day-to-day East
African Affairs, a full-time political apparatus was created.

(c) The East African Ministers

One vital innovation was the introduction of three Ministers whose sole preoccupation was with East African Affairs. To assist the Authority in its executive functions, three East African Ministers (and Deputy Ministers) were appointed - one from each Partner State. The East African Ministers replaced the cumbersome system of ministerial triumvirates which existed under EACSO and were responsible to the Authority for the overall direction of the Community. They generally advised the Authority on affairs of the Community, dealt solely with East African Affairs and were resident in Arusha (Tanzania).

This new institution was important because it provided the three EA Ministers with more time to study East African problems and take appropriate action in order to guarantee effective Community operation among the Partner States:

These three men will be responsible to East Africa, and their concern will be to ensure the smooth running of all the institutions for cooperation. Their task will be a very important one; but I am convinced that they will receive the full cooperation of the Governments and the peoples of East Africa.

Apart from cooperating with the Authority, there was a 'close working relationship between the East African Ministers and various national Ministers' whose portfolios were connected with the services of the Community. Responsible primarily to the Community, in whose operations they acted collectively, the Ministers also represented national concerns and interests and sought to coordinate
national policies concerning different aspects of East African Community Affairs. Although it was not mentioned in the Treaty, functional responsibilities were allocated to the East African Ministers: one was responsible for Common Market and Economic Affairs matters, one for Finance and Administration; and the third for Communications, Social Affairs and Research. Each Minister was supported by a secretariat.

Moreover, there was a Secretary General who was the head of the civil service of the Community and its Principal Executive Officer. And there was a Counsel to the Community who was the Chief Legal Adviser.

(d) The Central Secretariat

There was a Central Secretariat housed at Arusha, Tanzania, composed of three Secretariats (Finance and Administration, Common Market and Economic Affairs, and Communications, Research and Social Services), the Chambers of the Counsel to the Community and the Office of the Secretary General and the East African Legislative Assembly. Each Secretariat was headed by a Minister at political level and a Secretary at civil service level.

(e) The Councils

Five ministerial Councils were established by the Treaty to provide executive direction to certain Community activities and advise the Authority on policy questions within their respective spheres. These were: the Common Market Council, the Communications Council, the Economic Consultative and Planning Council, the Finance Council, and
the Research and Social Council. The three East African Ministers were members and each was Chairman of one or the other of the Councils. In addition, the national Ministers were members of Councils dealing in spheres related to matters coming under their national portfolios. It is significant that decisions in all five Councils required unanimity. If there were a failure to agree, the matter was referred to the Authority for a decision. The Councils provided a forum for policy formulation.

(i) The Common Market Council

This Council's main function was to supervise the operation of the Common Market provisions of the Treaty, and resolve disputes which arose from the implementation of the sections of the Treaty dealing with the Common Market. The Council was assisted in this function by the Common Market Secretariat whose duty was to keep track of trends in the regional industries and trade. If a Partner State felt that another Partner State was duplicating her industries and not following the provisions of the Treaty relating to the operation of the Common Market, then she submitted evidence to the Common Market Council. The Common Market Secretariat would then verify the evidence, and, if upheld, the Council issued a binding directive to the Partner State concerned. If, however, there was no unanimity in the Council, then the issue was referred to the Common Market Tribunal for arbitration.
(ii) The Communications Council

The functions of this Council were to oversee the development, capital, and other basic policy decisions of the East African Corporations - Railways, Harbours (these two are now separated), Post and Telecommunications, and Airways - which were in turn responsible for their own operations and general management. Except for the already existing East African Airways, the Corporations became successors to the previous 'self-contained services', administered by quasi-governmental bodies. The Council also received and considered information given by Corporation's boards, and in large respects it provided a forum for consultation on communication matters. Like all other Councils, the Communications Council was subject to the ultimate control of the Authority; and the Treaty laid down explicitly that the Council would have special responsibility to 'give effect to the directions of the Authority'.

(iii) The Economic consultative and Planning Council

Its functions were to assist national planning by consultative means and advise the Authority on long term planning of the Common Services. It was a purely consultative and advisory organ.

(iv) The Finance Council

This Council's functions lay mainly in consultation on major financial affairs of the Community, and it also considered and approved major financial decisions relating
to the Common Services, including estimates of expenditure and any related loan and investment programme. 29

Apart from the three East African Ministers, this Council included only the national ministers responsible for finance in the Partner States. 30

(v) The Research and Social Council

This Council assisted 'by consultative means in the coordination of policies of the Partner States and the Community regarding research and Social matters'. 31

(f) The East African Legislative Assembly

The former Central Legislative Assembly was succeeded by a smaller East African Legislative Assembly 32, with more clearly defined powers. The Treaty prescribed that the Assembly was to legislate on all matters of the Community 33, and receive annual reports from the Corporations. These included its financial affairs, administrative and general provisions for the collection of Customs and Excise, income tax and transfer taxes, civil aviation and meteorology research, staff of the Community, post and telecommunications, railways and harbours, industrial licensing, the Common Market Tribunal, and the University of East Africa. Any Bills passed by the Assembly had to go to the Authority for enactment. The Assembly consisted of 36 members, namely: the Chairman, the three East African Ministers, the three Deputy East African Ministers, 27 appointed members (nine nominated by each of the Partner States), the Secretary-General and the Counsel to the Community. All appointed members of the Assembly were required to vacate
their seats when the legislatures of the States appointing them were dissolved.

(g) The Tribunals

Three judicial institutions were established: the Common Market Tribunal, the Court of Appeal for East Africa, and the East African Industrial Court. The Tribunal was designed to play the most direct role in community affairs, either by hearing cases brought by member States concerning alleged violations of Common Market provision of the Treaty or by giving advisory opinion requested by the Common Market Council. While the Tribunal had authority to make binding decisions over disputes arising out of the provisions of the Treaty and could act when and if the Common Market Council failed to settle differences, this important adjudicative function was never adequately fulfilled. Indeed, until the Community collapsed, the Tribunal failed to resolve a single case. The position of the other judicial organs was more narrowly defined. The jurisdictional competence of the Court of Appeal continued to be determined by the laws of each state and the Industrial Court could only rule on industrial disputes.

(h) The Common Services

Kenya (Nairobi) was the headquarters of the integration scheme, all four Corporations (three before the break-up of the East African Railways and Harbours into two) having their headquarters there. Most of the institutions under the General Fund Services were also based in Kenya,
and so was the Secretariat of the East African Common Services Organisation. It is obvious that all the spill-over effects\textsuperscript{41} of these institutions with their headquarters in Kenya went to benefit Kenya.

In order to redress the imbalance in Common Services, the Treaty provided that all self-contained services would be formed into public corporations, and that there would be redistribution of the Corporation's headquarters, all of which had been in Nairobi. The new Corporations were to be under the control of a board of directors. A measure of decentralisation was introduced into the administration of the services, and there were commitments to favour the less developed partner States, some in general and others in specific terms.

Thus, after breaking up EA Railways and Harbours into two Corporations and after establishing a new institution, the East African Development Bank, the headquarters for the six major institutions of the EAC were divided up as follows: Tanzania was given the headquarters of the East African Community, that is, the Secretariat and the headquarters of the EA Harbours Corporation, at Arusha and Dar-es-Salaam respectively. Kenya was to host the headquarters of the EA Railways Corporation and the EA Airways Corporation, Uganda\textsuperscript{42} those of the EA Post and Telecommunications Corporation and the EA Development Bank:

The concentration of the expenditures of the common services in Kenya had for long been objectionable to Tanzania and Uganda. The agreement on re-location together with the establishment of the East African Development bank, gave each partner the headquarters of two community institutions, with a consequent redistribution of their income - generating expenditures and the employment they provided in favour of Tanzania and Uganda.\textsuperscript{43}
Through this arrangement, it was believed that at least a geographical distribution of the major Community Services had been achieved, and that each country would be able to benefit from the spill-over effects. All four newly created East African Corporations were now required to conduct their business according to 'commercial principles' under the immediate supervision of a board of directors. The position of the non-self contained services (GFS) was altered little by the Treaty. All community services were to obtain financial support from the General Fund. The Fund's revenue was to come from the same tax sources that had maintained the Distributable Pool although the fixed percentage contributions which had led to surpluses under the EACSO were replaced by a formula designed to ensure that the money collected would approximate authorised Community expenditures.

In addition to reallocating the headquarters, maximum\textsuperscript{44} decentralisation was recommended in respect of the four corporations in order to allow greater flexibility and response to territorial needs, give each partner state a closer connection with the administration of the services, and shift some expenditures to the regions. Some scholars concluded that this decentralisation process involved an unquestioned sacrifice on the part of Kenya\textsuperscript{45}, with the transfer of the Harbours and Post and Telecommunications headquarters from Nairobi to Dar-es-Salaam and Kampala respectively.

Indeed, the rationale for this exercise was to give a symbolic feeling of sharing the services and to redistribute the benefits accruing from the physical assets and
employment opportunities. Certain prominent Kenyan officials too did not view the redistribution of the Common Services as a great sacrifice for Kenya:

I don't think that Kenya has sacrificed a great deal. Past conditions were heavily loaded in our favour, and we had to achieve a unanimity between the three countries. The Treaty gives Tanzania a certain amount of prestige, as the Treaty Secretariat will be in Arusha, and as formerly EACSO headquarters were in Kenya ...46

Each Partner State was required to provide funds for the overall administration and development of the corporations. This scheme was bogged down by financial losses of the corporations and by difficulties of transferring funds which left the Partner States indebted to each other.

2.3 THE EAST AFRICAN COMMUNITY - AN ECONOMIC ANALYSIS

The three pillars of the Community were the Common Market, the Corporations and the General Fund Services. From its inception, the EAC was a unique form of integration in Africa, in two senses. One, it evolved from a long past of colonial history, dating back to the Berlin and Brussels conferences. Two, the integration scheme comprised communications and transport, that is, the four corporations: the East African Railways Corporation (EARC), the East African Harbours Corporation (EAHC), the East African Post and Telecommunications Corporation (EAP&TC) and the East African Airways Corporation (EAAC). Nowhere in Africa had a similar integrated model of services:

Integration attempts in other parts of the world have generally tended to focus on the common market aspect. Ours, however, goes far beyond this; there is no other group in the whole world where three sovereign states own railways,
harbours, post and tele-communications and air travel services jointly to mention only a few of the common services in the community. 48

All three aspects of the Community, however, have had some strengths and shortcomings. During the last four years the shortcomings were more obvious and politically sensitive 49 which eventually led to the collapse of the Community. Some of the commonest problems were: (a) the unequal distribution of benefits with Kenya as the traditional largest beneficiary; (b) the national orientation and the different paths of development of the Partner States which tended to increase controversy; and (c) the shortage of foreign exchange in the Partner States which created problems of transferring funds from one country to another. These were real and substantial problems, evident also in varying intensity in other regional schemes in the Third World. However, these problems were actually mere symptoms of much more fundamental causes to which we now turn.

(a) The Common Market: A Brief History of its Operation before the Treaty

Inter-state Trade

The main problem with the Common Market had always been the inequitable distribution of its benefits. Early problems were connected with the protective tariffs which were meant to encourage local production in East Africa as a whole, but in fact encouraged local production and hence industrial development in Kenya only. These policies were considered to be the early cause of uneven economic development of the three countries.
After the Second World War, the uneven economic development arising from earlier trading policies became so obvious that the High Commission decided to establish an Industrial Council which would operate an industrial licensing system, intended to induce industries to set up in East Africa by regulating competition. However, the Council lacked the authority to enforce its decisions, and as a result nothing was achieved.

The uneven economic development went on unchecked into the 1950s, and Uganda and Tanzania grew more and more unhappy with the arrangements because Kenya was making big strides in industrial development and monopolising inter-state trade by exporting more to partners than she bought from them.

The common external tariff was intended to protect the infant British industries based in Kenya from competition from other industrial countries. The free movement of manufactured goods within East Africa was designed to facilitate the flow of manufactured goods from Kenya to the rest of East Africa. Hence the so-called Common Market was and had always been restricted to the protection of manufacturing industries. Primary commodities in their raw or-semi-processed form had mostly been for export, and never part of the common market.

The import-substitution industries in East Africa had traditionally been mainly geared to the higher income urban-based market and biased against rural mass-based markets. An analysis of the commodity composition of East African imports shows the predominance of luxury and
semi-luxury manufactured goods and a bias against inter-
mediate and capital goods. Table 1 provides a breakdown of
East Africa's trade on the basis of the Standard
International Trade Classification (SITC). The Table shows
that:

(i) There was a predominance of exports of raw
materials (as shown in sections 0 and 2 in the
second column).

(ii) Imports from outside East Africa consisted
mainly of machinery and transport equipment,
manufactured goods and chemicals (Section 7, 6
and 5 in the third column).

(iii) Regional trade in column one consisted mainly of
manufactured goods (section 6), food and live
animals (section 0) and fuels (section 3).

The initial arrangement of the Common Market also
provided for the free movement of capital, allowing manu-
facturers and financiers to invest anywhere in East Africa
while permitting an unrestricted flow of profits, first to
Kenya, where the regional headquarters of most businesses
were, and finally overseas. Most manufacturing industries
were based in Kenya because of their early connection with
the White settlers. There was little incentive to establish
them in Tanzania and Uganda because those markets could be
conveniently reached through the Common Market arrangements
and the reasonably good transport system between Nairobi,
northern Tanzania, the Dar-es-Salaam area and the Kampala-
Iringa area.

In 1956 the value of Kenya's exports as a percentage of
regional trade was 58.9 percent, in 1965 65.3 percent and in
1974 78.4 percent. This pattern of trade showed increasing
concentration of industries in Kenya. In fact, in 1964,
Kenya had a favourable balance of inter-state trade
<table>
<thead>
<tr>
<th>SITC Sections as percentage of total interstate trade flows</th>
<th>SITC Sections as percentage of total domestic exports</th>
<th>SITC Sections as percentage of total net imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>0  Food and live animals</td>
<td>25</td>
<td>58</td>
</tr>
<tr>
<td>1  Beverages and tobacco</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>2  Crude materials inedible except fuels</td>
<td>4</td>
<td>24</td>
</tr>
<tr>
<td>3  Mineral Fuels, lubricants and related materials</td>
<td>18</td>
<td>8</td>
</tr>
<tr>
<td>4  Animal and Vegetable Oils and Fats</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>5  Chemicals</td>
<td>13</td>
<td>2</td>
</tr>
<tr>
<td>6  Manufactured goods classified chiefly by material</td>
<td>25</td>
<td>6</td>
</tr>
<tr>
<td>7  Machinery and transport equipment</td>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>8  Miscellaneous manufactured articles</td>
<td>6</td>
<td>-</td>
</tr>
<tr>
<td>9  Commodities and transactions not classified according to kind</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total Trade Flows</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

amounting to 290.5 million, whereas Uganda and Tanzania had trade deficits of 79.1 million and 211.4 million respectively.53.

By 1966 the gap of uneven development had become unbearable to the other members:

But as far as the relative development of industry is concerned, Kenya has developed fastest. Tanzania and Uganda have served as markets for this growing industry and hence have been important incentives and catalysts for the promotion of the manufacturing industry in Kenya.54

Attempts to redress the imbalance through the Distributable Pool recommended by the Raisman report in 1961 and the Kampala Agreement in 1964 had failed, partly because implementation was half-hearted, and partly because the measures were fundamentally ineffective. Moreover, even before the East African Community was created, there were numerous trade restrictions55 and also many intraterritorial agreements on preferences.

(b) **The Re-Shaped Common Market**

The major benefits of integration were only to be secured if the stability of the market could be relied upon. But long-term stability was unlikely unless all partners were satisfied that their long-term interests were best served by remaining within the Community. Thus, in order to regulate the operation of the so-called Common Market, promote balanced industrial development and achieve an equitable distribution of benefits between the partner states, the Treaty of 1967 introduced a wide56 range of new regulatory measures.
Within the Common Market itself, the Transfer Tax System, the East African Development bank and a system of fiscal harmonisation of incentives were proposed to assist in correcting the imbalance of regional trade and industrial development.57

(i) Transfer Tax

The Transfer tax was essentially a special kind of legalised inter-state tariff58 applied by Tanzania and Uganda against some Kenya goods under certain conditions. Transfer taxes could be imposed only if a partner state was in deficit in manufactured goods with the other two partner states, and only on manufactured goods59 a country was producing or would produce within three months on a significant scale, that is, 15 percent of its domestic needs or a value of output of £100,000.60 The rate of tax was at the discretion of the tax-imposing country, but it could not exceed 50 percent61 of the common external tariff for the product in question (the Community maintained a common customs and excise tariff), and expired, unless earlier revoked, eight years after the date it was first imposed.

The prevailing pattern of interstate trade in manufactured goods at the time of the Treaty was such as under the rules to allow Tanzania to impose transfer taxes against Kenya and Uganda, and Uganda to impose them against Kenya. Kenya, being in surplus in interstate trade, could not impose any transfer taxes. The objective was to encourage industrialisation62 and foreign capital in Tanzania and Uganda. The introduction of transfer taxes was a retreat from the full Common Market; it was conceived as a temporary
device, was due for review after five years, and was to be revoked 15 years after its launching. If a domestic protected industry managed to export 30 percent of its total sales to the rest of East Africa, then the transfer tax would be removed. The argument for this regulation was that an industry able to produce that much was already protected or competitive.

Furthermore, other provisions of Article 20 limited the items to which the tax could be applied, both to ensure that it would be used to promote the growth of domestic industry and to prevent the replacement of East African exports by cheaper goods from outside the Community. The transfer tax was supposed to be the only restriction on inter-community trade - but some infant industries protection was also allowed.

The aim, in a nutshell, was to encourage location of industries in the protected market since imports in such a market would be more expensive and, in addition, such industries would be sure of a market of at least two countries, if not three; and hopefully this would not cause import demands from the partner states to be directed to non-East African sources. Although the transfer tax represented a slight departure from free 'internal' trade, it was not supposed to and, according to Common Market spokesmen, 'has not interfered with the free flow of trade and is therefore behaving as envisaged by the signatories of the Treaty'. Far from introducing 'other restrictions' on interstate trade, the Treaty under Article 12 provided for the removal of some previous restrictions. Indeed, Article 16 provided a further incentive to the flow of trade
by recognising that practices such as discriminatory purchasing, that is, giving preference to foreign goods when suitable goods of East African origin were available on comparable terms, were incompatible with the Treaty.

Although certain Kenyan goods were subject to transfer tax in both Uganda and Tanzania, the transfer tax was much less disruptive of interstate trade than the pre-Treaty quota and quantitative restrictions:

A major provision of the Treaty, the transfer tax, was more restrictive than anything that had existed under colonialism but was justified on the grounds that it would foster a more equal distribution of industry within the Community.65

The launching of the Treaty in 1967 did not lead to a rapid internal expansion; indeed in 1968 and 1969, it was less than in the two immediate pre-Treaty years. Interstate trade in manufactures increased between 1967 and 1970, disproving arguments that transfer taxes would decrease interstate trade in manufactures. In 1967, interstate trade amounted to 32.8 percent of the value of Kenya's total domestic exports, and 16.3 percent and 4.9 percent for Uganda and Tanzania's exports respectively.66 In absolute terms, the imbalances in trade, especially Kenya's surplus vis-a-vis Tanzania and Uganda, were larger in 1970 than in 1967; while Uganda's surplus with Tanzania changed to a deficit. Uganda's transfers fell because she relied on too few products, the main one - cotton fabrics - was severely restricted in Tanzanian markets and, to some extent, there was increased production capacity in Kenya. Indeed, in the aftermath of the coup, Uganda directed most of her exports to countries outside East Africa to finance the 'Economic War', including, especially, procurement of military
hardware. Despite attempts to change this pattern, Kenya's percentage share of the market continued to increase; in 1973 it had 74 percent, while Tanzania and Uganda had 16 percent and 10 percent respectively. In 1974, interstate trade amounted to 1,259/- million of which Kenya accounted for 966.7/- million, compared to Tanzania (217.6/- million) and Uganda (75.5/- million).\(^67\) Uganda's imports from Kenya of goods subject to transfer tax more than doubled during 1973. Kenya's negative external trade was mainly a result of the structure and magnitude of her internal demand and production. Her enormous surplus in interstate trade helped her offset huge deficits in trade with the rest of the world. The transfer tax had on the whole not hindered trade in East Africa and, because of many preconditions and complications, it failed to increase revenues in Tanzania and Uganda:

> The conditions under which tariffs were to be imposed were quite restrictive so much so that only a small percentage of intra-regional trade was affected and as a result, only little revenue was realised by the deficit countries from this tax.\(^68\)

Even a Community seminar held at Makerere University, Kampala, in June 1972, was of the opinion that although the transfer tax had not adversely affected the volume of interstate trade, it had 'not achieved its primary goal of promoting new industrial development in those partner states which are less industrially developed'.\(^69\)

Hence, the absence of a machinery to allocate industries on an East African basis led to duplication of industries which competed for the Common Market.\(^70\)

Moreover, the independent industrial policies of the partner
states and the transfer tax system fostered the proliferation of small and medium-sized industrial units which were aimed at exporting to the East African Market. Thus, President Nyerere, in a speech to the East African Legislative Assembly, pointed out that:

Each of the Partner States goes ahead of its own, trying to interest foreign firms or foreign governments in such a project ... So we have the absurd position where both Kenya and Tanzania, in partnership with competing foreign firms, set up a tyre factory - each of which requires the whole East African market to be economic.71

In reality, the Treaty mechanisms did not prevent a multiplication of plants where there was a very substantial loss of scale economies. It should be remembered that Kenya accepted imposition of the transfer taxes in exchange for the removal72 of quantitative restrictions; and while the taxes restricted interstate trade (as compared with the situation at the time of the Treaty), they represented a substantial liberalisation.

As a result of this the relative importance of the Common Market for the exports of the partners declined. Table 2 shows the trend between 1964 and 1973.

There had been a marked decline in Kenya's exports to her partners from 39 percent in 1965 to 24 percent in 1973. Tanzania's share has remained relatively steady, but Uganda has recorded a sharp decline since 1971.
Table 2
THE RELATIVE IMPORTANCE OF THE EAST AFRICAN
COMMON MARKET AS A DESTINATION OF
EXPORTS OF EACH PARTNER STATE
(IN PERCENTAGE *)

<table>
<thead>
<tr>
<th>Year</th>
<th>Kenya</th>
<th>Tanzania</th>
<th>Uganda</th>
</tr>
</thead>
<tbody>
<tr>
<td>1964</td>
<td>35</td>
<td>7</td>
<td>13</td>
</tr>
<tr>
<td>1965</td>
<td>39</td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td>1966</td>
<td>27</td>
<td>6</td>
<td>16</td>
</tr>
<tr>
<td>1967</td>
<td>33</td>
<td>5</td>
<td>14</td>
</tr>
<tr>
<td>1968</td>
<td>31</td>
<td>5</td>
<td>12</td>
</tr>
<tr>
<td>1969</td>
<td>31</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>1970</td>
<td>31</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>1971</td>
<td>32</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>1972</td>
<td>27</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>1973</td>
<td>24</td>
<td>7</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: Computed from Annual Trade Reports 1964-73.
* The percentages do not include re-exports.

(ii) The East African Development Bank

Another new instrument for pursuing 'equitable
distribution' was the East African development Bank. The
Bank was to be financed equally by the Partner States, with
the expectation that further funds would be obtained from
outside. It was to promote industrial development, give
priority to the relatively less industrially developed
Partner States, and finance economically technically viable
projects which would make the economies of the three states
more complementary. 'Industry' was defined to mean
manufacturing, assembling, and processing, but excluded
building, transport or tourism. The Bank was required in a
five year period to favour Tanzania and Uganda by investing
38 3/4 percent of its resources in each of them, and only 22 1/2 percent in Kenya. Theoretically at least, this bias was a step forward, but the Bank has had difficulties in realising its objectives due to limited funds. The initially authorised capital of 400 million shillings was small compared to an average annual industrial investment for the whole of East Africa of about 4,000 million shillings. Nor did the Bank achieve its supplementary role of financing projects 'designed to make the economies of the Partner States increasingly complementary in the industrial field'.

Between 1969 and 1972, about shs.46.5/- million, representing 34 percent of total commitments, had been invested in Uganda, shs.54.7/- million and shs.35.2/- million, representing 40 and 26 percent, in Tanzania and Kenya respectively.

Although agriculture is the backbone of economic activity in East Africa, the Bank did not provide for investment in it. The Treaty was very inexplicit vis-a-vis agriculture. Regarding the aim and extent of cooperation, it stated the intentions of the three partners to establish a common agricultural policy, but did not make clear whether the aim was free trade in agriculture or structural change.

Because of limited capital, the EADB was confined to minority participation with private and public enterprises, and was unable to initiate independent projects. The Banks' operations were therefore directed to the individual states as the Treaty stipulated, and it was not able to determine or influence the kind of industries to be established. Indeed, up to the end of 1975 its total investments were
little more than twice the original contributions of the Partner States.

However, with increased capital and a regional industrial coordinating machinery, the Bank could have been an important institution for promoting complementary industrial development.

The parties also elected to continue the East African Industrial Licensing Council through 1973 or until a new system could be established, and agreed to develop 'a common scheme of fiscal incentives towards industrial development' to prevent disruptive competition for new foreign investment. The arrangement never materialised, however, and Kenya continued to be favoured in terms of industrial development.

(iii) The Harmonisation of Monetary and Fiscal Policies

The third measure provided by the Treaty to tackle the problem of imbalance was the harmonisation of monetary and fiscal policies. Provision was made for coordination of monetary and fiscal policy among the relevant national institutions. More concretely, the Treaty guaranteed freedom of currency transactions between the Partner States without exchange charges. Currency notes received within East Africa for payments of current accounts were freely exchangeable. Nevertheless, because of the long-held view that Kenya 'drained' funds from the other states, the Treaty specifically allowed control for capital account exchange. Under certain conditions, a country facing serious balance of payments difficulties could obtain loans from Community
members with whom its trade was in deficit, and could impose quantitative restrictions on its imports from Community members - if it imposed at least as stringent quantitative controls on external imports. Moreover, the three countries undertook to maintain a common customs tariff in respect of all goods imported into East Africa from foreign countries, and to abolish any differences in either the external customs tariff or the excise tariff which would hinder the proper functioning of the Common Market.

As regards inter-territorial trade, the Treaty guaranteed freedom of transit of goods transferred from one partner state to another. Apart from the transfer tax system there were no internal tariffs or quantitative import restrictions on locally produced goods. However, a number of exceptions were made to this rule. The Treaty allowed each state the right to impose quantitative restrictions against the transfer of certain agricultural products which were basic staple foods (such as maize, rice, wheat and beans) or major export crops (such as coffee and cotton), subject to special marketing arrangements.

Apart from the above, one of the purposes of the harmonisation of policies was to maintain freedom of trade between the members and prevent other policies from interfering with the operation of the unified market. Subsequently, the Treaty required that any trade deviation resulting from the imposition of transfer taxes should be corrected, and that deviations resulting from barter agreements between a Partner State and a foreign country should be rectified. Government and Community imports were exempted from customs duties if not for re-sale to the
public. Also, goods provided under economic aid arrangements were dutiable if to be transferred outside the Partner State receiving the aid. And no Partner State could negotiate tariff concessions with a foreign country that were not available to the other Partners.

(c) **Industrial Imbalance**

Immediately after the EAC was established, the Common Market Secretariat commissioned a study on the possibility of establishing EA Industries. These were to be large scale industries to benefit from scale economies by producing basic and intermediate goods for the whole of East Africa. The report of the study was submitted to the economic Consultative and Planning Council, a sister council to the Common Market Council; however, the recommendations were not accepted. Had they been, the three countries would have made a significant step towards solving the problem of industrial imbalance among them. Tanzania's stand concerning the Common Market during the meetings of the East African Treaty Review Commission was that the idea of East African industries be written into the Revised Treaty but Kenya was not enthusiastic. In fact, negotiations on the revised Common market were stalled by Kenya's refusal to accept the idea of Common Market industries.

The provisions of the Treaty, aimed at improving the Common Market were ineffective as the following Tables show:
Table 3
EXPORTS TO PARTNERS AS % OF A COUNTRY'S TOTAL EXPORTS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanzania</td>
<td>8</td>
<td>5</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Uganda</td>
<td>13</td>
<td>13</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>Kenya</td>
<td>38</td>
<td>34</td>
<td>24</td>
<td>23</td>
</tr>
</tbody>
</table>

Source: Calculated from data obtained from Annual Trade Reports.

Table 4
IMPORTS FROM PARTNERS AS A % OF A COUNTRY'S TOTAL IMPORTS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanzania</td>
<td>25</td>
<td>20</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>Uganda</td>
<td>29</td>
<td>29</td>
<td>40</td>
<td>39</td>
</tr>
<tr>
<td>Kenya</td>
<td>11</td>
<td>9</td>
<td>5</td>
<td>3</td>
</tr>
</tbody>
</table>

Source: Calculated from data from Annual Trade Reports.

The following can be deduced from the two Tables. First, Kenya as an exporter had the biggest share of the East African market both before and after the establishment of the EAC; and was importing very little from the Partners both before and after its formation. Second, Tanzania, as an exporter remained roughly the same before and after the establishment of the Community. However, her role as an importer declined not because she imported less from the Partners, but because her import volume (most of which could not be met by production in East Africa), increased more than imports from Partners. On the other hand, Uganda's
role as an importer from the Partners had remained the same as before the Treaty, but increased after the establishment of the Community. We can get a better picture of the situation by considering the three countries' share in intra-regional trade in the following tables:

**Table 5**

**PERCENTAGE SHARE IN INTRA-REGIONAL TRADE AS AN EXPORTER**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanzania</td>
<td>13</td>
<td>10</td>
<td>16</td>
<td>17</td>
</tr>
<tr>
<td>Uganda</td>
<td>22</td>
<td>23</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td>Kenya</td>
<td>65</td>
<td>67</td>
<td>75</td>
<td>77</td>
</tr>
</tbody>
</table>

**Source:** Calculated from data from Annual Trade Reports.

**Table 6**

**PERCENTAGE SHARE IN INTRA-REGIONAL TRADE AS AN IMPORTER**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanzania</td>
<td>37</td>
<td>36</td>
<td>32</td>
<td>30</td>
</tr>
<tr>
<td>Uganda</td>
<td>37</td>
<td>39</td>
<td>44</td>
<td>49</td>
</tr>
<tr>
<td>Kenya</td>
<td>26</td>
<td>25</td>
<td>24</td>
<td>21</td>
</tr>
</tbody>
</table>

**Source:** Original data from Annual Trade Reports.

Considering the situation both before and after the establishment of the EAC, Kenya's balance in intra-regional trade showed a big surplus, increasingly at the expense of Uganda. Tanzania's contribution towards Kenya's surplus in
intra-regional trade has remained substantial. Thus, attempts to redress the industrial imbalance were unsuccessful because of the unwillingness of the more advanced Partner to accept efforts to redress it:

... there is a large imbalance between Kenya and her neighbours, such that the Common Market primarily consists of unbalanced bilateral trade-flows between Kenya and Tanzania and Kenya and Uganda, with Kenya well ahead of both in terms of 'industrialisation' and trade balances.\(^9\!\!0\)

The Common Market did not produce a significant change in the structure of intra-regional trade. Liberalisation continued to be the motive force of the EA Common Market, and Kenya persistently acquired more benefits than other partners. As the lopsided industrial development continued, the Common Market became of marginal benefit to its members. It failed to produce what was needed by most people in East Africa. This is evidenced by the low level of imports from each other:

the contention is that despite some laudable efforts to reduce the inherited inequalities, it has proved impossible to reverse the trend whereby Kenya's level of economic growth has accelerated and completely outpaced those of its partners.\(^9\!\!1\)

Because Kenya continued to enjoy more benefits than the two partners, and did not allow measures which would have redressed the industrial imbalance, Tanzania and Uganda became more bitter against her.

In short, even under the new arrangements the Treaty did not resolve the basic problem, which had confronted economic cooperation in East Africa ever since industrialisation began. President Nyerere was hopeful when he stated:

We can, therefore, look again at this question of industrial allocation, without the complication
of trying to make it serve purposes other than the national use of our Common Market.92

It is unfortunate that his expectation was not fulfilled because of Kenya's reluctance to accept 'equitable redistribution' of regional industries. Perhaps one can see the truth of Mr James Gichuru's statement, Kenya's Minister for Finance, after publication of the Treaty:

We were selfish to the extent that we had to safeguard our own country ... It was quite a tug-of-war.93

It can certainly be argued that even after the creation of the EAC, Kenya's 'spirit' of tug-of-war and selfishness towards her partners continued, and Tanzania and Uganda continued to derive little benefit from Common Market operations; and strong resentment against Kenya and constant strain among the Partners continued until the Community collapsed in 1977:

The difficulty has always been that the benefits of this greater growth have tended to be concentrated in Kenya and so far we have been totally incapable of rectifying this except by narrow autarchic policies which may have benefited us but, if so, then certainly at the expense of growth in East Africa as a whole.94

(d) The Corporations

A large part of transport and communications in East Africa was operated by the corporations of the Community. They were among the largest business enterprises in East Africa, and together provided a significant part of total activity within the monetary economy, and of total wage-employment. While about 5 percent of total employment in East Africa was in Community service, nearly 90 percent of it was with the corporations.95 Prior to 1967, all four
corporations had their headquarters in Kenya. The Treaty also provided for decentralisation of some corporation activities from headquarters to the regions, and development projects to be undertaken by them were to be biased towards the less developed members.

Despite the removal from Kenya of the headquarters of two of the corporations, and the decentralisation measures, the bulk of the activities of all the corporations remained in Kenya. The headquarters of the Harbours corporation was in Dar-es-Salaam, but Mombasa remained the largest port; it employed about half the Community's 12,000 dockworkers in 1971 and its tonnage was 6,350,000 as against Dar-es-Salaam's 2,790,000.96 Kenya spent much East African Harbours Corporation money on buying expensive equipment exclusively for Mombasa, and unilaterally established a post of Deputy Director General in Mombasa, who was an authority unto himself and encroached on the power of the headquarters. Despite the Treaty provision that the Board of Directors and Communications Council were to give special consideration to capital development of harbours in Tanzania, more capital development was undertaken in Mombasa than in Tanzanian ports. This was achieved through refusal by Mombasa harbour authorities (a) to transfer all headquarters facilities to Dar-es-Salaam; and (b) to remit funds to headquarters (allegedly in retaliation for Tanzania's refusal97 to send money to the EARC headquarters in Nairobi, although actually the money was used to further expand port facilities in Mombasa).

The headquarters of the East African Post and Telecommunications moved to Kampala but Nairobi remained the
'nerve centre' of the Corporation - with most of the installations and the source of most purchases:

But the problem has been complicated because Kenya has always felt that EAPT headquarters would be more effective and efficient if it was located at Nairobi, which is a natural communications centre, with much better facilities. Kenya has always tried to keep as much of the infrastructure in Nairobi as possible.

Up to the collapse of the EAC, the Corporation was still more or less as at the time of writing the Treaty in 1967. Most of the technical services, for example, revenue and accounting services, were still being done in Nairobi.

Of all the Community corporations, the EA Railways Corporation had been saddled with the most unworkable machinery for management and central direction. The Treaty called for the establishment of strong and functionally comparable regional railway headquarters - including revenue and accounting services in each of the three countries. Decentralisation of the EARC would have meant that revenue formerly collected by the headquarters would have been collected by the regions, and decisions as to how to spend it would have been made by them.

Through delaying tactics, revenue and accounting services were not established in the regions for a number of years. Tanzania decided unilaterally to establish her own revenue and accounting services around 1974. Then the problem of how much money should be sent to the headquarters and for what services rendered to the region arose; it was felt that headquarters was asking for more money than necessary for either paying for services rendered the region or for maintaining the headquarters.
The new Corporation inherited not only the railway assets and liabilities but also the problems of the old East African Railways and Harbours administration which were soon intensified. Competition from road haulage had for long been a problem for the railways:

In any case road competition is something which the Railways have always had to deal with. The Railways are very much at a disadvantage with regard to setting tariffs. By law they have to publish their tariffs, and these tariffs often remain unchanged for years. Road transporters on the other hand do not have to make their tariffs public ... 100

The traffic from Mombasa to Nairobi, particularly in petroleum products, was of great importance to the railways. With road transport constrained by licensing and the bad state of the Mombasa-Nairobi road, it was possible to make large profits on it, to offset losses on other traffic. However, in 1968 a new tarmac road between Nairobi and Mombasa was completed. At the same time the practice of the Kenya transport licensing authority was changed, and licences for operating on the new road were given much more freely. An extensive road haulage of petroleum products soon developed:

The Railway problems go deeper still. There are now big competitors carrying the rail traffic. Over the last ten years the Road Transport Licensing Board registered 17,947 heavy trucks ... Most of these trucks compete directly with the railways in carrying goods to and from Mombasa, the most profitable railway route, 101

But the design and construction standards of the road were inadequate for this traffic, and as a result the road surface began to disintegrate and accidents proliferated. The railways were assisted in their competition with road
transport by the imposition of axle-load restrictions by the Kenya Ministry of Works.

Another effect of the road transport expansion was the diversion of high-rated traffic from the railway. Although the volume of traffic carried and total revenue continued to rise, the revenue per unit of traffic declined, and the railways became increasingly unprofitable. In order to compete with road transport, the railway reduced its tariff in 1969, and the effect of this reduction in charges was supplemented by the carriage of oil supplies for the Tanzania-Zambia railway construction. But the reduction diminished the profitability of petroleum traffic and adversely affected the financial position of the railways, at a time when large debts had to be serviced and there were heavy depreciation charges on new equipment. A surplus of shs.3 million in 1966 had become a deficit of shs.8 million by 1967 and increased to shs.26 million by 1970. But society was now subsidising the Kenyan businessman who owned most of the road vehicles, and nobody seemed to realise that the railways were a Community Service. The axleload restrictions were quickly taken off for they interfered with vested interests of the 'well-placed Kenyans' who had invested much in vehicles:

In 1968 a group of Kenya road transporting firms, including some owned by important politicians, did just that in an effort to get the petroleum transport business. The Railways rate for transporting petroleum products at the time was 37 cents per ton per mile. The private firms approached oil companies and offered to transport oil at 32 cents which represented a considerable reduction in transportation costs to the oil companies.
The Corporation's difficulties reached crisis dimensions in 1973. Ironically, it was the attempts, initiated by Tanzania to decentralise the activities of the Corporation in the matter suggested by the Treaty that started the arguments and counter-arguments that Tanzania wanted to break up the EARC. Indeed, the problem of the railways was exacerbated by different perceptions of the question of subsidy.104 Because of its heavy traffic on the Kenya-Uganda line, Kenya felt that it was subsidising the more extensive and less intensively used Tanzanian railway system. On the other hand, there were grounds to think of a change in the pattern of cross-subsidisation. Tanzania believed it was subsidising the Kenyan Corporation system because of Uganda's economic difficulties and the reduction of traffic on the Kenya-Uganda line resulting from Kenya's import restrictions. Tanzania's belief was encouraged by the construction of the Tanzania-Zambia Railway (TAZARA) which provided additional traffic over part of Tanzania's Corporation system. Tanzania also believed that Kenya had allowed excessive road competition because it retained the benefits while the less developed countries shared the railway's losses.

Rumours that Tanzania was to withdraw from the Corporation coincided with a hold-up in transfer of revenue from Tanzania and Uganda to its Kenya headquarters, partly for reasons connected with foreign exchange control. By August 1974, the financial position of the Railways Corporation had deteriorated so much that a Select Committee of the Legislative Assembly was appointed to examine its operations:
The biggest of the railway's problems have been financial ... But there has also been a crisis of confidence which has created its own difficulties, not least in the inevitable effect on the morale of the railway staff.105

During the same period, the press alleged large scale corruption and dishonesty in the railway administration, and in June and July 1974 railway workers struck over the delayed payment of wages. When the Select Committee submitted its report in June 1975 (the result of nearly a year spent studying the railway system), it also came up with allegations of gross mismanagement and dishonesty.106

These allegations led Mr Joseph Nyerere, a Tanzanian member in the EA Legislative Assembly, to express Tanzania's frustration with the whole Kenyan-run rail set-up, when he spoke of 'mismanagement and complete lack of financial control' and of 'unexplained money rackets connected with the Corporation's top brass'.107

Unfortunately for the Corporation, 1974 was also the year of phenomenal increase in the price of oil, raising its fuel bill from shs.32 million in 1973 to shs.129 million in 1974108, with an estimated expenditure for 1975 of shs.176 million. Indeed, in 1974 the Corporation's financial position was so bad that it could not buy enough spare parts to keep its services in full operation:

The East African Railways is grinding to a halt. For lack of spare parts passenger services in Kenya have been suspended indefinitely. Goods services may soon be adversely affected ... At the present, the main issue over which the public is concerned is the lack of spare parts for the Railways.109

During this period too the Corporation was required to increase salaries to its workers at an additional cost of shs.36 million. These sums could not be paid from the
estimated increase in Railway revenue of approximately shs.156 million which accrued to the Corporation from the two tariff revisions made in 1974.  

It was against this background, and the salaries crisis of January and February 1974, that the Communications and Finance Councils of the Community met in July 1974 to work out new financing machinery not only for the Railways but also for the other Community Corporations. It was agreed that transfers of funds should resume and each partner State should inject loans of shs.30 million into the Railways, and subsequently contribute a further shs.20 million each. If the Railways Corporation were not to be dissolved, at least there would be a very wide degree of decentralisation.

Regarding East African Airways Corporation, the Board of Directors and the Communication Council were to ensure that future development would be sited in Uganda and Tanzania, with priority being given to Uganda where a workshop for the overhaul of piston engines and a maintenance and overhaul base for Friendships, piston engined aircraft were to be established. But up to the collapse of the EAC, all maintenance and repair work continued to be done in Nairobi. Of all the four Corporations, this was the most highly centralised and, as a result, when Kenya decided to ground the aircraft in January 1977, Tanzania with the largest airspace for domestic flights and greatest number of towns served by the Airways, was caught with its 'pants down'. The EAA was also infected with dishonesty, incompetence and structural mismanagement, which added to the difficulties of the capital shortage.
The 1967 Treaty provided for a new order in the integration scheme as regards the Corporations, but implementation of it had been met with feet-dragging from Kenya, the beneficiary of the former arrangements, and confrontation demands from the Partners who would be the beneficiaries of the new arrangements. A tense situation had been generated and it degenerated into the collapse of first the EARC, then the EAAC and finally the EAC itself.

As regards the Corporations as a whole, the less developed Partners always felt that Kenya had more than a fair share of the development of assets. This feeling was exacerbated by ignorance of the extent of the EA Community's assets in each of the three countries, and by the study conducted in 1975 by Cooper and Lybrand on behalf of the World Bank which revealed that overall Kenya had the greatest share of assets.

In conclusion, we can say that 'the distribution' of the Corporation's headquarters after the Treaty, whether measured by revenue, expenditure, or employment, did not significantly change the old pattern of sharing benefits. While the Treaty was expected to rectify the historical imbalance against Tanzania and Uganda, it perpetuated the inequities.

(e) The Transfer of Funds Crisis (1973-75)

The problem of transfer of funds for the Corporations started with the EARC in 1973, but was aggravated by the balance of payments crises which began in 1972, and became worse in each succeeding year:

During this period it is important to note that the balance of payments of each of the Partner
States suffered considerably mainly because of external forces. The energy crisis and the ensuing period of inflation hit us very hard. Devaluation, revaluation, inflation, deflation, recession, drought, all had an impact in one form or another on the economies of the Partner States. \[113\]

It is also significant that in 1973 the East African Income Tax Department was dissolved as a Community institution. Subsequently, in a situation of foreign exchange squeeze, the Central Banks and managers of foreign reserves queried any request for the transfer of large sums between partners. A genuine solution (pro rata formula of transferring funds) to the transfers from the regions of the Corporations to the headquarters was reached at a joint Finance and Communications Council meeting held in Arusha in July 1974, and in the Mtei Committee Report of January 1975, but this formula often entailed delays:

Ever since 1974 we have attempted to find solutions to the questions of transfer of funds and although at various times agreements were reached, implementation became difficult... With the passage of time it has become more difficult to resolve these issues but not impossible. \[116\]

In most cases, the problems occurred between Kenya and Tanzania and Kenya and Uganda, but hardly ever between Uganda and Tanzania. On the surface, the problem essentially involved foreign exchange. At the end of 1974, Kenya had a foreign exchange deficit of shs.1,000/- million, and claimed that she was using her foreign exchange to run the EAC Corporations. Kenya then stopped making remittances and said that unless there was a basic reason for the transfers, which the headquarters should justify, the funds should not be transferred. The less developed Partners then
refused to send more than the absolutely necessary amounts to Kenya.

It is noteworthy that in 1968, Kenya received from the other partners 352.9 million shillings\textsuperscript{117} in respect of the four Corporations, but used only 189.17 million shillings for international payments. In 1972 she got 154.0 million shillings from her Partners and used only 33.15 million shillings for international payments, in the period when all three countries were in a critical foreign exchange situation. Because of Kenya's position, the other partner states wanted to know exactly for what purpose their money was used. Kenya's explanation that the money had been used for headquarters expenses was not satisfactory; its partners demanded that the decentralisation process be speeded up. The partners' anger with Kenya can be appreciated because in 1972, for instance, they registered a negative balance in both interstate and international flows, while Kenya realised a good surplus in overall transactions.

The combined effect of the EAC Corporation's flows and flows in respect of interstate trade made the balance of payments position in respect of the integration arrangements much worse for the less developed partners, as Table 7 shows.
Table 7

BALANCE OF PAYMENTS POSITION IN RESPECT OF INTEGRATION ARRANGEMENTS

<table>
<thead>
<tr>
<th></th>
<th>Tanzania</th>
<th>Kenya</th>
<th>Uganda</th>
</tr>
</thead>
<tbody>
<tr>
<td>Balance of interstate trade (1968)</td>
<td>-212.0</td>
<td>+282.00</td>
<td>-70.0</td>
</tr>
<tr>
<td>EAC Corporations Flows (1968)</td>
<td>-246.4</td>
<td>+163.63</td>
<td>-106.4</td>
</tr>
<tr>
<td>Total 1968</td>
<td>-458.4</td>
<td>+445.63</td>
<td>-176.4</td>
</tr>
<tr>
<td>Balance of interstate trade (1972)</td>
<td>-199.00</td>
<td>+386.00</td>
<td>-187.00</td>
</tr>
<tr>
<td>EAC Corporation Flows (1972)</td>
<td>-159.54</td>
<td>+120.85</td>
<td>-175.57</td>
</tr>
<tr>
<td>Total 1972</td>
<td>-358.54</td>
<td>+506.85</td>
<td>-362.57</td>
</tr>
</tbody>
</table>

Source: EA Community Study.

We can also get a better picture of the situation by considering some of the Corporations which have data with regional breakdowns.

Table 8

EAAC OPERATION STATISTICS - 1974

DOMESTIC FLIGHTS (Percentage)

<table>
<thead>
<tr>
<th></th>
<th>Tanzania</th>
<th>Kenya</th>
<th>Uganda</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passenger load factor</td>
<td>65.6</td>
<td>61.2</td>
<td>32.6</td>
</tr>
<tr>
<td>Weight load factor</td>
<td>62.6</td>
<td>50.3</td>
<td>37.5</td>
</tr>
</tbody>
</table>

Source: EA Economic and Statistical Review.
Table 8 shows that Tanzania had the highest passenger load and weight load factors for domestic flights, with Kenya following closely in terms of passenger load factor. Uganda was far behind both its partners. This shows that Kenya was slightly favoured over Tanzania in its available capacity and that Uganda was very much favoured. But nobody seemed to draw attention to the latter because Uganda was a passive partner.

Table 9  
EAHC OPERATION STATISTICS - 1974  
(Percentage)

<table>
<thead>
<tr>
<th>Ships arrived</th>
<th>Net tonnage</th>
<th>Cargo Imports</th>
<th>Cargo Exports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mombasa</td>
<td>52.9</td>
<td>56.6</td>
<td>58.8</td>
</tr>
<tr>
<td>Tanzania ports</td>
<td>47.1</td>
<td>43.4</td>
<td>41.2</td>
</tr>
</tbody>
</table>

Source: Economic and Statistical Review.

Table 9 shows that more business was done at Mombasa harbour than at the three Tanzanian harbours combined, and as a result Kenya acquired more benefits than Tanzania. This is explained, however, by the fact that in addition to Kenya, Mombasa also served land-locked Uganda as well as Northern Tanzania. Moreover, with her well developed facilities, with 16 berths operating as opposed to 10 berths for Dar-es-Salaam in 1976, Kenya's business throughout was bound to be larger.

Regarding the distribution facilities of the EA Post and Telecommunications, Kenya was more favoured than other partners as the Table below shows. This represented quite a
contrast with the relative population sizes and areas of the three countries. Because it had the greatest area and the biggest population in East Africa, Tanzania should have got a greater share of the postal and telecommunications services. On the contrary, it was Kenya which took the lion's share of the services and Uganda was even worse served than Tanzania.

Table 10

POPULATION AND LAND AREA DISTRIBUTION - EAST AFRICA (Percentage)

<table>
<thead>
<tr>
<th></th>
<th>Area</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tanzania (Mainland)</td>
<td>53.3</td>
<td>37.3</td>
</tr>
<tr>
<td>Kenya</td>
<td>33.2</td>
<td>33.9</td>
</tr>
<tr>
<td>Uganda</td>
<td>13.5</td>
<td>28.8</td>
</tr>
<tr>
<td>East Africa</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

Source: EA Economic and Statistical Review.

Table 11

DISTRIBUTION OF POSTAL AND TELECOMMUNICATIONS FACILITIES - 1974 (Percentage)

<table>
<thead>
<tr>
<th></th>
<th>Tanzania</th>
<th>Kenya</th>
<th>Uganda</th>
</tr>
</thead>
<tbody>
<tr>
<td>Post Offices at year end</td>
<td>34.9</td>
<td>39.2</td>
<td>25.9</td>
</tr>
<tr>
<td>Public Call Offices</td>
<td>38.9</td>
<td>43.8</td>
<td>17.2</td>
</tr>
<tr>
<td>Subscribers</td>
<td>26.5</td>
<td>53.0</td>
<td>20.5</td>
</tr>
<tr>
<td>Telephone Stations</td>
<td>27.0</td>
<td>53.0</td>
<td>20.0</td>
</tr>
</tbody>
</table>

Source: EA Economic and Statistical Review.
The General Fund Services of EACSO all continued under the Community, but with new financial arrangements. Prior to 1967, most of the institutions which fell under the General Fund Services were based in Nairobi. With the coming into force of the Treaty, most of the institutions which provided auxiliary services to the Common Market and the Community Secretariat moved to Arusha. For lack of office accommodation, some departments remained in Nairobi, but were to be shifted to Arusha once construction of the headquarters complex had been finished. The technical units of institutions like the EA Directorate of Civil Aviation and the East African Meteorological Department remained in Nairobi, while the administrative units moved to Arusha.

With regard to the East African Customs and Excise Department, the East African Income Tax Department (dismantled in 1973), the EA Directorate of Civil Aviation and the EA Meteorological Department, the Treaty called for the establishment of regional posts in each Partner State. Though these posts were established, the incumbents were not as powerful as the Treaty provided for. Difficulties of implementing decentralisation measures were often aggravated by the reluctance of the headquarters to relinquish powers to the regions.

Financing the General Fund Services was a controversial issue during the life of the EAC. The Distributable Pool, which financed the General Fund during the time of EACSO, was replaced in June 1969 by another source of finance which also provided the non-self-contained services with an independent source of finance. Up to 1973, the main sources
of finance for the General Fund Services were revenues from import duty, excise duty and, until dissolution in 1973\textsuperscript{120} of the East African Income Tax Department, from income tax. Table 12 shows the role of these three sources in the General Fund Services. Other sources were loans and grants from the United Kingdom and contributions from the Partner States and other institutions both within East Africa and abroad.

Table 12

<table>
<thead>
<tr>
<th>MAJOR SOURCE OF REVENUE TO THE GFS (Mill.Shs)</th>
<th>1971/72</th>
<th>1972/73</th>
<th>1973/74</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Import Duty</td>
<td>84.7</td>
<td>116.0</td>
<td>151.8</td>
</tr>
<tr>
<td>(2) Excise Duty</td>
<td>53.8</td>
<td>85.3</td>
<td>86.3</td>
</tr>
<tr>
<td>(3) Income Tax</td>
<td>32.2</td>
<td>31.6</td>
<td>-</td>
</tr>
<tr>
<td>(4) Total</td>
<td>170.7</td>
<td>232.9</td>
<td>238.1</td>
</tr>
<tr>
<td>(5) Total GFS Expenditure</td>
<td>296.5</td>
<td>319.0</td>
<td>363.0</td>
</tr>
<tr>
<td>(6) (4) as percentage of (5)</td>
<td>58%</td>
<td>73%</td>
<td>66%</td>
</tr>
</tbody>
</table>

Source: EA Economic and Statistical Review.

From the abolition of the Income Tax Department to the collapse of the community, an interim formula\textsuperscript{121} was used for financing the General Fund Services. In April 1974 the Finance Council agreed that the percentage contributions for the GFS should be based on average customs and excise collections of the previous three years. This resulted in Kenya paying 48.14 percent, Tanzania 31.32 percent and Uganda 20.54 percent.

Available data\textsuperscript{122} show that of the shs.518.6 million surplus realised by the EAC Corporations in 1973, shs.284.5/- million or 55 percent was realised from
operations in the Tanzania region. The corresponding figures for Kenya and Uganda were shs.185/- million (36 percent) and shs.47.6/- million (9 percent) respectively. In 1974, shs.286.9/- million or 51 percent was the contribution of the Tanzania region to the total surplus of shs.756.6/- million.

Tanzania's Finance Minister put it in perspective in his 1975/76 Budget speech:

Comparing revenue and surplus generated in 1974, it can be observed that for every shs.100/- of revenue from Community operations in Kenya shs.75/- is swallowed by expenditure. For the operation in Uganda expenditure absorbed 88/- out of every shs.100/- of revenue. In the case of operations in Tanzania expenditure absorbed only net of shs.56/- of each shs.100/- of revenue. In other words, although 51 percent of total Community surplus is generated in Tanzania, the expenditure in Tanzania is only 21 percent of her total expenditure in the three countries compared to 56 percent in Kenya and 17 percent in Uganda.123

It is certain that Kenya received more than she contributed.124 To quote Silas Munabi (Ugandan), then EAC Deputy Minister for Common Market and Economic Affairs:

... although Kenya contributed more to the funds of the GFS, the Community's expenditure in Kenya had, all along been more than Kenya's contribution, and the Community's investments in Kenya were more than in both the other partners.125

In short, even after the relocation of the General Fund Services, the situation regarding benefits was unchanged. The greater part of the local expenditures made by the services continued to benefit Kenya. Thus Tanzania and Uganda became yet more resentful of Kenya.

On the other hand, the General Fund Services were the least involved in problems. While a good number of the institutes which provided auxiliary services to the
Corporations and the Common Market were rendered useless by the collapse of the latter, most of the Research Institutes survived.

(g) Assessment of the Treaty

The signing of the Treaty was a remarkable achievement in East African cooperation. It was an act of high statesmanship for three countries to withdraw from the brink of disintegration and agree to continue and codify the common arrangements and, in several directions, extend them. The provisions for the Common Market and the Common Services constituted East Africa as one of the most advanced areas of regional cooperation and, if fully implemented, would have provided the basis for continued exploitation of economic gains from integration.

President Kenyatta once told Kenya's National Assembly:

... we have gone a step further than any other Common Market - indeed, here lies the reason for calling ourselves an East African Community and not just a Common Market or a mere Economic Community.

By preserving the main structure of economic cooperation in East Africa, the agreement provided a springboard from which an even closer unit could be fashioned, involving perhaps a full Common Market and possibly political integration. There was also hope that the Treaty could become the basis for a wider East African Community, perhaps including Zambia.

The advantages and disadvantages of the Partner States were very well balanced. Kenya gained in the sense that the Common Market was retained but lost because the freedom of trade which she used to enjoy in the past was curtailed.
Kenya also lost from changes in the Common Services though not to the extent of outweighing the economies of continued operation of the services in common. And her gains from the EA Development Bank were uncertain. On the other hand, Tanzania and Uganda benefited from the continuation of the Common Services - as well as benefited from their operating economies, and hoped to enjoy new benefits from their decentralisation. They also expected to get some differential benefit from the operations of the EADB. However, Tanzania and Uganda lost in the fiscal redistribution through the Distributable Pool, and with the operation of the Common Market they gained little out of the new arrangements.\textsuperscript{129}

In short, the Treaty demonstrated the desire for continued and extended cooperation for the three countries. It was expected to rectify the old pattern of unequal division of gains and create 'equitable redistribution' of benefits between three East African States:

The East African Treaty does not inaugurate Federation; neither does it inaugurate an economic Utopia. What it does do is provide a very strong and firm foundation for mutual cooperation and development, on the basis of equality, between the Partner States.\textsuperscript{130}

Unfortunately, mutual cooperation and equality between the Partner States were never achieved. We have also seen from the preceding sections certain tendencies like the transfer of funds crisis which indicated that theory and practice were at variance:

However, the gap that might still remain is between the aspirations of the Treaty for East African Cooperation, and the implementation of the Treaty, unless the three Partner States are prepared to undertake far reaching 'supranational' decisions, on some of the lines
indicated or similar ones, for the sake of the entire region.131

In conclusion, we can say that the Treaty of 1967 did not bring any significant change to the partners. Rather, a bargaining situation occurred in East Africa which gave Kenya more benefits than the others. Because of this phenomenon, Tanzania and Uganda were always in conflict with Kenya - thus straining their working relationship in the EAC.

2. The term 'Common Market' is used throughout the Treaty to denote what was, at best, a long term goal at the time the Treaty was signed. Further analysis of the Treaty's shortcomings in this respect is found in Y.P. Ghai, 'Legal Aspects of the Treaty for East African Cooperation', East African Economic Review, Vol.3, (New Series), No.2 (December 1967), pp.28-30.


7. Treaty for East African Cooperation, op cit, Article 2(1).


23. A. Hazlewood, op cit, pp.85-86.

25. The Tribunal did not meet for a long time because not
many issues were referred to it. The Common Market
Tribunal is discussed in subsequent pages.

26. The split of the East African Railways and Harbours
Corporation into two separate units came into force on
1 June 1969. For a detailed discussion on the
decentralisation of the Common Services see subsequent
pages.


29. *Ibid, Article 55*, p.99. But the 'financial affairs of
the Community' did not include the East African
Development Bank.


32. R.H. Green, *op cit*, p.416.


36. *Ibid, Article 37*.

37. C.G. Maina, 'No certainty in which direction the EAC's
future lies', *African Development*, February 1974,

38. Further analysis of the EAC structures is found in
*Y.P. Ghai, op cit*, pp.29-37.

Economic Analysis of the Integration Scheme', *The

40. *Ibid, p.60.*
41. Ibid
42. A.L. Springer, op cit, p.22.
43. A. Hazlewood, op cit, p.84.
44. R.H. Green, op cit, p.417.
47. D.A.K. Mbogoro, op cit, p.54.
49. Problem (a) had preoccupied the Partner States from the colonial period. Problem (b) was of a more recent origin, the implications of which were not yet fully analysed. Problem (c) had become a serious issue in the last four years. The Chairman of the Review Commission, Professor W. Damas, referred to it as the biggest problem in the East African Community. See East African Standard (Nairobi), 19 January 1976.
51. This argument is developed and substantiated by K. Guruli in his Article 'Towards an Independent and Equal East African Common Market', East Africa Journal, Vol.8, No.9 (September 1971), pp.25-32.
52. The percentages are computed from the East African trade reports for the relevant years under consideration which appear in *The East African Economic and Statistical Review*, issued by the East African Statistical Department. In 1974 Kenya's exports to Uganda alone constituted 47.5 percent of the total regional trade.


57. The systems of fiscal incentives is only mentioned as commendable in the Treaty (Article 19). Unlike the Transfer Tax and the Development Bank, it is not elaborated. The Common Market Secretariat later prepared detailed proposals for fiscal incentives and these were presented to the Common Market Council. It appears that no agreement was reached and they were shelved because of different interpretations by the Partner States on purpose of Fiscal Incentives: for details see A. Hazlewood, *op cit*, pp. 82-83, 111-120.


69. R. Ouko, op cit, p.17.
72. A. Hazlewood, op cit, p.76.
75. Ibid, Annex VI, Article 13(c), p.142. Further analysis of the approach of the EADB is found in A. Hazlewood, op cit, pp.77-79.
76. African Development, op cit, p.54.
77. N. Mwase, op cit, p.37.
78. Treaty, op cit, Article 14, p.73.
79. Ibid, Article 23, p.83. See also Article 19, p.76.
80. R.H. Green, op cit, p.418.
81. A. Hazlewood, op cit, p.81.
82. Treaty, op cit, Article 5(1).
83. Ibid, Article 17(2).
84. Ibid, Article 9(2).
85. Ibid, Article 12.
86. Ibid, Article 11.
88. A. Hazlewood, op cit, p.74.
89. The idea has been expressed by G.M. Meier when discussing the problems of integration in less developed countries in 'Inter Economics: A Monthly Review of International Trade and Development', February 1970. In this article, he argues that if efforts at integration are to be effective, they must be strong, i.e. regional integration must have sufficient cohesion.
95. A. Hazlewood, op cit, p.96.
96. N. Mwase, op cit, p.32.
98. N. Mwase, op cit., p.32.
101. Ibid.
106. A. Hazlewood, op cit, p.100.
107. A. Rake, op cit, p.15.
110. Ibid, p.18.

113. A. Kassum, op cit, p.18.

114. For details on the 'pro-rata' formula of transferring funds between partners, see N. Mwase, op cit, pp.44-45.

115. The Mtei Committee was the one appointed by the joint EAC Finance and Communication Councils in January 1975 (under the Chairmanship of EAC Secretary General, Edwin Mtei, and comprising the Permanent/Principal Secretaries to the partner States Treasuries and the Governors of the Central Banks) to study the Corporation's interstate transfer of funds crisis.


118. Ibid, p.71.


120. A. Hazlewood, op cit, p.96.

121. See Africa Contemporary Record, 1974-75, p.C.198.

122. M. Mwase, op cit, p.46.


124. For details see A. Hazlewood, op cit, pp.92-96.


126. A. Hazlewood, op cit, p.86.


129. P. Robson, op cit, p.164.

CHAPTER III

DIVERGENT POLITICS AND THE COLLAPSE OF THE

EAST AFRICAN COMMUNITY

It is true we hear a lot about the problems of the East African Community. And indeed they do exist! It would be quite possible for some academic to write a book about them! But to what end? The thing about problems of international cooperation is that they get solved if the will to cooperate is there. In East Africa I think we can claim that this will for united action does exist ...

Six years after Nyerere's November 1970 speech, the political will to sustain regional cooperation in East Africa disappeared and the way was open for academics to write their books on the problems of the East African Community.

Problems of the East African Community started long before the Ugandan Coup of 1971. All the measures agreed upon in the Treaty involved a lot of bargaining among the three partner states. On several occasions the Community came near to total breakup but was pulled back from the brink by a realistic recognition of mutual self-interest. However, after a period of predictions regarding its demise, the East African Community finally collapsed in mid 1977. It was eaten away by petty political concerns compounded by major economic problems. Why did this happen?

Hints to an answer come from President Nyerere who, in reviewing ten years of Tanzania's relations with other East African countries after the Arusha Declaration, stated:
Unfortunately, political developments in Uganda, and a number of unilateral transgressions of the Treaty by Kenya, have put the Community in jeopardy ... Our colleagues neither had, nor have, the desire for real cooperation.2

Apart from these hints, the Community was also beset with other problems which are discussed hereunder.

3.1 CONFLICTING IDEOLOGIES

Probably the most widespread problem involved the divergent ideologies of Kenya and Tanzania, most specifically in economic development. In 1967 Kenya perceived itself as following a capitalist policy towards an economy thoroughly infused with Western capital, foreign investments and technology. Tanzania, on the other hand, had increasingly pursued a socialist strategy as articulated by President Nyerere.3 Uganda is frequently included on the socialist side of the divergence even though no ideology was clear during Amin's4 military regime. Because Tanzania vigorously pursued its socialist development programs which were in contrast to Kenya's capitalist development strategy, tensions and stresses were magnified:

Ideological differences, national interests, and personality clashes have whittled away the Community which was to have been the foundation of a united East Africa. Kenya, with a free enterprise system, has prospered more than Tanzania, whose socialist economy is geared toward income distribution and land reform.5

Tensions within the Community were clearly exacerbated by the growing ideological distances between the partner states, and limited what could be agreed. For instance, some of the obvious disintegration occurred before Tanzania's and Kenya's development strategies had become
divergent. The breakup of the common currency and the East African Tourist Association were cases in point. The University of East Africa was divided into three national universities in 1970, but proposals to split it had started as early as 1966. These occurrences can be attributed to the centrifugal forces of nationalism.

Moreover, from 1967 to 1975, the ideological divergences grew. Kenya's capitalism became more elitist and authoritarian. In Uganda, President Obote's attempt to move to the left led to the Amin coup. Tanzania - like Kenya - tended to pursue the trends evident in 1967, thus widening the Kenya/Tanzania ideological division.

The break-up of the Income Tax Department in 1973 had both nationalist and ideological motivations. On several occasions the Department had been criticised for being too bureaucratic, inefficient and needing to be decentralised. It was also argued that the contribution to the Department's revenue was unequal among the partners. Kenya contributed more than the other partner states because she had more private firms that were subject to income-taxation. In addition to this, there was an ideological argument. Tanzania wanted to introduce a more egalitarian income tax system which would tax more heavily people in the higher income bracket. Kenya, on the other hand, desired a tax system which would provide greater incentives to private investors. These changes could not be implemented without dismantling the Income Tax Department which had hitherto imposed a uniform income tax structure for all three countries:
While it is clear that the interests of harmonisation and integration are best served by a unified tax administration it must be remembered that harmonisation of policies is in any case hindered if one or more partner states believe that the pursuit of their national interests is unduly obstructed by participation in a particular common institution.9

While conflict in ideologies can hardly be ascribed as the cause of the collapse of the Community, it was a symptom of the illness.

3.2 AMIN'S COUP IN UGANDA - 1971

Apart from incongruous ideologies, the Community suffered a serious setback when General Idi Amin overthrew Uganda's President Milton Obote on 25 January 1971. Obote fled to Tanzania where President Nyerere branded the new Ugandan leader a 'treacherous Army Commander' and his government 'an illegal regime, which had no excuse for staging a revolution'.10

Amin's coup led to a recurrence of political crisis between Uganda and Tanzania, and later Uganda and Kenya, thus creating a new challenge to the East African system.

Nyerere emphatically refused11 to recognise Amin as the Head of Uganda and he blocked the latter's appointments to top EAC positions. Far more serious was the fact that President Nyerere refused to convene the East African Authority with Amin in power:

Since January 1971 Uganda and Tanzania have been almost in a state of war, and on a number of occasions there have been open hostilities between them. Nyerere's initial military and political support for ex-President Milton Obote, and more especially his refusal to recognise the legitimacy of Amin's regime, has made it impossible for the East African Authority - made up of the three
Heads of State - to meet and sort out the differences which have hampered the smooth functioning of the Community.\(^{12}\)

Not only had the Authority provided needed direction for Community institutions, but without it such basic operations as approving the EAC budget became more difficult. Although new procedures were devised to circumvent the problems and make the Community operational (by obtaining the agreement of the members individually)\(^ {13}\), serious damage had clearly been done to the cohesiveness of the organisation.\(^ {14}\)

Indeed, the atmosphere was not conducive to the smooth operation of the Community, let alone the progressive extension of cooperation which was necessary for its success.

The conflict between Uganda and Tanzania led to the closing of the common border between the two countries, suspension of internal flights between them by the East African Airways and there were minor incidents along the border.\(^ {15}\) The fact that hostile military engagements took place between two partner states unquestionably complicated the Community's efforts to solve problems and raised questions about institutional legitimacy. Amin refused to sign the EAC Appropriations Bill\(^ {16}\) and Tanzania, in retaliation, refused to allow Ugandans to enter their offices in the EAC headquarters:

The political and administrative difficulties resulting from this bilateral encounter were evident in the struggles over appointments, the functioning of the East African Authority, appropriations, and communications and transportation links. This crisis cast a shadow over Community operations, as appointments to high Community office required the joint agreement of the three East African heads of State sitting together.\(^ {17}\)
Indeed, the friendship between Nyerere and Obote exacerbated already bad relationships.\textsuperscript{18} The situation deteriorated in September 1972, when Obote's supporters launched an attack on Amin from Tanzania. The dispute was temporarily settled by October's Mogadishu Agreement, but no direct reference was made in the pact to Obote's future in Tanzania.\textsuperscript{19} Nairobi's \textit{East African Standard} identified what was to become an ongoing source of Ugandan-Tanzanian friction:

\begin{quote}
If Dr Nyerere ... insists on providing a haven for Mr Obote it is doubtful if he will receive much in the way of cooperation from Uganda.\textsuperscript{20}
\end{quote}

Tension continued into 1973 and again spilled over into EAC operations as Tanzania and Kenya became increasingly apprehensive about the safety of their nationals employed by Community corporations in Uganda. With the sudden disappearance of Kenyan employees of the East African Railways Corporation, the tone of the \textit{East African Standard} became more resentful of Uganda.\textsuperscript{21} Community Unions pressed for repatriation of Kenyans working in Uganda and boycotts of Ugandan goods and services were threatened.

By the end of 1973, Kenya's dominance in regional trade had actually increased since the Treaty came into force. This was due in large measure to the collapse of the manufacturing sector of the Ugandan economy under Amin's unsuccessful policy of 'Ugandanisation'. The Ugandan economy steadily deteriorated: the production of cash crops decreased and the manufacturing sector was practically halted. The elite were exterminated and administration broke down - thus creating unprecedented problems for the...
The coup of 1971 almost completely cut off Uganda from playing a meaningful role in intercountry cooperation:

As Uganda's economy regressed precipitously towards subsistence levels, its contribution to Community economic activity became minimal. Meanwhile, the regime's shortage of foreign exchange caused it to curtail extra-regional imports so severely that Uganda's contribution to Community finances through tariff revenue fell dramatically.22

The Industrial Licensing Council had failed to promote the growth of efficient regional industries and was not renewed in 1973. By 1974 and especially in 1976, the political conflicts between the partners were escalating. They eroded actual and perceived gains from Community operations, and this behaviour led to deep pessimism. Bolstering the EAC under those conflicts required agreement on new initiatives - such as on industrial incentives, road transport, technology and consultancy which would be more or less evenly divided. But such initiatives were not attained after 1971, because Uganda ceased to be an effective participant in Community discussions and as a result the balance of the Community's tripartite structure disappeared:

The Uganda coup had created a situation in which political guidance for, and approval of, long-term proposals was not forthcoming. Without Ugandan participation, the political triangle of the Community evaporated. Package deals negotiated between Kenya and Tanzania were not much use if no Ugandan agreement was foreseeable; while the absence of Uganda weakened both Kenya's will to negotiate and Tanzania's bargaining position.

In short, the most important consequences of the coup to the EAC's survival were that the Uganda/Tanzania counter-weight to the Kenya/Uganda trade and transport axes was never re-established. Because Amin did not deal in long term
strategy, and no-one else in Uganda dared to, formal planning in industrial policy and fiscal harmonisation stopped dead. Furthermore, the strategy of balancing gains through expansion was not achieved after 1970. Kenya/Tanzania negotiations lagged because EAC decisions required unanimity; and neither country saw the point of negotiating agreements because a Uganda vacuum would prevent any action. As more of Uganda's import trade shifted to procurement from Kenya, the relative value of the Tanzania market to Kenya declined. Finally, once the EAC no longer encompassed the Corporations, the Kenyan port and railways exploited Uganda with much less restraint. All these tendencies, begun in 1971, became serious by 1973 and grew steadily worse thereafter. They eroded gains from the EAC, blocked the move toward more planned economic regionalism sought by Tanzania, and reduced the apparent costs of breakup to Kenya.

3.3 CENTRIFUGAL FORCES OF NATIONALISM AND UNEQUAL DIVISION OF GAINS

One of the main problems among the partner states was the competition for benefits within the East African Community. More specifically, Tanzania and Uganda demanded equitable distribution of gains in the Common Market and Common Services which had been concentrated in Kenya:

Suffusing any analysis of the Community is the overriding reality of Kenyan supremacy. While it is of course impossible to say what would have been had events evolved differently, it is indisputable that the economic data for Kenya is, and has been, uniformly positive, especially in contrast to Tanzania or Uganda.24
If the perception of the partners is that there are gains for all, then the problem of distribution becomes less sensitive because the bargaining will be about how much better-off each shall be. On the other hand, when a regional scheme is not able to generate adequate benefits for all the members the problem becomes more sensitive and controversial.

Up to 1967 Tanzania had always perceived herself as a net loser. It saw the 1967 changes in redistribution as an opportunity to break even and to actually make net gains from future development on a balanced basis of coordinated production and trade. Uganda tended to be unsure if she gained or lost absolutely, but saw Kenya taking the lion's share as a *quid pro quo* for enjoying joint control over access to the sea. Kenya, on the other hand, had always been the largest 'gainer' and perceived herself as such.25 Kenya's argument was that she had earned her gains and was therefore willing to make only limited concessions to greater equality. The statement by Mr J. Odero-Jowi, a Kenyan who was then the East African Minister for Finance and Administration, demonstrates Kenya's reluctance to achieve equitable redistribution:

> When the Treaty for East African Cooperation was signed by the three Heads of State, it was not intended that any of the partner states would have to halt its development so that all the three nations could start developing at the same rate.26

After 1967 the Common Market was a fiction - the Treaty made no provision for the free movement of labour or capital within the region. Moreover, new developments arose which
complicated the functioning of the Common Market. Of particular importance were the activities of the State National Trading Corporations in all three countries. These organs exerted varying degrees of control over import and export trade and, by a variety of means (such as outright refusal to import from certain sources), interfered with the freedom of intra-regional trade. As time passed, the East African Common Market became less important and failed to meet the requirements of the partner states:

In conclusion, the stagnation (and ultimate collapse) of the East African Common Market can be traced to the three sets of problems discussed above. These are: rivalry for the benefits of commonly controlled enterprises, divergent political structures of the member states and, finally, variation in economic development among the member countries.

Likewise, the performance of the common services was marred by financial losses, administrative problems and the difficulties of transferring funds. The combined effect of these problems produced one of the most heated debates among the partner states on every aspect of cooperation. But basically it boiled down to the question of 'who got what and how much from its cooperation?':

It cannot be too strongly stressed that East African economic cooperation is a matter of politics as well. But, idealism and defence considerations apart, politics is very much concerned with who gets what. The less satisfactory are the economic aspects of cooperation, the more strain will be placed on the purely political motive which is undoubtedly a factor of continuing importance in relation to East African cooperation.

Furthermore, sometimes there were national based demands which were not necessarily for the action as a whole, but were articulated and expressed by particular personal
interests. In the life of the Community, for example, there had emerged a class of African businessmen in alliance with international big business and a bureaucratic class which was also in alliance with international concerns. Both of these classes were capable of manipulating and influencing the state machinery to enhance their particular interests. Their state was closely related to the nation-state but sometimes their interests were in direct competition with regional public concerns. While personal interests were not the causal factors of the Community's death, they played the role of catalyst in its demise.

In short, the whole focus of 1967-73 proposals and dissents, conflicts and agreements, negotiations and actions, crises and resolutions, was on the problem of unequal distribution of costs and benefits. By 1975-76, all parties perceived that their benefits from the EAC were smaller than in 1967 or 1971. Indeed, the division of gains was a contentious subject in the life of the Community, and the crisis strained relations of the partner states until the organisation collapsed:

Failure to attain an effective means of resolving this problem soured the atmosphere in which the Community operated and certainly contributed to a lack of domestic support for the continuation of regional cooperation. This issue, in combination with ideological divergence, caused the partner states increasingly to perceive the Community as irrelevant to their development needs, and found expression in their unwillingness to harmonise economic policies.30

Thus, unequal distribution of regional gains did not itself precipitate the collapse of the Community, but the problem played a key role to its demise.
3.4 BALANCE OF PAYMENTS PROBLEMS

Debts arising from interstate transactions had to be settled in foreign exchange. The Treaty provided that a state in surplus in interstate trade could extend credit to one in deficit, but these were to the advantage of Kenya which relied on a surplus in interstate trade to balance her deficit in external trade.

Since 1971 the interchangeability of East African currencies was stopped. This situation created additional strain on the partner's overall balance of payments. In 1972 there were some improvements, but the situation became more serious in 1973-74 due to the five-fold increase in the price of oil and large food imports as a result of drought conditions which hit many parts of Africa during this period - including East African countries.

Foreign exchange was perpetually in short supply because the price of raw materials (which were the foreign exchange earners for the three partners) sold to the developed countries was always lower compared to the price of manufactured goods. The prices of both exports and imports were determined by the metropolitan countries except in the case of oil. In East Africa, for example, the terms of trade had been declining every year. From 1964 to 1972 the import prices increased by over 40 percent while the prices of exports increased by only 3 percent. This meant that there was an annual loss of 475 million shillings over that period.
Certainly, the scarcity of foreign exchange, in part, played a role in the defunct EA Community. Because of the sudden rise in oil prices, each government was preoccupied with saving foreign exchange. Subsequently, the partner states imposed restrictions on the transfer of funds from the regions to the headquarters of the common services, thus souring the atmosphere of their relations and paralysing the Community's institutions:

But the fact is that the common services, already in a state of disarray, were fundamentally disrupted by the drying-up of the flow of funds to headquarters, where lay the responsibility for large expenditures, including the purchase of equipment and loan charges. This disruption in the financial operation of the services led directly to their effective dissolution as common institutions and to the collapse of a major part of the structure of the Community.35

The solution to the foreign exchange problem required the restructuring of the partner states' economies in such a way that they would not remain appendages to the metropolitan countries. Because the partners' economies were dependent on the developed countries for earning foreign exchange, the crisis was never resolved.

3.5 PRESSURES TO DECENTRALISE THE CORPORATIONS

One of the most controversial issues in the Community concerned the decentralisation of the four Corporations. The Treaty was not explicit on the final objective of decentralisation or the extent to which the Corporations' headquarters and the regions in the partner states should share administrative powers and financial control:

What the Treaty never spelled out, however, was the extent to which the Railways were to be decentralised, who was to get what assets and meet
what liabilities in the process of decentralisation, and what would remain of the central structure and functions of the Corporations. The Corporation management wanted central control while each partner state wanted more decentralisation.\(^{36}\)

Since 1974 the pressure to decentralise became a politically sensitive issue which eventually contributed to the collapse of the Community as a whole. It was within the Corporations, particularly the East African Railways and the East African Airways Corporations that some of the most immediate problems arose. Apart from periodic charges of poor management and corruption, especially regarding the railways, both the airways and railways were beset by deep seated differences of opinion between Kenya and Tanzania as to objectives.

The underlying railway problem which reached deeper into the political and economic life of Kenya and created serious tensions with the other partner states lay with highway competition.\(^{37}\) Competition from road traffic increased in Kenya and reduced the Railways' income during a period of high expenditure, and in 1973 Tanzania hinted that it might establish its own railway system.\(^{38}\) At the same time, Uganda and Tanzania began withholding funds which should have been transferred to the EARC headquarters. Moreover, the ownership of the highway transport service, KENATCO, was in the hands of influential politicians who exerted their great power to effect preferential regulations and treatment for road versus rail transport:

... Kenatco alone owns 300 trucks with a carrying capacity of 7,000 tons. Most of these trucks compete directly with the railways in carrying goods to and from Mombasa, the most profitable railway route.\(^{39}\)
Consequently, while the railway lines regularly lay idle, foreign exchange was consumed to import road transport equipment from Britain which was then put into service at higher cost than existing rail facilities, thus raising commodity costs and lowering productivity. In addition, the highway transport imposed an added burden upon Kenya's foreign exchange balance by requiring additional petroleum imports. But the decision uncovered some problems within the Kenyan elite system. Since it was the objective of the political-economic elite to maximise their relative advantages (which were already high), it was the vast majority of Kenyan society who bore the cost.

Furthermore, shortages of foreign exchange following OPEC's quadrupling of the price of oil played a role in the funds transfer problem as did dissatisfaction with the policies of the Nairobi-based corporation. Under pressure from worker strikes in the summer of 1974 and rapidly rising fuel costs, negotiations began to decentralise EARC operations.

The unwillingness of EAC members to transfer funds to corporate headquarters continued to plague the Community. It appeared that the Mombasa office of the Harbours Corporation started the move. The Finance Council of the Community met in July 1974 and decided that the Mombasa office should transfer 33.8 million shillings to the headquarters in Dar-es-Salaam. The transfers were not effected. By the end of April 1975, Kenya withheld 175.8 million shillings owed to Harbours' headquarters in Dar-es-Salaam and 16 million
shillings owed to the Post and Telecommunications in Kampala:

By the end of 1974 the Corporations were very nearly 'decentralised' in the sense that their balances in one state could not normally be transferred to their Headquarters' account in another state ... and when transfer was allowed conditions were placed on the uses of the funds. Increasingly, partner states moved towards impounding or directing the use of blocked balances - a move apparently pioneered by Kenya in respect of the Railways' funds special account in 1973, and later extended by Kenya to Harbours in 1975.41

Tanzania's obligations to the Railways and the Airways Corporations in Nairobi were 35 million shillings to each headquarters. Uganda's obligations to the Railways and Airways Corporations were 7 million shillings and 45 million shillings respectively. At the same time the Corporations owed their overseas creditors 287 million shillings.42

Subsequently, passenger traffic between Kenya and Tanzania was stopped in 1974, goods traffic considerably reduced and marine transport also stopped after the Corporation had detained all the ships at Kisumu. And in February 1975 all passenger rail services were stopped in Kenya and Uganda when Britain refused to supply any further spare parts until the EARC repaid its substantial debts. With the completion of the Tan-Zam railway (TAZARA), Tanzania was perceived as reorienting its foreign policy toward the south, thus hoping to create stronger ties with Zambia and Mozambique at the expense of its involvement in the East African Community.

In June 1975, Mr Charles Njonjo43 - a Kenyan Attorney General - urged his government to break up the EAC and
establish an independent railway system and customs administration. The suggestions of dissolving the EA Community were strongly protested by both Kenyan Parliament and Tanzanian National Assembly. Nevertheless, in October 1975 the EA Authority (still not meeting as a collective unit) accepted the Kenyan request, which was made in February 1975, of the need to review the Treaty.

Mr William Demas, President of the Caribbean Development Bank, was chosen as Chairman of the review commission - with an undertaking to prepare a report outlining necessary structural reforms. However, the commission's task was complicated by the deterioration of relations between Kenya and Uganda. In February 1976, Amin claimed that large sections of Kenya (and Sudan) were unjustly taken away from Uganda during the British colonial rule.44 The result was that President Kenyatta placed a boycott on all Ugandan goods passing through Mombasa, and Kenya's western border was closed to road transport - thus interrupting the flow of vital commodities to Uganda. Amin's 'clarifications' that Uganda's desire was to maintain friendly relations with Kenya brought an end to the restrictions in early March.

Prospects for the EAC did not improve during this period. In December 1975, Nyerere spoke of the need for 'radical decentralisation' of the common services45 and in April 1976 the decision was made in Arusha to repatriate all employees of the General Fund Services:

The decentralisation of the Railways Corporation was agreed on in principle at a meeting of the East African Finance Council held in Arusha (Tanzania) on 20 July. The EA Minister for
Finance, Mr C. Msuya, pointed out that the move would benefit the EARC in an economic and commercial sense and was not aimed at the breakup of the East African Community. It will enable the regional offices to conduct their affairs without having to refer to the headquarters in Nairobi even on minor issues ... In future each of the Corporation's three regions will be responsible for its own financial performance.46

The Treaty Review Commission was believed to be the last chance to rescue the Community from total crumbling. Following the thaw between Kenya and Uganda, Nyerere flew to Nairobi in August 1976. Unfortunately, tensions and mutual distrust between the partner states had gone too far. Because the member states lacked cooperation and could not agree on the necessary minimum conditions to salvage the Community, the Authority did not meet. Hence, the report of the EA Community Treaty Review Commission was submitted in November 1976, but without any positive recommendations.47

The operations of the East African Airways also created tensions among the partner states. Unlike the Railways, the EAA did not subsidise traffic as such but it undertook certain domestic flights on routes considered by Kenya non-profitable.

Although Tanzania's transportation systems and resources are poor, its population is larger than that of Kenya. The EAA Act had called for the operation of scheduled services within East Africa. Consequently, Tanzania was determined that the EAA should serve primarily as a domestic carrier and communication medium. Kenya, on the other hand, saw the airline as an international carrier, primarily ferrying tourists from Europe. But the respective cases were seen in the context of socialism in Tanzania and
capitalism in Kenya, and as a result there was intolerable economic stress between the two countries thus inducing some rich and influential Kenyans to demand the dismantling of the Corporation:

Indeed, there were indications, especially in early 1969 and 1972, of powerful magnates among the local bourgeoisie and foreign capitalists in Kenya pressuring the Kenya Government to withdraw from the East African Airways and establish her own 'national' airline ...48

Kenya saw itself earning significant profits for the Airways Corporation which were being frittered away by Tanzania's demand for uneconomic domestic routes.49 Other Community corporations faced similar funding problems and de facto decentralisation occurred in both the Harbours and Post and Telecommunications Corporations with separate operational centres for each established in Mombasa and Nairobi respectively.50

3.6 TRANSPORT ISSUES

Transport and tourist issues also created bitterness and tensions among the partner states. Kenya benefited from tourist access to the game parks of northern Tanzania, Serengeti, Manyara and the Ngorongoro Crater; and these were generally included in a circuit for Nairobi based tourists using Kenyan vehicles. Although payments were made for the use of Tanzania's hotels and game parks, and for other goods and services, Tanzania strongly contended that it received only minor benefits from the traffic.51

In order to counter Kenya's exploitation of the tourist trade, in the early 1970s Tanzania built the Kilimanjaro
International Airport near Arusha. However, due to lack of international-standard services, Kilimanjaro did not flourish.52

Related to the Kenya-Tanzania strain over the tourist trade, was the issue of a substantial road traffic which had developed between Kenya and Zambia, crossing Tanzania. Tension arose between Kenya and Tanzania over this matter. Whereas benefits of the Kenya/Zambia trade accrued to Kenya, it imposed costs on Tanzania through the use of Tanzanian roads by heavy vehicles.53 The controversy was purely technical in that Kenyan trucks weighed more than 18.75 tons (damaging Tanzanian roads), but the press in the two countries turned it into a socialism vis-a-vis capitalism debate—thus exacerbating the relations between the two countries.54

Competition between road and rail was also a cause of tension. The Railways Corporation had had deficits annually since 196255, for various reasons, competition from road transport being one of them. Tanzania believed that the growth of road transport in Kenya was to the benefit of Kenyan private business at the expense of the jointly-owned public railway. Some businessmen and politicians in Kenya had made large investments in road vehicles for the carriage of petroleum products from Mombasa to Nairobi56, at a time when funds were desperately needed by the Railways Corporation:

The Railways Corporation was already desperately short of spare parts and rolling stock in all parts of East Africa. So great were the shortages that both Kenya and Tanzania started a fratricidal war of words blaming the other for the mutual difficulties.57
Tanzania criticised the operations of private transport companies which were directly competing against the Railways Corporation. Kenya attacked Tanzanian socialism rather than the problems of the Corporation. This crisis undermined the goodwill and/or understanding between the two partner states.

Moreover, Kenya's decision to open an oil pipeline from Mombasa to Nairobi also created strains. The decision meant that the railway lost business to the tune of shs.44.7 million which it earned in 1974.58

In short, the problems of railroad competition in Kenya and road traffic between Kenya and Zambia were interrelated; and they strained relations between Tanzania and Kenya. Subsequently, in December 1974, Tanzania closed its northern roads to Kenya's heavy trucks (even before the general border closure), thus curtailing Kenya's profitable trade with Zambia. In retaliation, Kenya closed two border roads and interrupted steamer traffic on Lake Victoria. Because surface transport was not settled by the Treaty or properly coordinated, the issue created tensions among the partner states, thus disrupting the functioning of the Community.

3.7 UNEQUAL LEVELS OF DEVELOPMENT AND COORDINATED INDUSTRIAL PLANNING

Another source of strain in the Community was the unequal levels of development among the partner states. Although this has many dimensions, one illustration serves to show the development gap between Kenya and her two partners. The Charter of the EADB noted the uneven
development among the three countries, and in order to promote balanced industrial development, the Bank decided to invest its capital unevenly: 38.75 percent in Tanzania, 38.75 percent in Uganda, and only 22.5 percent in Kenya. While this allocation suggested a considerable advantage to Tanzania and Uganda, in reality Kenya remained ahead because of its strong economic base and stable capitalist system which allowed her to generate external funds (particularly from the West), independently of the Community:

Kenya is an attractive target for money. Outsiders rank it as the East African state with the highest 'absorptive capacity'. This reputation stems from its relative wealth, and the skills and markets which enable it to make profitable use of new funds ... It offers stability, in contrast to the periodic turmoil of Uganda, and it offers Western-oriented African capitalism, in contrast to Tanzania's overtly socialist path to development.60

Thus, throughout the life of the Community, as well as before, Kenya dominated economic activity in East Africa, especially in terms of development potential.

Connected with unequal development was the uneasy compromise between the partners on the two different approaches to cooperation: the more 'free trade' approach supported by Kenya, and the more 'planned' approach demanded by Uganda and particularly Tanzania (planning for equalising development versus a free ride for unequalising development).61 This created strains and basic disagreements from the beginning as to interpretation of the Treaty and the final objectives of cooperation. The disagreement
affected the functioning of the Common Services and the Common Market.62

Tension was even more pronounced in relation to a policy of balanced industrial planning. Tanzania sought coordinated industrial development for she believed that it would lead to equitable redistribution of benefits. She also emphatically demanded that coordinated planning for production and trade should be formal and explicit in the revised Treaty, and should be backed by immediate means of operation.63 Reflecting the failure of the Kampala-Mbale Agreements, and despite the agreed previous measures, Tanzania was determined that real progress could only be achieved through the restructuring of the Common Market, planned regional industries64 and more balanced trade patterns:

The disadvantage could be turned into a gain - as Tanzania saw it - only through coordinated production planning ... Tanzania's goal was a restructured, planned Community, a narrow, basically laissez-faire arrangement was not ideologically agreeable.65

Uganda also favoured industrial coordination and balanced production in order to reduce its trade deficit with Kenya. However, its main concern was the continued common operation of Railways and Harbours so that it could retain some control over its access to the sea. Moreover, during this period Uganda was more or less a helpless bystander. As her administrative and technical bodies were in disarray she negotiated from a position of economic weakness, and could not exert any leverage to engineer a compromise between Kenya and Tanzania.
Kenya, on the other hand, felt that measures adopted were a maximum concession. Believing that it had already allowed too many restrictions on the principle of free trade, Kenya was totally unwilling to discuss the subject of coordination of production and trade on a balanced basis as required by Tanzania:

Kenya's position was that industrial or other production coordination was a dead issue and could not be reopened until the revised Community had several years of successful operation behind it. Further, the Common Market should be freed from restrictions (seen as primarily Tanzanian in origin), and there should be no successor to the Transfer Tax, many of whose applications had legally expired or were about to do so.66

It is significant that the issue which caused most concern to Kenya was the imposition of the Transfer Tax.67 Kenya called for the review of the Treaty in order to make up for what she considered as the 'lost ground' in the Common Market. She wanted to maintain the status quo and retain her regional industrial hegemony in partnership with transnational corporations.68 In other words, 'Free Trade' was to be free trade in the pure classical sense of the term.69

Subsequently, it can be argued that because of different development approaches the issue of regional industrial planning was never solved. It is true that there were discussions within the Community institutions, but planning proposals were not implemented. Thus, we can conclude that failure to achieve a more equitable distribution of benefits in industrial development, coupled with the failure to undertake successful regional industrial
planning, were the root causes of the collapse of the Community:

Insofar as both industrial cooperation and conditional free trade were unacceptable to Kenya, and both unconditional free trade and no industrial cooperation unacceptable to Tanzania, a compromise of industrial cooperation with unconditional free trade was unacceptable to both of them. The Common Market discussion revolved around these issues in the second half of 1976, while the Treaty review itself ground to a halt by early 1977. Now of course there is neither free trade nor industrial cooperation for both countries.  

Unfortunately, the deterioration of the political climate too made it practically impossible not only to solve this problem, but even to settle other disputes in the Community.

3.8 ASYMMETRICAL INTERDEPENDENCE WITH EXTRA-REGIONAL ACTORS

East African economies are weak and dependent. Because of their asymmetrical interdependence with the industrialised world, East African countries were particularly vulnerable to the external economic influences of factors like markets, foreign capital, technology and petroleum supplies.  

Worldwide inflation and the monetary crisis of the 1970s exacerbated the economic problems of the three states. Because of limited policy options to reduce the costs of their interdependence, inflated prices of imported machinery and oil became factors responsible for the worsening balance of external trade of the partner states. The sudden and unprecedented scarcity of hard currencies compelled the three countries to curtail intercountry imports and refrain
from transferring funds to the Corporations' headquarters.\textsuperscript{72} In other words, the increase in the prices of oil and imported machinery was a disruptive external factor because it created considerable strains among the partner states, and caused them to fail to fulfil their regional commitments. Each government was forced to economise on its scarce foreign exchange, thus placing national before regional interests and curtailing regional interactions.

In addition, the conduct of foreign policy became increasingly uncoordinated. During the 1970s, each member of the EAC became entangled with one of the three major powers. Tanzania's involvement with China in a bilateral cooperation and trade agreement caused tension with Kenya:

\begin{quote}
The East African Standard, 21 September 1971, said in an editorial 'How can there be any substance to the argument that matters are going well within the Community? Generous credits by the Chinese inside Tanzania, in order to help finance the Tan-Zam Railway, have caused a steady inflow of Chinese goods, lessening the demands for competitive goods elsewhere'.\textsuperscript{73}
\end{quote}

The military regime in Uganda allied itself with the Soviet Union and the Arab countries, in particular Libya. Kenya remained attached to its Western connections.\textsuperscript{74} The result of these divergent affiliations was that each member strengthened external rather than intra-regional ties. Connected with external actors was the question of aid and foreign investment flows. Generally speaking, Kenya received more aid and foreign investments from the multilateral sources (1960-76) than its two partners, except from 1973 to 1976 inclusive when Tanzania got more bilateral assistance from Western countries.\textsuperscript{75} The major Western
donors for the three countries remained Britain, the United States and West Germany. On the other hand, contributions from the socialist countries to the partner states were small, except the 200 million dollars\textsuperscript{76} given to Tanzania by China for the construction of the Tan-Zam Railway.

Decisions were taken by the partner states under the influence of external forces\textsuperscript{77}, which undermined the interests of regional cooperation. For instance, in 1965 Kenya built a tyre factory (Firestone Company) which had been allocated to Tanzania (General Tyre Company)\textsuperscript{78}, Tanzania constructed a Tan-Zam Railway\textsuperscript{79}, incompatible in gauge with, and outside the authority of the East African Railway Corporation; and in Nairobi, Kenya established the International Laboratory for Research on Animal Diseases (ILRAD)\textsuperscript{80} in competition with the East African Veterinary Research Organisation (EAVRO).

Although the external relations, economic factors, the Multinational Corporations and other major geopolitical actors did not cause the breakup of the Community, their competitive activities within the region created tensions among the partner states and, in a way weakened the Community:

Monopolistic competition of the transnational monopolies, therefore, was at the base of the rivalries in the region, intensifying the petty-competition of the small producers in each country, and further intensifying other minor contradictions among the people of East Africa.\textsuperscript{81}
It was in this respect that the rivalry between monopolies also tended to create rivalry in the politics of the region - thus straining the relations among the three countries.

3.9 WEAKNESS OF COMMUNITY GOVERNMENT

The Treaty established a complicated institutional structure to administer and control the community. The highest decision-making body was the Authority, consisting of the three Presidents of the partner states. The most innovative element was the three East African Ministers (and three Deputy Ministers) who primarily assisted the Authority in East African Affairs and were the main link between regional concerns and national interests. In addition to a Central Secretariat, there were a number of Councils, an East African Legislative Assembly and a Common market Tribunal, at which discussions took place between representatives of the partner states. Despite diversity of this structure, the institutional machinery of the EAC lacked autonomous decision-making power:

While the Treaty ... created a complex network of councils and committees, involving numerous ministers and senior civil servants from the partner states in the decision making process of the Community, the status of the Authority meant that in practice not much decision making took place at these levels. (These, on the other hand, add to the complexity of the length of decision making.)

The system relied too much on the Authority, which had very significant legislative powers, especially in the Common
Market area. Thus, smooth functioning of the Community was wholly dependent on the maintenance of cordial relationships between the Presidents.

Because the Community was formed by three sovereign states, it was proper for decisions to be taken by unanimity or consensus. But the rule of unanimity and the principle that differences at lower levels could be referred to the Authority created problems of long delays in arriving at decisions. Too much time was spent on working out compromises and as a result the Community failed to operate as intended.

More significant was the idea that the East African Ministers would perform many functions of the Authority. But the interposition of so many Councils between the Ministers and the Authority made the former play a subsidiary role. In fact, during Authority meetings, it was the national ministers on the Councils who spoke for the respective Presidents, rather than the East African Ministers.

The Ministerial Councils became the preliminary forum for interstate negotiations and compromise; and if there was disagreement the matter was automatically referred to the Authority. Thus, the East African Ministers had less authority to make decisions because the ultimate control always rested with the East African Authority:

Even during the first few years the existence of the Authority seemed to deprive lower levels in the administration of the Community of initiative and of willingness to seek solutions to issues between the partner states by compromise. The structure of control encouraged the pursuit of national interests and discouraged compromise,
because there was always the Authority to reach an agreement in the end.\textsuperscript{86}

Apart from the powerless Ministers there was a problem of the Secretariat. The Secretary General was the chief link between the Authority and the Community institutions. Unfortunately the regional Secretariat had too limited powers.\textsuperscript{87} The three states were unwilling to surrender their powers and the Secretariat was therefore unable to enforce the Community obligations against the partner states or reconcile conflicting interests within the Community:

> The weakness of the Secretariat and the failure of the East African Ministers to emerge as a collective, dispute solving, policy-making and decision-taking body can be ascribed to the general reluctance of the partner states to surrender any real measure of sovereignty to the Community.\textsuperscript{88}

The Secretariat also suffered from an additional structural problem. Many of the officers under the Secretary General were appointed directly by the partner states without his involvement. For example, each of the East African Ministers had a secretary as the head of the three major departments of the Community, appointed by the Authority, and as a result the Secretary General had little authority over them.

In brief, the Community lacked a more truly 'regional' body such as the Commission of the European Community or the Junta of the Andean Group.\textsuperscript{89} Relying too heavily on the Authority as the major decision-making body increased the danger of instability because personal rivalries were transformed into national conflicts. With the Authority not meeting since 1971, the whole machinery for cooperation,
notably the Councils, committees and the Secretariat lacked direction and crumbled:

In the absence of a regional body able to effectively promote cooperation in new areas, there is a tendency towards stagnation which is not conducive to the maintenance of regional collaboration ... The lack of autonomy enjoyed by regional institutions undermines their ability to engage in essential tasks of conflict resolution: the regional decision-making process lacks insulation from national politics so that interstate political conflicts rapidly spill over into the regional arena.90

The inadequacy of the Treaty's provisions and institutional weaknesses were less important, however, than the fact that the decision-making process of the Community was subject to a 'personalisation' of power in the Authority.

3.10 OTHER INFLUENCES

Tanzania's concern throughout the life of the EAC remained unchanged: that Kenya got more benefits from the Community than other partner states. Thus, Tanzania's political interest shifted towards the south with states whose ideologies were in accord with her own.

With the intensification of the conflict in Southern Africa, Nyerere entered into close cooperation with Kaunda.91 It should be noted that in 1968 Zambia had entered into negotiations for membership of the EAC, but following the military coup in Uganda these were adjourned. Nevertheless, bilateral economic cooperation between Tanzania and Zambia continued to grow, culminating in the Chinese-financed rail link between the two countries (TAZARA). Mozambique's independence in 1975 also provided Tanzania with a second ally to the South, whose cooperation
from an ideological perspective was far more attractive than Kenya's. Subsequently, Tanzania's interest in strengthening relations with its East African partners diminished.

3.11 CHANGING PERCEPTIONS AND THE DEATH OF THE EAST AFRICAN COMMUNITY

Broadly speaking, the Community was beneficial to all member states, but as time went on their perceptions changed. By 1975-76, the partner states (at least Tanzania and Kenya) perceived that their benefits were smaller than in 1971, and they were reluctant to negotiate and compromise on those crucial issues which would salvage a viable Community.

As has been mentioned earlier, following Amin's coup in 1971, Uganda's role in the Community was passive, ineffectual and could not balance the 'extreme' positions of Kenya and Tanzania to keep the Community alive. More specifically, the perceptions of Tanzania and Kenya were totally inconsistent; and the two countries behaved as if the Community was a 'zero-sum game', or even a 'negative-sum game'. Kenya felt that it had not received enough benefits; and perceiving a Community which included Tanzania as a net liability she sought its dissolution. Tanzania, on the other hand, believed that she had been pushed to the limit, disadvantaged by Kenya so much that she saw the breakup as a positive gain:

Kenya and Tanzania had both come to see the costs of breakdown as lower than before - Kenya because it had solidified its hold on the Ugandan market and had opened up export drives for its manu-
factured goods elsewhere, and Tanzania because it saw its Railways and Harbours Corporation units as more financially viable and less technically dependent on Kenyan counterparts than before.97

It was because of these deeply divergent perceptions of the partner states, in particular Tanzania and Kenya, that the EA Community was mortally ill throughout 1976, and its curtailment and partial dismemberment were certain before February 1977:

The real point is that all three have simply drifted apart in their domestic and external policies and goals since the 'golden' years of 1963-67, when it was thought possible to capitalise on the administrative infrastructure inherited from the British, and to set up a viable Community with the various decentralised parastatal organisations. Instead of substantial economic cooperation drawing the members together politically, today they are not only much further apart but each has growing doubts about the actual relevance of that organisational relic of colonialism. To many, the Community has long outlived its usefulness.98

In December/January 1977, Nyerere strongly attacked Kenya because the latter sought to alter EAC structures in its favour, viewed the common market and corporations as Kenya's property, and treated Uganda and Tanzania as poor partners accepted only on Kenyan sufferance.99 He also restated Tanzania's demand for more equitable distribution of benefits, more planned and balanced interstate trade and production, and warned that its continuation in the Common Market with Kenya was dependent on the continued joint operation of the corporations, in particular East African Airways.100

Kenya flatly rejected Tanzania's proposals, accused her of benefiting from the Corporations at the expense of Kenya,
and objected to the imposition of improper barriers against its exports to Tanzania and transit traffic to Zambia.\textsuperscript{101}

With the failure to agree upon reform measures on either the Authority or the Treaty Review Commission, the process of disintegration accelerated. Ironically, the problems of East African Airways played a key role in bringing on the Community's final demise. By late January 1977 EAA had serious financial problems. Determined to dissolve the EA Community, Kenya started the move.\textsuperscript{102} Because she believed that most of the EAA's domestic deficits were on Tanzanian and Ugandan routes, Kenya insisted on cutting back the services.\textsuperscript{103} Consequently, Tanzania and Uganda withheld payment of funds destined for the EAAC's regional headquarters in Nairobi. Short of operating funds, Kenya ordered the EAA fleet grounded in Nairobi on 28 January 1977, and announced the formation of a national airline.

Angered by the timing of the grounding, which interfered with its national celebrations, Tanzania closed the border with Kenya on 3 February 1977, denied landing rights to the new Kenya airways, and seized vehicles with Kenyan registration.\textsuperscript{104} The breakup of the Railways, Harbours, Post and Telecommunications corporations followed.

Last efforts to preserve at least a skeletal Community structure failed. Continued tension between Kenya and Tanzania over Nyerere's closure of the border and renewed Ugandan charges of Tanzanian plots against Amin made it difficult even to arrange a site for a meeting of the Finance Council. June ended with no agreement on the
Community budget for the 1977-78 fiscal year, and those services dependent upon the General Fund collapsed. The only exceptions to this were the East African Development Bank and the East African Management Institute. The units in each country were integrated into national corporation and departmental structures; and citizens working outside their own partner states returned home. Thus, like EAA, the Community died messily and brutally:

The East African Community died in the second half of 1976. It dies not with a bang but with a whimper, not in public confrontation but in a dialogue of the deaf in secluded conference rooms. The more traumatic events of the first half of 1977 were - even when intended as an electric shock treatment to jerk the EAC out of a coma - the rattle of clods on a coffin lid.

Uganda blamed both Kenya and Tanzania for breaking up the Community, while Kenya blamed Tanzania in particular. It was correct to place some blame on each other, but that was only part of the story. The truth is that there were very many factors that contributed to the dissolution of the Community. By 1975-76, the perceptions of the partner states had changed; and they were not interested in joint East African cooperation any further. Perceived as a zero-or-negative-sum game, the Community had no future:

The only reason why the Community broke up was a lack of political will to deal in a spirit of unity and in the awareness of our interdependence with the inevitable difficulties of international cooperation between poor countries.

With the disintegration of the EAC, the key remaining issue was how to divide the Community's assets and liabilities among its former members. In January 1978 Dr Victor Umbricht, a Swiss banker and economist, was chosen...
as mediator to assist in this task. Tanzania, however, made clear the need to apportion the EAC's debts before any discussion could begin on the reopening of the Kenyan-Tanzanian border.¹¹⁰

With Amin's overthrow by the Tanzanian-backed Ugandan liberation forces, and the partial thaw between Tanzania and Kenya which accompanied Daniel Arap Moi's accession to the Kenyan presidency, there may be hope for the revival of East African cooperation.¹¹¹
NOTES


4. The details of Idi Amin are discussed in subsequent pages.


7. Ibid.

8. The allocation of the income tax collections to the General Fund was based on 10 percent of personal incomes and 40 percent of profits from companies operating in East Africa.


25. R.H. Green, op cit, p.A60.


30. J. Ravenhill, op cit, pp.238-239.


34. Regional exports as a percentage of external exports declined from 21.5 percent in 1966 to 15.3 percent in 1973. Regional imports as a percentage of external imports declined from about 20 percent in 1966 to 13.1 percent in 1973. For more discussion on this subject see Review of Economic Integration Activities Within the East African Community 1973-74, op cit, pp.39-42.

35. A. Hazlewood, op cit, p.52.


37. R. Fredland, op cit, p.69.

38. A. Hazlewood, op cit, p.97.


40. A.P. Mahiga, op cit, pp.35-36.


49. Differences of approach and need were reflected in the number of airfields served in the respective countries. Uganda had regular East African Airways service at one location, Entebbe; Kenya at four; while Tanzania provided domestic air service to 20 locations.


52. R. Fredland, *op cit*, p.66.
58. Ibid.
61. R.H. Green, *op cit*, p.7.
65. R.H. Green, *op cit*, p.A64.
69. M.D. Segal, *op cit*, p.117.
70. Ibid, p.118.
72. According to EA Community regulations, almost the whole deficit in intercountry trade and the transfer of funds for the Corporations had to be met in hard currencies.

75. Ibid.
76. Ibid.
77. Ibid, p.104.
80. From 1971 to 1973, the EAC Secretariat strongly objected to the creation of ILRAD, sponsored by the Rockefeller Foundation and other donors, mainly because EAVRO was already engaged in the same type of research that ILRAD was expected to carry out.
82. D. Mazzeo, _op cit_, p.92.
84. Ibid.
86. A. Hazlewood, _op cit_, p.46.
87. J. Ravenhill, _op cit_, p.239.
88. Y. Ghai, _op cit_, p.60.
89. D. Mazzeo, _op cit_, p.93.
100. *Ibid*.
101. *Ibid*.
104. *Ibid*.

CHAPTER IV

PAST FAILURES AND THE PROSPECTS FOR
EAST AFRICAN COOPERATION

The history of regional cooperation among the three East African countries started with the East African High Commission and East African Common Services Organisation which were coordinated from Nairobi-Kenya. This original structure derived from the settler influence in Kenya and the British Government fostered the idea of integration in East Africa. With administrative and economic structures well established in Kenya, Britain found it convenient to make the country (Nairobi in particular) the centre of the integration scheme in East Africa. Unwittingly, the British Government established Nairobi as the sub-centre for the East African countries in the hope (proved wrong by history) that it would provide the nucleus of development for the whole of East Africa through spill-over effects.

Because Kenya derived more benefits from the Common Market and Common Services than the other two countries, Tanzania and Uganda became resentful against her. Several attempts were made to rectify these imbalances but failed. These included a distributable pool which was created following the report of the Raisman Commission in 1961; and the Kampala Agreement of 1965.

In addition, the British colonial presence in East Africa kept the three countries administratively close but politically distinct. The political histories of the three
countries were so different that efforts by three Presidents to synchronise their independence dates and form an East African Federation failed. Thus, the integration arrangements that existed before 1967 contained many shortcomings which in actual fact accentuated the lopsided development among the three countries.

The Treaty for East African Cooperation which came into force in December 1967 was imaginative and far-sighted in respect of the overall regional integration scheme. The attempt to relocate the headquarters of the six important institutions on a 2:2:2 basis among the partner states was a worthwhile move. Unfortunately, speedy implementation was retarded by those who stood to lose on the new arrangements. Another measure to revamp the EA integration scheme was that related to the decentralisation of the Corporations through the establishment of strong and functionally comparable regional headquarters in the partner states.

Again, implementation of this measure was so slow that up to the time of breakup of the EAC there was no corporation which had implemented decentralisation measures as envisaged by the Treaty. Full implementation of these two measures would perhaps have produced a strong integration scheme with respect to the Corporations.

The EAC lived by crisis management and when the crisis got out of hand, it died. The problems which led to its collapse started with the Corporations. Indeed, at the root of the transfer of funds problems was the struggle by the less developed members of the Community to effect full implementation of the measures provided for in the Treaty. Because there was mutual distrust and suspicion about the
long term future of the Corporations, each partner state wanted to hang on to such assets as it could.

Undoubtedly, the underlying economic problem which beset the EAC was the failure of the Common market to achieve equitable distribution of benefits among the partner states. It can be argued that the member countries had competitive rather than complementary economic systems. With the failure to implement the Kampala Agreement, one can understand why there was no provision for East African industries in the Treaty.

But the question of redistribution of benefits from the EAC was so contentious that by 1975-76 the perceptions of the partner states, in particular Tanzania and Kenya, were totally inconsistent. Throughout the life of the Community, Tanzania felt that Kenya got more benefits than the less developed partners. This issue created bitterness and tensions among the partner states and strained their relations in the Community. Tanzania's position was that regional industrial planning was the only satisfactory answer to the distribution crisis that plagued the EAC. Unless the Common Market was restructured and there was more planned and balanced interstate trade and production, Tanzania was not willing to continue with joint operations of the Community.

Kenya totally refused Tanzania's demands. Instead it was determined to act on its 'free trade' proposals. Thus, the Community collapsed because by 1976 Kenya believed that its gains from the EAC were lower than the costs, and could not accept anything less than a restored free trade region. Therefore, one can understand why, when the idea of regional
industries was brought up again by Tanzania during the Treaty Review Commission, Kenya pointed out that the issue was a 'non-starter' to negotiations on the Common Market. But the idea of regional industries was to add much strength to the integration arrangements and provide the Common Market with the capacity for cohesion. With the complete absence of coordinated industrial planning, the issue of redressing imbalance in economic development was mere rhetoric.

Apart from conflicts of the Corporations and the Common Market, there were political problems. The hostility between Presidents Nyerere and Amin prevented the convening of the Authority. The ideological disparity especially between Kenya and Tanzania exacerbated relations which might otherwise have been smoothed over. Because the two countries applied different perspectives to common Community activities, there was little common ground for cooperation. And, as Amin became increasingly dependent on Libya, Uganda's economy decayed to the point that it was inconsequential in the Community.

Similarly, during the last years of the Community, Tanzania was distracted from the Community. As the conflict in Southern Africa intensified, her political focus moved towards the south for she saw that the 'Southern connection' offered her a more promising future than her traditional partners. The fact that she was also a beneficiary of Chinese assistance, through the construction of the Tazara Railway that linked Tanzania and Zambia, eroded her commitment to the Community. Further, the geopolitical and economic interests of the superpowers as well as the
multinational corporations affected the international climate in which the three Community partners operated. Because each member was affiliated to a great power, the net effect of those international relations was the furtherance of disintegrative forces within the Community.

It is difficult to ascribe the failure of the Community to any single factor; rather it was the result of a combination of several negative forces. Perhaps the most important single factor was the absence of complementarity of economic systems. The absence of political will which would have presumably led to coordinated industrial development was exacerbated by many similar aspects of the three economies. When the East African Community is compared with the relatively robust European Community, one can conclude that the former was viewed from the national perspective and its economic activity was primarily competitive, whereas the latter is clearly international in its vision and more cooperative and integrative in its operations. The fundamental problem was that, as time passed, the partner states saw the Community as a negative-sum game from which none could benefit.

Indeed, the EAC collapsed because the process of reorganisation and restructuring was too painful for the parties concerned to bear. But it was this type of restructuring which was necessary to bring about a robust and meaningful integration scheme. It was only through the effective surrender of economic and political power by the partner states to the supranational authority that the Common Market and other integrative institutions could survive.
In summary, we can conclude that the regional integration scheme which operated in East Africa from 1967 to 1977 was economically beneficial to all participants. The arrangements were established in the belief that they would accelerate the rate of development in the region, spread the benefits of development more widely and equitably and probably lead to political integration among Kenya, Tanzania and Uganda. Because the partner states lacked political commitment to sustain the East African Community, the Organisation collapsed despite the economic benefits it had conferred. Once again it was clearly proven that in political reality countries act on their own perceived national political interests and not regional unity nor necessarily economic interests.

FUTURE EAST AFRICAN COOPERATION

In the light of the past fourteen years of regional cooperation in East Africa one can make two safe predictions: (i) the fate of the East African Community as it had been conceived in the Treaty of 1967 has been sealed once and for all. Nonetheless, (ii) the three East African states are interdependent and still have economic interest in doing business with each other. Consequently there will be a multitude of proposals, a number of institutions and at least some limited ventures of economic cooperation. Whether these economic interests will lead in the long term to the resurrection of ideas of a larger East African Economic grouping remains a matter of speculation.

With the fall of Amin in 1979, efforts were made to re-establish law and order, as well as create an effective
administration in Uganda. National elections were held in 1980, and the former leader, Dr Milton Obote, was reinstated as the President of Uganda. Subsequently, new interest and the idea of reviving East African cooperation was voiced, particularly by Presidents Obote and Nyerere:

We do not want the breakup of the Community to be an excuse for abandoning efforts to build economic cooperation in East Africa. It is true that we cannot revive the Community as it was. But we can, if we wish, begin cooperation on a new basis. The three countries of Kenya, Uganda and Tanzania are bound together by geography and history. It is impossible to talk about African cooperation without talking about cooperation in East Africa.1

It should be remembered that Tanzania had refused to reopen the border with Kenya until a solution was reached on the redistribution of the assets and liabilities of the defunct East African Community. Dr Victor Umbricht, the Swiss mediator from the World Bank, spent six whole years trying to negotiate an agreeable formula with the ex-partner states on the problem. Eventually, an amicable settlement on the division of assets and liabilities was reached in May 1983. The three Presidents, Nyerere, Moi and Obote, met in Arusha on 14 May 1983 and signed an agreement which divided the assets according to a formula worked out by the mediator. Assets totalled T shs.12 billion.2 Kenya got 42 percent; Tanzania 32 percent and Uganda 26 percent. In addition, Kenya and Tanzania agreed to pay Uganda shs.2.36 billion and shs.1.26 billion respectively as a compensation for its shortfall in assets.3

The result of the Arusha agreement was the reopening of the Kenya-Tanzania border in November 1983. It is significant to point out that while the three East African
countries are interested in re-establishing economic cooperation with each other, Uganda is in no position to take serious initiatives. This is because it lacks economic power, and since President Obote was overthrown again by a military regime in 1985, the country has remained in political chaos.

Nevertheless, since the border was reopened, there have been discussions at ministerial, district and local levels with a view to thrashing out particular problems, and exploring possibilities of cooperation in areas such as trade, industry, transport and communications, research and health. Unfortunately, the process of normalisation between the three countries has been slower than expected, and as such no substantive progress in economic cooperation has been achieved. It is essential to note that meetings are now held 'bilaterally' and any agreement reached is on a bilateral basis and not communal as was the case with the East African Community. In other words, it is a 'Bilateral Agreement' between either Kenya and Tanzania, Kenya and Uganda, or Tanzania and Uganda.

Kenya would like to re-establish trade relations with Tanzania at the point it left off in 1977 (when the border closed), but this time circumstances have changed. Both Kenya and Tanzania are short of the foreign currency necessary to buy the raw materials and spare parts to increase industrial production. Kenya is also capable of selling excessive products to Tanzania such as toothpaste, detergents, footwear, textiles, soap, cement and edible oils, but would want to be paid in convertible currency. Unfortunately, Tanzania does not have the foreign exchange
to buy these goods. In addition, Tanzania prefers to concentrate its resources on raising the production capacity of its own industries, rather than importing industrial goods from Kenya. In order to ease the question of foreign exchange or convertible currencies, Tanzania has talked about the introduction of barter trade along the common border of the two countries. Apparently, Kenya is not very keen on the idea. Subsequently, Kenyan businessmen are dismayed by the conditions imposed by Tanzania for the resumption of trade between the two countries.

Tourism is another area in which both Kenya and Tanzania can greatly benefit. Talks on jointly operating tourism began immediately after the reopening of the border, but then stalled. Tanzania wants the Kenyan vehicles to drop tourists at the border or some other tourist rendezvous in Tanzania so that its tourist operators can take over and reap some foreign exchange rewards.6

An important step towards cooperation occurred before the signing of the Arusha accord when it was announced that Kenya and Tanzania would reopen passenger and freight rail links between the two countries. In early May 1984, Kenya and Tanzania agreed to revive passenger and freight transport between them, and as a result air transport links were renewed as both Kenya Airways and Air Tanzania opened routes across the border. However, Tanzania's and Kenya's independent railways and airlines are money-losers.7 A real step forward would be the kind of cooperation that might result in the rebirth of East African Airways and East African Railways. Unfortunately, in the meantime such an idea is not envisaged.
Tanzania also remembers the damage caused by Kenya's heavy trucks on its roads. Although it has allowed Kenyan goods to be shipped to Southern and Central African markets via Tanzania, these must be shipped to Dar-es-Salaam and then railed up the Tazara railway. Kenyan exporters, however, are nervous about the poor and inefficient services of the line.

These are some of the major problems that must be resolved before normal trade relations are restored between the two East African countries. They hinge on the fact that Kenya has a strong private enterprise sector that is more than a match for Tanzania's largely public sector. There are also significant barriers to open trade relationships which result out of exchange rate discrepancies. Despite Tanzania's late signs of pragmatism in reviving its economy, there is not much hope that it will compromise on its socialist ideals.

As has been mentioned earlier, agreements are now bilateral and not communal. At the moment, Tanzania and Kenya have agreed in principle to cooperate in areas of trade, tourism and transport and communications. Certain agreements have been worked out but have been neither signed nor ratified. There is also a bilateral agreement known as the 'Joint Commission of Cooperation between Tanzania and Uganda'. Areas covered in this agreement are trade, industries, finance and health.

However, it should be pointed out that, despite these bilateral agreements, no effective economic cooperation has taken place between countries. This is largely because of technical and operational problems, and the fact that the
normalisation process between the three East African countries is not completed yet. There is still a feeling of mutual distrust and suspicion between the ex-partner states about conducting business with each other. In fact, there is a widespread agreement (at least privately among the Community residents), that the situation which led to the breakup of the EAC still exists: an economically dominant Kenya is in ideological opposition to Tanzania, and Uganda is caught in the middle.

One can argue that, unless these problems are tackled in a new spirit of 'Eastafricanness', effective cooperation will be difficult. Not only technical and ideological problems but also certain economic realities and concessions would have to be perceived very differently and renegotiated. Kenya would have to agree to some of Tanzania's demands in such areas as the restructuring of the Common Market, a shift to more balanced trade and a move towards more regional industrial planning. Tanzania would have to accept Kenya's private interest in transport competition between road and rail, allow its roads to be used by Kenya's heavy vehicles when conducting trade relations with Zambia and permit tourists using Kenyan vehicles to view game parks in northern Tanzania. On the other hand, Uganda's capacity to make concessions of any kind to Kenya or Tanzania would depend on restoration of its political stability, maintenance of a national government and the revival of its economy.

Perhaps above all, beyond technical, ideological and specific economic considerations, the success or failure of any future East African economic cooperation will depend
very much on the good will of the three countries, and how flexible and compromising they are willing to be, particularly on their different ideologies. To succeed this time the three East African leaders will require a gigantic act of good faith, and sometimes to be willing to make temporary national sacrifices for their nations' future common good.

In short, future East African cooperation can only succeed if there is political will, mutual respect, tolerance and political courage between the three countries, and an agreement on the question of the distribution of costs and benefits.
NOTES


3. Ibid, p.43.


6. F. Karashini, op cit, p.43.


8. L.O. Odera, op cit, p.45.

9. 'Final Agreement Reached on EAC Breakup', op cit, p.41.
APPENDIX I

THE FEDERATION DECLARATION OF
5th JUNE, 1963

The following statement was issued in Nairobi on Wednesday, June 5, 1963 by the President of the Republic of Tanganyika, Dr. Julius K. Nyerere; the Prime Minister of Uganda Dr. Milton A. Obote; and the Prime Minister of Kenya, Mr. Jomo Kenyatta:

'We, the leaders of the people and Governments of East Africa assembled in Nairobi on June 5, 1963, pledge ourselves to the political Federation of East Africa.

'Our meeting today is motivated by the spirit of Pan-Africanism and not by mere selfish Regional interests. We are nationalists and reject tribalism, racialism or inward looking policies. We believe that the day of decision has come and to all our people we say there is no more room for slogans and words. This is our day of action in the cause of the ideals that we believe in and unity and freedom for which we have suffered and sacrificed so much.

'Within this spirit of Pan-Africanism and following the declaration of African unity at the recent Addis Ababa conference practical steps should be taken wherever possible to accelerate the achievement of our common goal.

'We believe that the East African Federation can be a practical step towards the goal of Pan-African unity. We hope that our action will help to accelerate the efforts already being made by our brothers throughout the Continent to achieve Pan-African unity.

'We share a common past and are convinced of our common destinies. We have a common history, culture and customs which make our unity both logical and natural. Our futures are inevitably bound together by the identical aspirations and hopes of our peoples and the need for similar efforts in facing the tasks that lie ahead of each of our free nations.

'In the past century the hand of Imperialism grasped the whole Continent and in this part of Africa our people found themselves included together in what the Colonialists styled "The British sphere of influence". Now that we are once again free or are on the point of regaining our
freedom we believe the time has come to consolidate our unity and provide it with a constitutional basis.

For some years we have worked together in the PAFMECA where we have accepted common objectives and ideas and created the essential spirit of unity between ourselves and among our people. We are happy that with KANU's victory in the Kenya elections we now have in the three East African countries Governments which are fully committed to genuine African nationalism and Pan-African unity.

For 40 years the Imperialists and local settler minorities tried to impose political federation upon us. Our people rightly resisted these attempts. Federation at that time would quickly have led to one thing—a vast White dominated dominion.

The East Africa High Commission and its successor the Common Services Organization have taught us the value of links in the economic field. Indeed it was the recognition of the value of these connections which led the two fully Independent members to agree to continue participation after they had achieved their freedom. In many practical ways we already are co-operating—in scientific research, in communications and in postal services. An important factor in view of our determination to achieve Federation is the existence of shared currency; a leading aspect of economic working together is the functioning of the E.A. Common Market.

Thus the value of working together has been adequately demonstrated in the E.A.C.S.O. and in the Common Market but the scope for further joint action remains wide. Economic planning, maximum utilisation of manpower and our other resources, the establishment of a Central Bank and common defence programme and foreign and diplomatic representation are areas in which we need to work together. Such approach would provide greater co-ordination and savings in both scarce capital, facilities for training and manpower. What is more we would have a total population of some 25 million people—a formidable force and a vast market to influence economic development at home, attract greater investment and enhance our prestige and influence abroad.

The movement towards popular Government and Independence in our various countries of recent years has brought forward the issue of truly popular Governments in each country and removes fears of minority or settler domination under Federation.

We believe a political Federation of East Africa is desired by our peoples. There is throughout East Africa a great urge for unity and an appreciation of the significance of Federation.

We are aware that local and territorial factors have to be taken into account. We firmly believe that ways can be devised of overcoming
any fears and of surmounting such difficulties. Special attention will be paid to the accommodation of relevant territorial interests in drawing up the constitution of the East African Federation. We believe, in fact, that some of these territorial problems can be solved in the context of such an East African Federation.

'As already mentioned we have some basis for a joint endeavour in the political as well as in the economic spheres. The Common Services authority was conceived as a body for this purpose although up to now its functioning was greatly hampered partly by the sharing of Kenya representation on the Authority but largely by the lack of central political direction. The various Ministerial committees and the Central Legislative Assembly, especially since it became properly representative have demonstrated the need for such direction.

'We are convinced that the time has now come to create such central political authority.

'Having stated our aims we wish now to announce the steps we are taking to achieve the implementation of these aims.

'A Working Party is being established which will prepare a framework of a draft constitution for the Federation of East Africa. It will report back to a full Conference of East African Governments. In its work it will consult with the three Governments and with their consent may co-opt constitutional or other experts. The E.A.C.S.O. will be associated with these deliberations.

'In the third week of August a full scale Conference will be convened to consider the proposals of the Working Party.

'At this point we must express our happiness at the victory of KANU in the Kenya elections. While welcoming the results of the Kenya elections, we must declare most strongly our opposition to any attempt to delay the country’s achievement of Independence any longer. The ruling party has a clear mandate for Independence and we must regard it as an unfriendly act if Britain uses the pretext of some minority interest or other to prevent Kenya joining the free nations at the earliest possible moment. We are closely involved in this matter now since a hold-up in Kenya’s advance to Independence will hinder the achievement of Federation to which we are committed. The three Governments, having agreed to the establishment of a Federation this year, expect the British Government to grant Kenya’s Independence immediately.

'Although Zanzibar is not represented at this conference we must make it clear that that country is invited to participate fully in our plans for Federation.

'As soon as Zanzibar has held its elections next month its Government will be invited to take part in the functioning of the Working Party
and of any other body which may be set up as a result of our plans to build a Federation.

'We reiterate that our plans for the Federation of East Africa are the logical promotion of the spirit of Pan-African unity and wish to make it, therefore, clear that any of our other neighbours may in future join this Federation.'
APPENDIX 2

KAMPALA AGREEMENT OF 1965

1. THE RECTIFICATION OF E.A. TRADE IMBALANCES

The Ministers have examined the problems of trade imbalances and consider that there are five ways in which these imbalances can be rectified. Use must be made of all five methods, but for the sake of convenience they are considered in the order in which they can be applied. The five methods are:

(a) Immediate action with certain interterritorially connected firms to increase production in a deficit country and thereby reduce imports from a surplus country.

(b) Agreement as to the immediate allocation of certain major industries.

(c) The application of a system of quotas and suspended quotas whereby exports from surplus countries would be progressively reduced, and local production increased in the deficit countries according to the building up of the productive capacity of the deficit country.

(d) Increased sales from a country in deficit to a country in surplus.

(e) Early agreement within the East African Common Market on a system of inducements and allocations of industry in order to secure the equitable distribution of industrial development as between the three countries.

2. IMMEDIATE ACTION WITH CERTAIN INTERTERRITORIALLY CONNECTED FIRMS

(a) It was agreed by the Ministers that in the case of four industries it was possible to make a direct approach to each firm because each of them has productive units both in a surplus country and also in a deficit country. These four firms were:

(i) East African Tobacco Co. Ltd.
(ii) Bata Shoe Company Ltd.
(iii) East African Breweries Ltd.
(iv) British Standard Portland Cement (Bamburi)

(b) The first three were interviewed by the Ministers for Commerce and Industry from Kenya and Tanganyika. In the case of tobacco, the firm had already sent some machinery to Dar es Salaam, and stated that by July 1964 it would be manufacturing in Tanganyika some 90 per cent of the Tanganyika consumption of cigarettes. They explained that the remaining ten per cent was taken up by brands of cigarettes which it would not be economic to manufacture except at one plant for the whole of East Africa. It was also agreed by the firm that they would consider very seriously, should any questions arise in future of manufacturing any further specialist brands which could only be manufactured in one country, whether these could be sited in Dar es Salaam rather than in Nairobi.

(c) In the case of footwear, the Bata Company which supplies approximately 70 per cent of the East African market, explained that they had followed a policy of specializing in their different plants so that production at the Dar es Salaam factory in no way duplicated production at Limuru. They stated that they had space at Dar es Salaam for expansion into another specialized line of shoes with leather uppers and rubber soles, and that this project would go ahead. This would have a production value of somewhat over £85,000 a year, and they would expect the plant to be in production by the end of this year. It was clear, however, that this action of Bata's, although desirable, would by no means eliminate the trade imbalance on these particular products. (A considerable quantity of footwear is bought by Kenya from Tanganyika, but an even greater amount by Tanganyika from Kenya. The imbalance is roughly £330,000.)

(d) As regards beer, the only firm with plants in both Kenya and Tanganyika is East African Breweries. This firm also has a Tanganyika firm, Kilimanjaro Breweries, with which it is associated. East African Breweries, and its associates, account for some 81,000 cases a month, against 15,000 cases from other independent breweries (two Kenya breweries and two Uganda breweries). East African
Breweries therefore have much the largest share of the market. They have an agreed plan to re-equip the Dar es Salaam brewery and double its output. They are also planning to increase the output of Kilimanjaro breweries by about 50 per cent. The re-equipment of the Dar es Salaam brewery calls for a total expenditure of £670,000, the bulk of which (£495,000) is for plant. This programme will take approximately 18 months to complete, but the start is delayed by negotiations over a plot of land in Dar es Salaam. When these two schemes for the breweries are completed, all beer sold by East African Breweries, or their associates, in Tanganyika will be brewed in Tanganyika, except for beer supplied to Tanga from Mombasa. To some extent this sale of Mombasa beer to Tanga will be offset by the sale of beer from Arusha into Kenya, but this is not yet developed on a large scale.

(e) As regards cement, the firm has already spent on the Dar es Salaam plant approximately £300,000 out of a total scheme value of £14 million. They have still to complete the civil engineering and building expenditure of approximately £600,000 together with a further £750,000 on plant. If no delays on either buildings or plant are experienced, they should be making their initial trials early in 1966, and should be producing cement for sale somewhere between April and June 1966. It was not possible for the Ministers to interview the cement firm in the time available, and the Minister for Commerce and Industry, Tanganyika, has said that he proposes to approach the firm in order to bring forward the completion date into 1965.

(f) The net effect in relation to the imbalance between Kenya and Tanganyika of these actions referred to above, would be to improve the balance in respect of tobacco by £700,000; for footwear by £100,000, for beer by £500,000, and for cement by £500,000, making a total of £1,800,000, or a net reduction of 24 per cent of the 1963 net trade imbalance.

(g) It is expected that similar action by the Ministers for Commerce and Industry for Kenya and Uganda in respect of these and/or other firms will have the following effects:

(i) The imbalance on cigarettes is at present approximately £328,000 in favour of Kenya. This will be substantially reduced.

(ii) The Bata Company has recently negotiated for a site in Kampala, and when in production, it is estimated that the factory will be able to supply at least 60 per cent of the Uganda market. This would amount to a reduction of £300,000 on imports from Kenya.

(iii) As there are many breweries involved in Kenya’s trade with Uganda, and because there are separately owned breweries in Uganda, it has not yet been possible to produce a plan for increasing the productive capacity for Uganda breweries. If necessary, however, the quota system as detailed below would be considered for application. This would involve approximately £80,000.

(iv) There is no direct connection between the Uganda cement firm and the other East African cement firms, and direct action with the major Kenya firm could not therefore be taken. It should be noted, however, that as a result of the action taken in respect of the Kenya-Tanganyika imbalance, both Uganda and Kenya may have to reserve their home markets for their own product and therefore seek to apply a quota against each other. (This is because with the setting up of the Tanganyika plant, all three countries will have a considerable excess capacity in cement.) The net effect of such action might reduce the imbalance by about £150,000.

(h) The total effect in reducing imbalances between Uganda and Kenya of these changes might be of the order of £650,000 which is equal to approximately 23 per cent of the overall imbalance.

(i) As regards the favourable Uganda balance with Tanganyika, the action taken with regard to cigarettes may have a reducing effect of the order of £200,000. The total in respect of beer could be reduced by £50,000, making an overall reduction for these two items of £250,000, or 17 per cent of the 1963 imbalance. There are no transfers between Uganda and Tanganyika for the other two industries.
3. IMMEDIATE ALLOCATION OF CERTAIN MAJOR INDUSTRIES

(a) The Ministers agreed that certain industries should be scheduled under the territorial Industrial Licensing Acts, and a declaration made in favour of an exclusive licence to a firm operating in the agreed territory. The industries concerned are:

(i) VEHICLE ASSEMBLY AND MANUFACTURE

It was agreed that Tanganyika should have the exclusive right to assemble and manufacture Land-Rovers.

It was further agreed that Tanganyika should be granted similar rights in respect of the assembly and manufacture of a type of lorry and truck (to be subsequently defined by Tanganyika). In regard to the lorry and truck industry it was agreed that:

(a) No one country should be accorded the monopoly of the whole East African market for lorries and trucks.

(b) Tanganyika should get a protected portion of the market, and is to put forward, within a reasonable time, an economically viable project to the Ministers for Commerce and Industry for consideration.

(c) Meanwhile no other country should set up an industry for assembling lorries and trucks before a decision on the above proposal has been reached.

(ii) BICYCLE MANUFACTURE

It was agreed that Uganda should have the sole rights in the manufacture of bicycles, and that assembly firms would have to buy those parts from Uganda that are being manufactured in Uganda.

(iii) ELECTRIC LIGHT BULBS

It was agreed that Kenya should have exclusive rights in the manufacture of electric light bulbs. The Minister for Commerce and Industry for Kenya will, however, consult with existing firms manufacturing neon and fluorescent tubes, and if necessary will make an application for the scheduling of this industry also.

(iv) RADIO ASSEMBLY AND MANUFACTURE

It was agreed that Tanganyika should have exclusive rights in radio assembly and manufacture. Reasonable arrangements will be made to safeguard the interests of existing assembly firms, provided that they purchase from Tanganyika those parts being manufactured in Tanganyika.

(v) NITROGENOUS FERTILIZERS

It was agreed that Uganda should have exclusive rights for the manufacture of nitrogenous fertilizers.

(vi) MOTOR VEHICLE TYRES AND TUBES

It was confirmed that Tanganyika should have exclusive rights in the manufacture of motor vehicle tyres and tubes.

(b) Although the effect of these allocations is expected to contribute towards a substantial improvement of the trading pattern, it is impossible at this stage to estimate exactly the size of this effect, because it is not possible to say when any of these units will come into production, nor what will be the trading pattern when they do come into production.

4. THE QUOTA SYSTEM

(a) It was agreed that a quota and suspended quota system should be applied in order to limit exports from surplus countries to deficit countries.

(b) A quota would be applied where there was existing productive capacity in the deficit country, and a suspended quota would be granted where the deficit country wished to develop productive capacity. In each case the quota concerned would be in respect of a particular product line.

(c) The detailed operation of the system is set out in Appendix I, and it is recommended that this should later be embodied in a formal exchange of letters. It
was agreed, however, that this quota system was not intended to be a permanent feature of the East African Common Market, and is intended only to assist in redressing trade imbalances. The system will, therefore, have to be kept under review.

5. INCREASED PURCHASES FROM DEFICIT COUNTRIES

It was agreed that deficit countries would increase their sales and surplus countries would increase their imports from deficit countries as quickly as possible. Both Uganda and Kenya listed some products which they could immediately purchase from Tanganyika. Kenya did the same for Uganda. The results of these efforts will be taken into account when establishing quotas.

6. FUTURE ALLOCATION OF INDUSTRY AND DIFFERENTIAL INCENTIVES TO INDUSTRY

It was agreed that in view of their complexity these subjects should be referred to a committee of industrial experts. The suggested terms of reference are given in Appendix II.

7. The Ministers agreed, however, that urgent action was needed in the case of incentives and that pending the report of the committee of experts, some incentives should be urgently considered by the Ministers for Finance in consultation with the Ministers responsible for Commerce, Industry and Communications.

8. As regards the time scale on which these five actions will take effect, the times for the actions in respect of tobacco, footwear, beer and cement have already been given in so far as these items relate to the existing imbalance between Kenya and Tanganyika. Agreements to allocate certain industries have also been reached, but the actual developing of these industries could be spread over a relatively long period of time, depending largely upon the technical and investment problems of each industry. In the case of quotas, these should be applied quickly once agreement has been reached by the Committee of Ministers for Commerce and Industry administering the system (as set out in Appendix I). As regards the future allocation of industries and the development of a system of industrial incentives, this will be determined in the light of the report of the committee of experts.

9. In considering the quota to be applied for the purpose of redressing current trade imbalances, account will be taken of the envisaged effect of the output of allocated industries, of quotas and suspended quotas already granted and of any increase in net exports from the country in surplus to the country in deficit.

10. Because the external trading policies of the three countries were outside the terms of reference of the Emergency Committee, and therefore could not be examined, imports from outside East Africa were not considered in devising the formula for calculating quota size. In certain cases, therefore, there may be no opportunity for an East African country in surplus to compete against imports from outside East Africa in a particular product line where a zero quota is imposed. The deficit country is therefore permitted to substitute first for imports from other East African countries before reducing its imports of the same product from outside East Africa.

11. As regards direct action to take up or increase productive capacity, it was agreed that where it was a question of excess capacity, it was understood that the firms concerned were to be told that, unless they complied with the joint governmental request, quota restrictions would be imposed in the immediate future. Where it was a question of installing new plant, it was understood that the firms concerned were to be told that again unless they complied with this request within the period of time necessary to introduce additional capital equipment, quota restrictions would also be imposed. It was agreed that in the event of quotas being imposed under these circumstances, it would be open to the country in deficit to import the commodity in question from sources outside East Africa.

12. As regards the possibility of surplus countries making greater purchases from deficit countries, it was agreed that this should be pursued. In some cases these possibilities can only become actual with the aid of a system of incentives, but there may be others where a relatively rapid increase in purchases could be made. Investigation of this has not been possible in the time available, but the Ministers for Commerce and Industry will take it up as a matter of urgency.
13. Without prejudice to the quota system it was agreed that free interterritorial movement of goods and commodities at reasonable prices could lead to a reduction in trade imbalances and urged action should be taken to review the present position, especially with regard to maize, wheat and sugar. Free movement should be the general rule, but it will be necessary for each item to be examined individually.

14. The Kenya delegation informed the Emergency Committee that its acceptance of the recommendations of the Report was subject to certain assumptions. The inclusion of these assumptions in the Report was not agreed by the Tanganyika delegation, firstly because they considered that some of them (i.e. the common services and a common currency) were outside the terms of reference of the Emergency Committee, and secondly because they have not in fact been discussed. The assumptions are set out in Appendix III.

APPENDIX I

OPERATION OF THE QUOTA SYSTEM

1. It was agreed that a system of quota restrictions on interterritorial imports should be brought into effect at the earliest opportunity, and that the responsibility for its administration should rest with a Committee consisting of the Ministers for Commerce and Industry of Kenya, Tanganyika and Uganda. It was agreed that the control of interterritorial trade subject to quotas should be effected through either a system of import or export licences or both. It would be open to the Ministerial Committee to decide which system was applicable in the case of a particular commodity. The administrative and financial responsibility for the licensing aspect of the system should rest with the administering country. The administrative and financial responsibility for strengthening border posts where necessary to control and check the interterritorial flow of trade should be borne by EACSO.

2. Although it was recognized that as a matter of principle it would be mutually beneficial to adopt a more flexible attitude towards interterritorial trade imbalances in particular commodities once the aggregate interterritorial trade imbalances had been eliminated, it was agreed that in order to achieve this end at least in part through a policy of import substitution, it was necessary, for the moment, to deal with each imbalance by product line.

3. It was agreed that in any one year quotas and suspended quotas might be introduced by a country in deficit on its interterritorial trade with another East African country to the extent of its interterritorial trade deficit in the previous year with that country. This figure would, however, be modified to take into account the envisaged effect of the output of allocated industries, quotas and suspended quotas already granted, and of any increase in net exports from the country in surplus to the country in deficit in the previous year.

4. As a general principle it was agreed that no country with a favourable balance in its interterritorial balance of trade should normally seek the application of quotas. However, there might be special cases where a country in surplus might apply quotas against a country in deficit. For example, where there is excess capacity in two or more countries in a particular product (e.g. cement), the application of a quota by one may require the application of quotas by either or both of the others. It was also agreed that when the overall deficit of a country in imbalance on its interterritorial trade with another East African country amounted to 20 per cent or less of its total exports to the other East African country, it would no longer be open to the country in deficit to apply for new quotas on its trade with the country in surplus. However, it was noted that the 20 per cent criterion should be open to periodic review by the Ministerial Committee on quotas.

5. Subject to these overriding conditions, quotas and suspended quotas might, with the approval of the Ministerial Committee, be imposed by any East African country which was in aggregate imbalance in its visible trade with another East African country on any particular product line in which its trade with that country was in deficit. provided that a firm could operate on an economically viable basis or expand its operations within the national market.
6. The size of the quota (allowed imports from the surplus country in a particular product line) shall be calculated by taking the amount of exports from the country in surplus to the country in deficit, minus the exports from the country in deficit to the country in surplus. As productive capacity in the country in deficit rises from its existing level, the quota will be reduced proportionately until the quota equals zero.

7. It was noted that considerable administrative care would be required in reducing the size of a quota by stages as a firm came into production in order to ensure the maintenance of East African output. It was also noted that there was a danger of stockpiling and speculation taking place during the period prior to a firm coming into production, and that it might be necessary to apply quotas to regulate the flow of trade in the commodity in question during this period.

8. It was agreed that a suspended quota might be imposed prior to a firm coming into production.

9. The quota should be imposed for an average period of five years, but in attaching a time period to the granting of quota protection, the Ministerial Committee should bear in mind the special circumstances of particular industries. Quotas granted to particular firms will continue in effect for the specified period even though the trade imbalance between the countries concerned has been rectified.

10. The term “product line” refers to a group of the commodity classification of the Annual Trade Reports of the East African Customs and Excise Department, provided that this broad definition may be varied in appropriate cases by the Ministerial Committee to refer instead to specific items within a group.

APPENDIX II

DRAFT TERMS OF REFERENCE FOR COMMITTEE OF INDUSTRIAL EXPERTS

The Committee of Industrial Experts should be charged with:—

(a) developing and evaluating lists of “East African Industries” in accordance with the following definitions:—

(i) An “East African Industry” is one which is economically feasible only if it has access to the entire market of East Africa.

(ii) An “East African Industry” is one which is economically feasible only if it has access to a market larger than that of any one country in East Africa.

(b) examining the basis for distribution of these industries, giving particular regard:—

(i) to economic feasibility;

(ii) to the need for an equitable distribution of industry;

(iii) to advising on measures for achieving rapidly an equitable pattern of industrial location.

APPENDIX III

STATEMENT BY KENYA DELEGATION

The Kenya delegation, in agreeing to the recommendations of this Report, has assumed that:—

(a) the East African Common Market will continue;

(b) the common services will continue;

(c) in particular there will continue to be a common single currency;

(d) all parties recognize the value of association in a common market in fostering the economic development of the whole area;

(e) all parties agreed that the common market can only survive if the benefits of this economic development are fairly shared between them.

On this basis, the Kenya delegation has agreed to submit this Report to the Heads of Government.
APPENDIX 3

TREATY FOR EAST AFRICAN
COOPERATION, 1967

WHEREAS the United Republic of Tanzania, the Sovereign State of Uganda
and the Republic of Kenya have enjoyed close commercial, industrial, and
other ties for many years:

AND WHEREAS provision was made by the East Africa (High Commission)
Orders in Council 1947 to 1961 for the control and administration of cer-
tain matters and services of common interest to the said countries and for
that purpose the East Africa High Commission and the East Africa Central Legislative Assembly were thereby established:

AND WHEREAS provision was made by the East African Common Services Organization Agreements 1961 to 1966 (upon the revocation of the East Africa (High Commission) Orders in Council 1947 to 1961) for the establishment of the East African Common Services Organization with the East African Common Services Authority as its principal executive authority and the Central Legislative Assembly as its legislative body:

AND WHEREAS the East African Common Services Organization has, since its establishment, performed on behalf of the said countries common services in accordance with the wishes of the said countries and its Constitution:

AND WHEREAS the said countries, while being aware that they have reached different stages of industrial development and resolved to reduce existing industrial imbalances, are resolved and determined to foster and encourage the accelerated and sustained industrial development of all of the said countries:

AND WHEREAS the said countries, with a view to strengthening the unity of East Africa, are resolved to abolish certain quantitative restrictions which at present affect trade between them and are desirous of pursuing a policy towards the most favourable development of the freest possible international trade:

AND WHEREAS the said countries having regard to the interests of and their desire for the wider unity of Africa are resolved to co-operate with one another and with other African countries in the economic, political and cultural fields:

AND WHEREAS the said countries are resolved to act in concert for the establishment of a common market with no restrictions in the long term on trade between such countries:

NOW THEREFORE the Government of the United Republic of Tanzania, the Government of the Sovereign State of Uganda and the Government of the Republic of Kenya

Determined to strengthen their industrial, commercial, and other ties and their common services by the establishment of an East African Community and of a Common Market as an integral part thereof

AGREE AS FOLLOWS—

PART I. PRINCIPLES

CHAPTER I. THE EAST AFRICAN COMMUNITY

Article 1

Establishment and membership of the Community

1. By this Treaty the Contracting Parties establish among themselves an East African Community and, as an integral part of such Community, an East African Common Market.

2. The East African Community is in this Treaty referred to as ‘the Community’ and the East African Common Market is referred to as ‘the Common Market’.

3. The members of the Community, in this Treaty referred to as ‘the Partner States’, shall be the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya.

Article 2

Aims of the Community

1. It shall be the aim of the Community to strengthen and regulate the industrial, commercial, and other relations of the Partner States to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities the benefits whereof shall be equitably shared.

2. For the purposes set out in paragraph 1 of this Article and as hereinafter provided in the particular provisions of this Treaty, the Community shall use its best endeavours to ensure—

(a) the establishment and maintenance, subject to certain exceptions, of a common customs tariff and a common excise tariff;

(b) the abolition generally of restrictions on trade between Partner States;

(c) the inauguration, in the long term, of a common agricultural policy;

(d) the establishment of an East African Development Bank in accordance with the Charter contained in Annex VI to this Treaty;

(e) the retention of freedom of current account payments between the Partner States, and freedom of capital account payments necessary to further the aims of the Community;

(f) the harmonization, required for the proper functioning of the Common Market, of the monetary policies of the Partner States and in particular consultation in case of any disequilibrium in the balances of payments of the Partner States;
(g) the operation of services common to the Partner States;
(h) the co-ordination of economic planning;
(i) the co-ordination of transport policy;
(j) the approximation of the commercial laws of the Partner States; and
(k) such other activities, calculated to further the aims of the Community, as the Partner States may from time to time decide to undertake in common.

Article 3

Institutions of the Community
1. The institutions of the Community (established and regulated by Parts III and IV of this Treaty) shall be—
   the East African Authority
   the East African Legislative Assembly
   the East African Ministers
   the Common Market Council
   the Common Market Tribunal
   the Communications Council
   the Finance Council
   the Economic Consultative and Planning Council
   the Research and Social Council,
   and such other corporations, bodies, departments, and services as are established or provided for by this Treaty.
2. The institutions of the Community shall perform the functions and act within the limits of the powers conferred upon them by this Treaty or by any law.
3. The institutions of the Community shall be assisted in the exercise of their functions by a central secretariat of officers in the service of the Community.
4. Persons employed in the service of the Community, the Corporations or the Bank, and directors and alternate directors of the Bank—
   (a) shall be immune from civil process with respect to acts performed by them in their official capacity; and
   (b) shall be accorded such immunities from immigration restrictions or alien registration, and where they are not citizens of a Partner State, such facilities in relation to exchange regulations, as the Authority may determine.
5. Experts or consultants rendering services to the Community, the Corporations or the Bank shall be accorded such immunities and privileges in the Partner States as the Authority may determine.

Article 4

General undertaking as to implementation
The Partner States shall make every effort to plan and direct their policies with a view to creating conditions favourable for the development of the Common Market and the achievement of the aims of the Community and shall co-ordinate, through the institutions of the Community, their economic policies to the extent necessary to achieve such aims and shall abstain from any measure likely to jeopardize the achievement thereof.

PART II. THE EAST AFRICAN COMMON MARKET

Chapter II. External Trade

Article 5

Common customs tariff
1. The Partner States, recognizing that a common external customs tariff is a basic requirement of the Common Market and subject to paragraphs 2 and 3 of this Article, agree to establish and maintain a common customs tariff in respect of all goods imported into the Partner States from foreign countries.
2. A Partner State may, with the agreement of the Ministers of the Partner States responsible for public finance, depart from the common external customs tariff in respect of the importation of a particular item into that State.
3. The Partner States agree to undertake early consultations in the Common Market Council with a view to the abolition generally of existing differences in the external customs tariff.

Article 6

Remission of customs duty
1. The Partner States agree not to exempt, remit or otherwise relieve from payment of customs duty any goods originating in a foreign country and imported by the Government of a Partner State if—
   (a) such goods are imported for the purpose of resale or for any purpose other than consumption or use by that Government; and
   (b) in the case of goods provided by way of aid, by any government or organization, either gratis or on terms less stringent than those appropriate to ordinary commercial transactions, such goods are
intended for the purpose of resale or consumption in, or are transferred to, any country other than the Partner State which is the recipient of such goods.

2. The Partner States agree that the Community and the Corporations shall be enabled to import free of customs duty any goods required for the purpose of their operations except such goods as are intended for sale, or are sold, to the public.

Article 7

External trade arrangements

No Partner State shall enter into arrangements with any foreign country whereunder tariff concessions are available to that Partner State which are not available to the other Partner States.

Article 8

Deviation of trade resulting from barter agreements

1. If as a result of any barter agreement involving a particular kind of manufactured goods, entered into between a Partner State or any body or person therein, and a foreign country, or any body or person therein, there is, in respect of that kind of manufactured goods, a significant deviation of trade away from goods coming from and manufactured in another Partner State to goods imported in pursuance of that agreement, then the Partner State into which such goods are so imported shall take effective measures to counteract such deviation.

2. In paragraph 1 of this Article 'barter agreement' means any agreement or arrangement by which manufactured goods are imported into a Partner State, being goods for which settlement may be effected, in whole or in part, by the direct exchange of goods.

3. In order to determine whether a deviation of trade in a particular kind of manufactured goods has occurred for the purposes of this Article, regard shall be had to all relevant trade statistics and other records concerning that kind of manufactured goods of the East African Customs and Excise Department for the six months immediately preceding a complaint that a deviation has occurred and to the average of the two comparable periods of six months in the twenty-four months which preceded the first importation of goods under the barter agreement.

Chapter III. INTRA-EAST AFRICAN TRADE

Article 9

External goods—general principles

1. The Partner States agree that where customs duty has been charged and collected on any goods imported into a Partner State (hereinafter in this paragraph referred to as 'the importing State') from a foreign country then such goods shall not be liable to further customs duty on transfer to any other Partner State (hereinafter referred to as 'the receiving State'); Provided that where the rate of customs duty applicable to such goods in the receiving State exceeds that charged and collected in the importing State any excess of duty so arising may be charged and collected.

2. Each of the Partner States shall grant full and unrestricted freedom of transit through its territory for goods proceeding to or from a foreign country indirectly through that territory to or from another Partner State; and such transit shall not be subject to any discrimination, quantitative restrictions, duties or other charges levied on transit.

3. Notwithstanding paragraph 2 of this Article—

(a) goods in transit shall be subject to the customs laws; and

(b) goods in transit shall be liable to the charges usually made for carriage and for any services which may be rendered, provided such charges are not discriminatory.

4. The Partner States agree that each Partner State shall be entitled to prohibit or restrict the import from a foreign country into it of goods of any particular description or derived from any particular source.

5. Where goods are imported from a foreign country into one Partner State, it shall be open to each of the other Partner States to restrict the transfer to it of such goods whether by a system of licensing and controlling importers or by other means:

Provided that, in the application of any restriction referred to in this paragraph, regard shall be had to the practicability of such restriction where goods have been repacked, blended, or otherwise processed.

6. The provisions of paragraphs 4 and 5 of this Article shall not apply to any goods which, under the provisions of Article 11 of this Treaty, fall to be accepted as goods originating in a Partner State.

Article 10

Customs duty collected to be paid to consuming State

1. Where any goods, which are imported into a Partner State from a foreign country and in respect of which customs duty has been charged
and collected in that State (in this paragraph referred to as 'the collecting State') are transferred to one of the other Partner States (in this paragraph referred to as 'the consuming State'), the following provisions shall apply—

(a) if the duty collected in the collecting State was a specific duty or if the goods are transferred to the consuming State in their original packages, the collecting State shall pay the full amount of the duty collected to the consuming State;

(b) if the duty collected in the collecting State was an ad valorem duty and the goods are transferred to the consuming State other than in their original packages, the collecting State shall pay to the consuming State an amount equal to 70 per cent of the duty which would have been payable if the value of the goods for duty had been taken to be the ordinary retail price; and for this purpose 'ordinary retail price' means the price at which the goods could be expected to sell at the time and place of their transfer to the consuming State:

Provided that the Authority may by order from time to time alter the amount to be paid by the collecting State to the consuming State under this sub-paragraph and the method of calculation thereof;

(c) if the duty collected was an ad valorem duty and the goods are transferred other than in their original packages and an alteration of the relevant tariff has been made in the collecting State within a material time, then, for the purpose of calculating the sum to be paid under sub-paragraph (b) of this paragraph, duty shall be deemed to have been collected in accordance with the tariff actually in force six weeks before the transfer of the goods.

2. Where any goods, which are imported from a foreign country into a Partner State (in this paragraph referred to as 'the importing State') are chargeable to customs duty in that State, but the duty has been remitted either in whole or in part, and are subsequently transferred to one of the other Partner States (in this paragraph referred to as 'the consuming State') the importing State shall, notwithstanding the said remission, pay to the consuming State the amount which would have been paid to the consuming State in accordance with paragraph 1 of this Article had the duty been collected but to the extent only that such duty would have been chargeable and collected if the goods had been imported directly into the consuming State.

Article 11

No internal tariff on East African goods

1. Except as is provided in paragraph 2 of this Article no Partner State shall impose a duty in the nature of a customs duty or import duty in respect of goods which are transferred to that Partner State from one of the other Partner States and originate in the Partner States.

2. Paragraph 1 of this Article is subject to the rights and powers of Partner States to impose transfer taxes in accordance with and subject to the conditions contained in this Treaty.

3. For the purpose of this Treaty, goods shall be accepted as originating in the Partner States where—

(a) they have been wholly produced in the Partner States; or

(b) they have been produced in the Partner States and the value of materials imported from a foreign country or of undetermined origin which have been used at any stage of the production of the goods does not exceed 70 per cent of the ex-factory value of the goods.

4. Rules for the administration and application of this Article are contained in Annex I to this Treaty.

5. The Common Market Council shall from time to time examine whether the rules contained in Annex I to this Treaty can be amended to make them simpler and more liberal and to ensure their smooth and equitable operation, and the Authority may by order from time to time amend or add to Annex I.

Article 12

No quantitative restrictions on East African goods

1. Except as is provided in this Article, each of the Partner States undertakes that, at a time not later than the coming into force of this Treaty, it will remove all the then existing quota, quantitative or the like restrictions or prohibitions which apply to the transfer to that State of goods originating in the other Partner States (including agricultural products) and, except as may be provided for or permitted by this Treaty, will thereafter refrain from imposing any further restrictions or prohibitions:

Provided that this paragraph shall not preclude a Partner State introducing or continuing or executing restrictions or prohibitions affecting—

(a) the application of security laws and regulations;

(b) the control of arms, ammunition and other war equipment and military items;

(c) the protection of human, animal or plant health or life, or the protection of public morality;

(d) transfers of gold, silver and precious and semi-precious stones;

(e) the control of nuclear materials, radioactive products or any other material used in the development or exploitation of nuclear energy; or
Article 14

The Authority may, from time to time amend or add to Annex III to this Treaty.

Article 15

Customs duties on goods used in manufacture

1. Where goods which are imported into a Partner State from a foreign country and in respect of which customs duty is charged and collected in that State (in this Article referred to as the "collecting State") are subsequently transferred to another Partner State (in this Article referred to as the "transferred State") and manufactured in the latter State, the customs duties charged and collected in the collecting State shall be replaced by an equivalent payment to the collecting State in respect of the amount of the duty charged on the goods for which duties have been charged in the collecting State.

2. Where customs duties are charged on goods imported into both Partner States, the customs duties charged in the collecting State shall be replaced by an equivalent payment to the collecting State in respect of the amount of the duty charged on the goods for which duties have been charged in the collecting State.

Annex III to this Treaty. The customs duties referred to in paragraph 1 of Article 12 of this Treaty, on agricultural products, shall be the extent set out in Annex III to the Treaty. The rights to import quantitative restrictions on agricultural products which are basic staple food or major export crops, subject to tariff duties and special marketing arrangements and listed in Annex III to the Treaty, shall be transferred to the importing State and any State which may be a member of the Community at the time of its accession to the Community.
"Discriminatory purchasing" means any arrangement, or practice whereby a Partner State or any body or person therein gives preference to the purchase of goods originating within the Partner States, available on comparable terms including price.

CHAPTER IV. EXCHANGE GOODS

Article 17

Common excise tariff

1. Subject to paragraphs 3 and 4 of this Article, the Partner States agree to establish and maintain a common excise tariff in respect of excisable goods manufactured, processed, or produced in the Partner States,

2. For revenue purposes, a Partner State may, in special circumstances and after consultation between the Member States, derogate from the common excise tariff in respect of particular excisable goods originating in that State:

3. The Partner States acknowledge their intention to remove presently existing differences in the excise tariff which, in the interests of the proper functioning of the Common Market.

Article 18

Excise duty to be paid in consuming State

1. Where goods which are liable to excise duty in one of the Partner States are transferred to another Partner State (in this Article referred to as the collecting State), the excise duty is payable in the collecting State, but in respect of the consumption of the goods in that State;

2. Where the rate of excise duty in force in respect of the consuming State is higher than in force in respect of the collecting State, the owner of other transfer of goods referred to in paragraph 1 of this Article.

3. The Partner States agree to the payment of an excise duty which is the sum of the differences in the excise duties in force in the consuming State and the collecting State, together with any other customs duties or any other levies which may be applied to the goods in the collecting State.

4. The rate of excise duty in force in the collecting State shall be that in force in respect of the consumption of the goods in that State, and shall be paid in the collecting State.
Article shall receive from the East African Customs and Excise Department, on proof of transfer to the consuming State, a refund of the difference between those rates of duty.

3. The East African Customs and Excise Department shall, in respect of goods liable to excise duty transferred from the collecting State to the consuming State, pay to the consuming State the amount of the excise duty collected at the rate in force in that State.

Chapter V. Measures to Promote Balanced Industrial Development

Fiscal incentives

Article 19

The Partner States declare that they shall use their best endeavours to agree upon a common scheme of fiscal incentives towards industrial development which shall apply within the Partner States.

Article 20

Transfer tax

1. As a measure to promote new industrial development in those Partner States which are less developed industrially transfer taxes may, with the aim of promoting industrial balance between the Partner States, be imposed, notwithstanding paragraph 1 of Article 11 of this Treaty, in accordance with and subject to the conditions and limitations imposed by this Treaty.

2. In this Article, 'manufactured goods' means the goods defined, or otherwise listed, in Annex IV to this Treaty. The Authority may by order from time to time amend or add to Annex IV.

3. Subject to this Article, a Partner State which is in deficit in its total trade in manufactured goods with the other two Partner States may impose transfer taxes upon manufactured goods which are transferred to that State and originate from either of the other Partner States.

4. Subject to this Article, a Partner State may impose transfer taxes upon the manufactured goods of a Partner State being goods of a value not exceeding the amount of the deficit in trade in manufactured goods between the State which is imposing the transfer tax and the State of origin of the goods upon which the tax is to be imposed.

5. For the purposes of paragraphs 3 and 4 of this Article the deficit in trade in manufactured goods between Partner States shall at any time be taken to be that indicated in the most recently published annual trade statistics produced by the East African Customs and Excise Department and where, in any particular case, the manufactured goods of a Partner State upon which a transfer tax may under this Article be imposed are not readily identifiable within the trade statistics referred to in this paragraph, the Common Market Council may determine the extent to which any goods comprised in such statistics contribute to the amount of any deficit in any trade.

6. A Partner State may impose a transfer tax upon manufactured goods only if at the time the tax is imposed goods of a similar description are being manufactured in that State or are reasonably expected to be manufactured in that State within three months of the imposition of the tax, and for the purposes of this paragraph goods shall be deemed to be of a similar description to other goods if, in addition to similar function, constituent parts or content, they are of such a nature as will enable them actively to compete in the same market as those other goods:

Provided that this paragraph shall not preclude the imposition, but not the bringing into operation, of a suspended transfer tax at any time:

Provided further that, if a transfer tax is imposed in the reasonable expectation that the manufacture of particular goods will commence within three months of the imposition of the tax and such manufacture does not commence within that period—

(a) the Partner State imposing the transfer tax shall, within twenty-one days, revoke it unless, before the expiration of that period, that Partner State has obtained the directive of the Common Market Council that, conditional upon the commencement of manufacture within a further period of three months, the revocation of such tax may be deferred for such further period;

(b) notwithstanding that a transfer tax has been revoked, for the reason that the Common Market Council has not within three months of the imposition of such tax given the directive referred to in subparagraph (a) of this proviso, it shall be competent to that Council, where application in that behalf has been made by a Partner State within three months of the imposition of such tax, to direct that, conditional upon the commencement of manufacture within a further period of three months, such tax may be reimposed.

7. A Partner State may impose a transfer tax upon a particular kind of manufactured goods only if at the time the tax is imposed, or within three months thereafter if the tax is imposed in the reasonable expectation that the manufacture of such goods will commence within three months, the
customs duty chargeable in that State of goods of the same kind is reduced, so that by virtue of paragraph 9 of this Article the tax shall be reduced, accordingly:

Provided that, where the relevant item in the customs tariff is expressed only as a specific duty, the obligation to reduce the tax shall be fulfilled, in the case of goods imported into the tax-imposing State for a period of three months following the reduction in the customs tariff.

11. Transfer tax shall be assessed on the value of the manufactured goods upon which the tax is imposed, in the case of manufactured goods transferred under a contract of sale and entered for the purposes of the Excise Department, in the case of manufactured goods transferred under a contract of sale and entered for the purposes of this paragraph 9 of this Article, in the case of manufactured goods transferred under a contract of sale and entered for the purposes of this paragraph 9 of this Article, the value of the goods shall be determined by the mirror of the tax-imposing State for the purposes of the Excise Department.

Provided that, in the case of manufactured goods transferred under a contract of sale and entered for the purposes of the Excise Department, the value of the goods shall be determined by the mirror of the tax-imposing State for the purposes of the Excise Department.

Provided further that, in the case of manufactured goods transferred under a contract of sale and entered for the purposes of the Excise Department, the value of the goods shall be determined by the mirror of the tax-imposing State for the purposes of the Excise Department.

10. Where, in accordance with this Article, a Partner State has imposed a tax on imported goods and subsequently the rate of duty chargeable in that State of goods of the same kind is reduced, so that by virtue of paragraph 9 of this Article the tax shall be reduced, accordingly:

provided that, where the relevant item in the customs tariff is expressed only as a specific duty, the obligation to reduce the tax shall be fulfilled, in the case of goods imported into the tax-imposing State for a period of three months following the reduction in the customs tariff.
19. If a transfer tax is imposed by a Partner State upon a particular kind of manufactured goods originating in one of the other Partner States, and subsequently not less than 30 per cent of the total ex-factory value of sales, or in any period of twelve months, of manufactured goods of that kind originating in the tax-imposing State is sold for transfer to the other Partner States, the transfer tax shall be revoked.

20. If a transfer tax is imposed by a Partner State upon a particular kind of manufactured goods originating in one of the other Partner States, and subsequently not less than 30 per cent of the total ex-factory value of sales, or in any period of twelve months, of manufactured goods of that kind originating in the tax-imposing State is sold for transfer to the other Partner States or to a foreign country, a Partner State may, if it considers that kind originating in the circumstances the tax ought not to continue in force, having regard to all relevant matters and to this Treaty, raise the matter within the Common Market Council and the Council may direct that the backwardation which imposed the tax shall revoke it.

21. If a Partner State which is entitled to impose transfer taxes transfers any manufactured goods transferred into that Partner State and manufactured under the applicable laws of the Common Market Council shall be made in accordance with the provisions of the Trade Agreement (measurement of transactions produced by the Common Market Council and the Council may direct the amount of such duties) in such manner as the Finance Council may from time to time determine.

22. Every transfer tax shall expire, unless sooner revoked, eight years after the coming into force of this Treaty unless such tax has been brought into operation.

13. Subject to this Treaty, the assessment, collection, administration and recovery of all transfer taxes imposed under this Treaty, shall be performed by the Finance Authority and the Executive Department of the Common Market Council. The assessment and collection shall be made by the Finance Authority, and the recovery of such taxes by the Executive Department of the Common Market Council, both in respect of manufactured goods transferred into that Partner State and manufactured thereunder.

14. Every transfer tax shall expire, unless sooner revoked, eight years after the coming into force of this Treaty, unless such law has been brought into operation.

15. Every transfer tax imposed under this Treaty shall be revoked if in force.

16. Notwithstanding paragraph 14 and 15 of this Article, the Partner States agree that, for the purpose of obtaining the effectiveness of the Common Market, and in particular its effectiveness as a market economy, a balanced industrial development, they will undertake joint consultation to review and re-examine the system five years after the first imposition of any such tax.
regard to all relevant matters and to this Treaty, raise the matter within
the Common Market Council and if the Council, after due consideration
finds that such circumstances exist the Partner State which imposed the
tax shall revoke it.

23. Each Partner State shall take effective action to prevent manufactured
goods originating in a Partner State being transferred to another Partner
State at a price lower than their true value if such transfer is likely to
prejudice the production of similar goods by that other Partner State or
retard or prevent the establishment of an industry to produce such goods
in that State.

24. For the purpose of paragraph 23 of this Article—
(a) manufactured goods shall be considered to be transferred at a price
lower than their true value if, due allowance having been made in
each case for differences in conditions of sale, taxation or for any
other factors affecting the comparability of prices, their price on
transfer is less than—
(i) the comparable price, in ordinary trading conditions, of similar
goods destined for domestic consumption in the State in which
they were produced; or
(ii) the comparable price of similar goods on their export to a
foreign country in ordinary trading conditions; or
(iii) the cost of production of the goods in the Partner State where
they are produced, together with a reasonable addition in re-
spect of distribution and sales costs and profit; and
(b) 'effective action' shall include the making available of facilities for
enquiry relating to any allegation, by a Partner State, of transfer of
goods to that Partner State at a price lower than the true value of
such goods and where, on reference to the Common Market Coun-
cil, the fact of such transfer at such lower value has been established,
the taking of such measures as, in relation to any industry, shall be
calculated to prevent its recurrence.

25. No Partner State shall directly or indirectly subsidize the transfer of
any manufactured goods from that Partner State, or establish, maintain or
support any system whereby such goods are sold for transfer to another
Partner State at a price lower than the comparable price charged for simi-
lar goods on the domestic market, due allowance being made for differ-
ences in the conditions of sale or in taxation and for any other factors
affecting the comparability of prices.

26. For the purpose of paragraph 25 of this Article, tax incentives or re-
funds of a general and non-discriminatory nature granted by a Partner
State with a view to encouraging production within that State of goods
shall not constitute a transfer subsidy, provided they do not frustrate the
purpose of the transfer tax system and are not inconsistent with this
Treaty.

27. The Partner States agree that no transfer tax may be imposed upon
manufactured goods which are required by the Community or by any of
the Corporations for the purpose of their operations, otherwise than upon
such goods as are intended for sale, or are sold, to the public.

Article 21
Establishment of the East African Development Bank
1. There is hereby established a Development Bank, to be known as the
East African Development Bank.

2. The East African Development Bank is in this Treaty referred to as
'the Bank'.

Article 22
Charter of the Bank
The Charter of the Bank shall be that set out in Annex VI to this Treaty.

CHAPTER VI. INDUSTRIAL LICENSING

Article 23
Present system to continue
1. Subject to this Article, the Partner States agree to continue the indus-
trial licensing system formulated in the three East African Industrial
Licensing laws now in operation in the Partner States, whereby the manu-
facture of certain articles scheduled under the said laws is regulated and
the East African Industrial Council is empowered to grant industrial
licences in respect of the manufacture of such articles.

2. It is agreed that the industrial licensing system shall continue until the
expiration of twenty years from the commencement of the said East Afri-
can Industrial Licensing laws.

3. It is agreed that no additions shall be made to the schedules of articles,
the manufacture of which is subject to industrial licensing under the said
East African Industrial Licensing laws.

4. Subject to paragraph 5 of this Article, the Partner States agree to sup-
port the early replacement of the said East African Industrial Licensing
laws by one law to be introduced into the East African Legislative
Assembly for enactment as an Act of the Community.
5. It is agreed that the law proposed in paragraph 4 of this Article shall generally be in similar terms to the said East African Industrial Licensing laws, except that an appeal shall lie to the Industrial Licensing Appeal Tribunal on a matter of law only.

Chapter VII. Currency and Banking

Article 24

No exchange commission

The Partner States undertake to make arrangements through their central banks, subject only to exchange control laws and regulations which do not conflict with this Treaty, whereby—

(a) their respective currency notes shall be exchanged without undue delay within the territories of the Partner States at official par value without exchange commission:

Provided that the Finance Council may at its discretion authorize the central banks to make such charge, upon the exchange of currency, as will be sufficient only to meet the cost of transfer of such currency to the Partner State of its origin; and

(b) remittances may be effected without undue delay between the Partner States at official par value of the respective currencies, that is to say without exchange commission.

Article 25

Payments and capital transfers

1. Each Partner State undertakes to permit, in the currency of the Partner State in which the creditor or beneficiary resides, all bona fide payments on current account falling within the definition of current account payments set out in Annex VII to this Treaty, and undertakes to ensure that all necessary permissions and authorities are given without undue delay.

2. Each Partner State undertakes to permit payments and transfers on capital account except to the extent that a Partner State may consider that control of certain categories of such payments and transfers is necessary for furthering its economic development and an increase in trade consistent with the aims of the Community:

Provided that no such control shall be imposed by a Partner State in such a manner as to prejudice the ability of the Community, the Bank or the Corporations to perform the functions conferred upon any of them by this Treaty or under any law.

3. The Authority may from time to time by order amend or add to Annex VII to this Treaty.

Article 26

Inter-State settlements

The central banks of the Partner States shall open accounts with each other over which settlements shall be effected between them in a currency acceptable to the creditor.

Article 27

Economic and monetary policy

1. Each of the Partner States agrees to pursue an economic policy aimed at ensuring the equilibrium of its overall balance of payments and confidence in its currency.

2. The Partner States will endeavour to harmonize their monetary policies to the extent required for the proper functioning of the Common Market and the fulfilment of the aims of the Community, and for this purpose agree that the Governors of the three central banks shall meet at least four times in every year to consult, and to co-ordinate and review their monetary and balance of payments policies.

Article 28

Reciprocal credits

1. If a Partner State is in difficulties as regards its balance of payments and has already exercised its drawing rights under the first credit tranche beyond the gold tranche with the International Monetary Fund, such State may, from time to time, request assistance in the way of credits for balance of payments support from any other Partner State with which it had a payments deficit in the last period of twelve months for which information is available and, subject to this Article, such a request shall be granted. Credits granted under this Article shall be in the currency of the Partner State granting the credits.

2. A Partner State shall not be obliged by this Article to allow credits at any one time to be outstanding in excess of an amount equivalent to the value of one-sixth of the goods transferred from the Partner State granting the credits to the recipient Partner State in the last period of twelve months for which information is available.

3. Except by agreement, a Partner State shall not be obliged by this Article to grant credits which in any year beginning on the 1st January exceed in total one-twelfth of the value of the goods transferred from the
Partner State granting the credits to the recipient Partner State in the preceding year.

4. Credits granted in pursuance of this Article shall be for a period not exceeding three years and interest shall be paid half-yearly on the amounts outstanding at the rate of 4 per cent per annum for the first year, 5 per cent per annum for the second year and 6 per cent per annum for the third year.

Chapter VIII. Co-operation in other respects

Article 29

Co-operation in particular fields

The Partner States declare their intention to consult with one another through the appropriate institutions of the Community for the purpose of co-ordinating their respective policies in such fields of governmental activity as they may, from time to time, consider necessary or desirable for the efficient and harmonious functioning and development of the Common Market, and in particular, but without prejudice to the generality of the foregoing declaration, the Partner States agree—

(a) that the Tax Board established by Article 88 of this Treaty shall, if requested by any Partner State, render assistance in the study of and correlation between taxes managed and collected by the Community and taxes managed and collected directly by authorities in that Partner State, and shall render such further assistance in matters appertaining to fiscal planning as may be desired by any Partner State;

(b) that the Counsel to the Community shall advise the Partner States, and endeavour to promote, the harmonization of the commercial laws in operation in the Partner States;

(c) that it is their intention to cooperate in the co-ordination of their surface transport policies and to consult thereon within the Communications Council as may from time to time be desirable; and

(d) in order to assist their respective national planning, to engage in consultations within the Economic Consultative and Planning Council and between the planning authorities of each of the Partner States and those of the Community.

PART III. PRINCIPAL COMMON MARKET MACHINERY

Chapter IX. The Common Market Council

Article 30

Responsibilities of the Common Market Council

It shall be the responsibility of the Common Market Council established by Article 53 of this Treaty—

(a) to exercise such powers and perform such duties as are conferred or imposed upon it by this Treaty;

(b) to ensure the functioning and development of the Common Market in accordance with this Treaty and to keep its operations under review;

(c) to settle problems arising from the implementation of this Treaty concerning the Common Market;

(d) to receive and consider references making, refuting or concerning allegations as to the breach of any obligation under this Treaty in relation to the Common Market or as to any action or omission affecting the Common Market alleged to be in contravention of this Treaty and determine every such reference as follows—

(i) by issuing a binding directive to a Partner State or States; or

(ii) by making recommendations to a Partner State or States; or

(iii) by recording that the reference shall be deemed to be abandoned, settled or otherwise disposed of; or

(iv) by recording an inability to agree in relation to the reference;

(e) to consider what further action should be taken by Partner States and the Community in order to promote the attainment of the aims of the Community and to facilitate the establishment of closer economic and commercial links with other States, associations of States or international organizations;

(f) to request advisory opinions from the Common Market Tribunal in accordance with this Treaty.

Article 31

Common Market functions of the central secretariat

1. The central secretariat shall keep the functioning of the Common Market under continuous examination and may act in relation to any particular matter which appears to merit examination either on its own initiative or upon the request of a Partner State made through the Common
Market Council and the central secretariat shall, where appropriate, report the results of its examination to the Common Market Council.

2. The central secretariat shall undertake such work and studies and perform such services relating to the Common Market as may be assigned to it by the Common Market Council, and shall also make such proposals thereto as it considers may assist in the efficient and harmonious functioning and development of the Common Market.

3. For the performance of the functions imposed upon it by this Article, the central secretariat may collect information and verify matters of fact relating to the functioning of the Common Market and for that purpose may request a Partner State to provide information relating thereto.

4. The Partner States agree to co-operate with and assist the central secretariat in the performance of the functions imposed upon it by this Article and agree in particular to provide any information which may be requested under paragraph 3 of this Article.

CHAPTER X. THE COMMON MARKET TRIBUNAL

Article 32

Establishment of the Common Market Tribunal

1. There is hereby established a judicial body, to be known as the Common Market Tribunal, which shall ensure the observance of law and of the terms of this Treaty in the interpretation and application of so much of this Treaty as appertains to the Common Market.

2. The Common Market Tribunal is in this Treaty referred to as 'the Tribunal'.

Article 33

Composition of the Tribunal

1. Subject to this Article, the Tribunal shall be composed of a Chairman and four other members, all of whom shall be appointed by the Authority.

2. The Chairman of the Tribunal shall be chosen from among persons of impartiality and independence who fulfil the conditions required for the holding of the highest judicial office in their respective countries of domicile or who are jurists of a recognized competence.

3. Of the members of the Tribunal other than the Chairman, each of the Partner States shall choose one, and the fourth shall be chosen by the Chairman and the other three members acting in common agreement.

4. The members chosen under paragraph 3 of this Article shall be chosen from among persons of impartiality and independence who are qualified for appointment by reason of their knowledge or experience in industry, commerce or public affairs.

Article 34

Term of office and temporary membership of the Tribunal

1. The Chairman and the other members of the Tribunal shall hold office for such period, being not less than three years, as may be determined in their respective instruments of appointment, and in fixing such periods of office regard shall be had to the desirability of securing a measure of continuity in the membership of the Tribunal.

2. All members of the Tribunal shall be eligible for re-appointment.

3. If a member of the Tribunal is temporarily absent or otherwise unable to carry out his functions, the Authority shall, if such absence or inability to act appears to the Authority to be likely to be of such duration as to cause a significant delay in the work of the Tribunal, appoint a temporary member chosen in the same manner as was the absent or disabled member in accordance with Article 33 of this Treaty, to act in place of the said member.

4. If a member of the Tribunal, other than the Chairman, is directly or indirectly interested in a case before the Tribunal, he shall immediately report the nature of his interest to the Chairman, who, if he considers that the member's interest is such that it would be undesirable for him to take part in that case, shall make a report to the Authority; and the Authority shall appoint a temporary member, chosen in the same manner as was the interested member, to act for that case only in place of the interested member.

5. If the Chairman is directly or indirectly interested in a case before the Tribunal he shall, if he considers that the nature of his interest is such that it would be undesirable for him to take part in that case, make a report to the Authority; and the Authority shall appoint a temporary Chairman, chosen in the same manner as was the substantive Chairman, to act as Chairman for that case only in place of the substantive Chairman.

6. A temporary Chairman or temporary member appointed under this Article shall have, during the period he is acting, all the functions of the Chairman or member, as the case may be.
**Article 35**

Competence of the Tribunal

The Tribunal shall be competent to accept and adjudicate upon all matters which pursuant to this Treaty may be referred to it, and shall also possess the jurisdiction specifically conferred on it by this Chapter.

**Article 36**

References to the Tribunal by a Partner State

1. Where a Partner State has made a reference to the Common Market Council in pursuance of paragraph (d) of Article 30 of this Treaty, and the reference has not been determined by the Common Market Council in accordance with that paragraph within one month of the reference being made, that Partner State may refer the matter in dispute to the Tribunal.

2. Where a reference has been made to the Common Market Council in pursuance of paragraph (d) of Article 30 of this Treaty and the reference has been determined by the Council by recording an inability to agree in relation to the reference, a Partner State which is aggrieved by such determination may within two months thereof refer the matter in dispute to the Tribunal.

3. Where a reference has been made to the Common Market Council in pursuance of paragraph (d) of Article 30 of this Treaty, and a binding directive has been issued by the Common Market Council to a Partner State, and in the opinion of one of the other Partner States that directive is not complied with by the Partner State to which it is directed within the period fixed therein, that other Partner State may refer the question of such non-compliance to the Tribunal.

**Article 37**

Decisions of the Tribunal

1. The Tribunal shall consider and determine every reference made to it by a Partner State pursuant to this Treaty in accordance with the Statute of the Common Market Tribunal and its rules of procedure, and shall deliver in public session a reasoned decision which, subject to the provisions of the said Statute as to rectification and review, shall be final and conclusive and not open to appeal:

   Provided that, if the Tribunal considers that in the special circumstances of the case it is undesirable that its decision be delivered in public, the Tribunal may make an order to that effect and deliver its decision before the parties privately.

2. The Tribunal shall deliver one decision only in respect of every reference to it, which shall be the decision of the Tribunal reached in private by majority verdict. In the event of the members of the Tribunal being equally divided, the Chairman shall have a casting vote.

3. If a member of the Tribunal does not agree with the majority verdict reached in respect of any reference, he shall not be permitted to deliver a dissenting opinion nor record his dissent in public.

**Article 38**

Advisory opinions of the Tribunal

The Common Market Council may request the Tribunal to give an advisory opinion regarding questions of law arising from the provisions of this Treaty affecting the Common Market, and the Partner States shall in the case of every such request have the right to be represented and take part in the proceedings.

**Article 39**

Interim orders and directions of the Tribunal

The Tribunal may, in any case referred to it, make any interim order or issue any directions which it considers necessary or desirable.

**Article 40**

Intervention

A Partner State which is not a party to a case before the Tribunal may intervene in that case, but its submissions shall be limited to supporting or opposing the arguments of a party to the case.

**Article 41**

Acceptance of the Tribunal's decisions

1. The Partner States undertake not to submit a dispute concerning the interpretation or application of this Treaty, so far as it relates to or affects the Common Market, to any method of settlement other than those provided for in this Treaty.

2. Where a dispute has been referred to the Common Market Council or to the Tribunal, the Partner States shall refrain from any action which might endanger the solution of the dispute or might-aggravate the dispute.

3. A Partner State shall take, without delay, the measures required to implement a decision of the Tribunal.
Article 42

Statute and rules of the Tribunal
1. The Statute of the Tribunal shall be that set out in Annex VIII to this Treaty.
2. The Tribunal shall, after consultation with the Common Market Council, make its rules of procedure and may in like manner from time to time amend or add to any such rules.

PART IV. THE FUNCTIONS OF THE EAST AFRICAN COMMUNITY AND ITS INSTITUTIONS

Chapter XI. Functions and Procedure

Article 43

Functions of the Community
1. The Community shall, on behalf of the Partner States, through its appropriate institutions, perform the functions given to it, and discharge the responsibilities imposed upon it, by this Treaty in relation to the establishment, functioning and development of the Common Market.
2. (a) The Community shall, on behalf of the Partner States, administer the services specified in Part A of Annex IX to this Treaty, and for that purpose shall, subject to this Treaty, take over from the Common Services Organization such of those services as are in existence at the date of the coming into force of this Treaty.
   (b) The Authority may by order from time to time amend or add to Part A of Annex IX to this Treaty.
3. The Corporations shall, on behalf of the Partner States and in accordance with this Treaty and the laws of the Community, administer the services specified in Part B of Annex IX to this Treaty, and for that purpose shall take over from the Common Services Organization the corresponding services administered by the Common Services Organization at the date of the coming into force of this Treaty.
4. The Community shall provide machinery to facilitate the co-ordination of the activities of the Partner States on any matter of common interest.
5. Subject to this Treaty, the Community shall so regulate the distribution of its non-physical investments as to ensure an equitable contribution to the foreign exchange resources of each of the Partner States.

6. The Community shall so arrange its purchases within the Partner States as to ensure an equitable distribution of the benefits thereof to each of the Partner States.
7. Subject to this Treaty, the Community may enact measures with respect to the matters set out in Annex X to this Treaty.
8. The Community shall, in accordance with this Treaty, provide a Court of Appeal, a Common Market Tribunal and an East African Industrial Court.

Article 44

Provision of services on an agency basis
1. The Community and the Corporations may, with the approval of the Authority, enter into arrangements with any Government or international organization for providing services, and may provide and administer such services accordingly.
2. The Community may enter into arrangements with any of the Corporations for providing services, and may provide and administer such services accordingly.
3. Arrangements made under this Article shall normally provide for the Community or the Corporation concerned to be reimbursed for any expenditure incurred.

Article 45

Procedure within the Community
1. The procedural provisions set out in Annex XI to this Treaty shall be followed within the Community.
2. If there is a doubt as to the procedure to be followed in any particular case, or if no procedure is prescribed by or under this Treaty, the procedure to be followed may be determined by the Authority.

Chapter XII. THE EAST AFRICAN AUTHORITY

Article 46

Establishment of the East African Authority
There is hereby established an Authority to be known as the East African Authority, which shall, subject to this Treaty, be the principal executive authority of the Community.
Article 47

Composition of the Authority
1. The Authority shall consist of the President of the United Republic of Tanzania, the President of the Sovereign State of Uganda, and the President of the Republic of Kenya.

2. If a member of the Authority is unable to attend a meeting of the Authority and it is not convenient to postpone the meeting, he shall, after consultation with the other members of the Authority, appoint a person holding office as a Minister of his Government to represent him at such meeting only, and a person so appointed shall for the purpose of that meeting have all the powers, duties and responsibilities of the member of the Authority for whom he is acting.

Article 48

Functions of the Authority
1. The Authority shall be responsible for, and have the general direction and control of, the performance of the executive functions of the Community.

2. The Authority shall be assisted in the performance of its functions under this Article by the Councils and the East African Ministers.

3. The Authority may give directions to the Councils and to the East African Ministers as to the performance of any functions conferred upon them, and such directions shall be complied with.

Chapter XIII. East African Ministers

Article 49

Appointment of East African Ministers
1. There shall be three East African Ministers.

2. The Partner States shall each nominate one person, qualified under paragraph 3 of this Article, for appointment as an East African Minister, and the Authority shall appoint the persons so nominated to be East African Ministers.

3. A person shall be qualified to be appointed an East African Minister if he is qualified to vote under the national electoral laws of the Partner State nominating him:

   Provided that if at the time of his appointment as an East African Minister a person holds office as a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary in the Government of a Partner State, he shall immediately resign from that office and may not thereafter hold such an office while he remains an East African Minister.

4. If an East African Minister is temporarily absent from the territories of the Partner States, or for some other reason is temporarily unable to perform his duties, the Partner State which nominated him for appointment may, and at the request of the other East African Ministers shall, nominate some other person, qualified to vote under its national electoral laws, for temporary appointment as an East African Minister; and the Authority shall appoint the person so nominated to be an Acting East African Minister in the place of the Minister who is absent or unable to act.

5. An Acting East African Minister shall hold office until the person in whose place he is acting returns to the territories of the Partner States or is able to resume his duties, as the case may be, and delivers notification thereof in writing to the Secretary-General for transmission to the Authority.

6. An Acting East African Minister shall while he is holding office have all the functions, responsibilities, powers, duties and privileges of the substantive East African Minister.

Article 50

Tenure of office of East African Ministers
An East African Minister shall not be appointed for a fixed term but shall vacate his office upon the happening of any of the following events—

(a) if he transmits his resignation in writing to the Authority and the Authority accepts his resignation;

(b) if he ceases to be qualified for appointment as an East African Minister;

(c) if the Authority terminates his appointment, which it shall do upon the request in writing of the Partner State which nominated him.

Article 51

Functions of East African Ministers
1. It shall be the responsibility of the East African Ministers to assist the Authority in the exercise of its executive functions to the extent required by and subject to the directions of the Authority, and to advise the Authority generally in respect of the affairs of the Community.

2. In addition to the responsibilities conferred on them by paragraph 1 of this Article, the East African Ministers shall perform the functions
CHAPTER XV. THE COUNCILS

1. The composition of the Councils shall be as follows—

(a) the Common Market Council;
(b) the Economic Council; and
(c) the Research and Social Council.

Article 33

There shall be established as institutions of the Community the following Councils—

(a) the Common Market Council;
(b) the Economic Council;
(c) the Research and Social Council;
(d) the Communications Council;
(e) the Joint Committee of the Parties.

Article 34

The composition of the Councils shall consist of the three East African Ministers, deputy Ministers, together with other members, of whom three shall be appointed by each State and who shall be elected by the Heads of the East African States, in accordance with the rules laid down by the Councils for the purpose of their functions and to perform such duties as may be imposed on them by the Authority or by this Treaty.

Chapter XIV. DEPUTY EAST AFRICAN MINISTERS

Article 32

1. The Authority may, at any time, consider it desirable, appoint as Deputy East African Minister a person qualified to be so appointed, who shall be nominated by the Authority for the purpose of attending meetings of the Councils or of performing any official duties of the Authority.

2. If the Authority desires to appoint a Deputy East African Minister, the Authority shall serve notice on the East African Minister of the appointment, and such notice shall be accompanied by the statement of the person nominated and the date of his appointment.

3. A person shall be qualified to be appointed as a Deputy East African Minister who is a qualified to be so appointed under the national laws of the State in which he holds office as a Minister, and the appointment shall be made by the Authority.

4. The Deputy East African Minister shall hold office for a fixed term of years, and shall hold office until the expiration of his term, unless his term is extended by the Authority at any time before the expiration of his term, and subject to the provisions of this Treaty.

5. If the Authority desires to extend the term of office of a Deputy East African Minister, the Authority shall serve notice on the East African Minister of the extension, and such notice shall be accompanied by the statement of the person nominated and the date of the extension.

6. The Authority may, at any time, consider it desirable, appoint as Deputy East African Minister a person qualified to be so appointed, who shall be nominated by the Authority for the purpose of attending meetings of the Councils or of performing any official duties of the Authority.

7. A person shall be qualified to be appointed as a Deputy East African Minister who is a qualified to be so appointed under the national laws of the State in which he holds office as a Minister, and the appointment shall be made by the Authority.

8. The Deputy East African Minister shall hold office for a fixed term of years, and shall hold office until the expiration of his term, unless his term is extended by the Authority at any time before the expiration of his term, and subject to the provisions of this Treaty.

9. If the Authority desires to extend the term of office of a Deputy East African Minister, the Authority shall serve notice on the East African Minister of the extension, and such notice shall be accompanied by the statement of the person nominated and the date of the extension.

10. The Authority may, at any time, consider it desirable, appoint as Deputy East African Minister a person qualified to be so appointed, who shall be nominated by the Authority for the purpose of attending meetings of the Councils or of performing any official duties of the Authority.

11. A person shall be qualified to be appointed as a Deputy East African Minister who is a qualified to be so appointed under the national laws of the State in which he holds office as a Minister, and the appointment shall be made by the Authority.

12. The Deputy East African Minister shall hold office for a fixed term of years, and shall hold office until the expiration of his term, unless his term is extended by the Authority at any time before the expiration of his term, and subject to the provisions of this Treaty.

13. If the Authority desires to extend the term of office of a Deputy East African Minister, the Authority shall serve notice on the East African Minister of the extension, and such notice shall be accompanied by the statement of the person nominated and the date of the extension.
(d) the Communications Council shall consist of the three East African Ministers, together with three other members, being the persons holding office as Ministers responsible for matters relating to communications in the respective Governments of the Partner States;
(c) the Economic Consultative and Planning Council shall consist of the three East African Ministers, together with nine other members, of whom three shall be designated by each Partner State from among the persons holding office as Minister of its Government;
(d) the Finance Council shall consist of the three East African Ministers together with three other members, being the persons holding office as the Ministers responsible for matters relating to public finance in the respective Governments of the Partner States; and
(e) the Research and Social Council shall consist of the three East African Ministers, together with nine other members, of whom three shall be designated by each Partner State from among the persons holding office as Minister of its Government.

2. If an East African Minister is unable to attend a meeting of a Council, he may, if at the time there are persons holding office as Deputy East African Ministers, appoint one of them, by notice in writing delivered to the Secretary-General, to act as a member of that Council for that meeting and a person so appointed shall, in respect of the meeting for which he is appointed to act, have all the rights and duties of a member of the Council.

3. If a Minister of the Government of a Partner State is unable to attend a meeting of a Council of which he is a member, that Partner State may, by notice in writing delivered to the Secretary-General, appoint some other person who is a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary of its Government to act as a member of that Council for that meeting, and a person so appointed shall, in respect of the meeting for which he is appointed to act, have all the rights and duties of a member of the Council.

4. If under paragraph 1 of this Article a Partner State designates one of its Ministers to be a member of a Council or terminates such a designation, it shall give notice thereof in writing to the Secretary-General.

Functions of the Councils

The Common Market Council. 1. The function of the Common Market Council shall be the discharge of the responsibilities imposed upon it by Article 30 of this Treaty.

The Communications Council. 2. Subject to any directions given by the Authority, and subject to this Treaty and to any law of the Community, the Communications Council shall perform the duties and have the powers which are set out in Annex XIII to this Treaty, and shall provide a forum for consultation generally on communications matters.

The Economic Consultative and Planning Council. 3. The functions of the Economic Consultative and Planning Council shall be—
(a) to assist the national planning of the Partner States by consultative means; and
(b) to advise the Authority upon the long-term planning of the common services.

The Finance Council. 4. Subject to this Treaty, the functions of the Finance Council shall be to consult in common on the major financial affairs of the Community, and to consider and approve major financial decisions relating to the services administered by the Community, including their estimates of expenditure and related loan and investment programmes. In this paragraph 'the Community' shall not include the Bank.

The Research and Social Council. 5. The functions of the Research and Social Council shall be to assist, by consultative means, in the co-ordination of the policies of each of the Partner States and the Community regarding research and social matters.

Chapter XVI. THE EAST AFRICAN LEGISLATIVE ASSEMBLY

Article 56

Establishment and composition of the East African Legislative Assembly

1. There is hereby established for the Community a legislative body, to be known as the East African Legislative Assembly, which shall exercise the powers conferred upon it by this Treaty.

2. The members of the Assembly shall be—
(a) the three East African Ministers;
(b) the three Deputy East African Ministers (if any);
(c) twenty-seven appointed members; and
(d) the Chairman of the Assembly, the Secretary-General and the Counsel to the Community.
3. The Chairman of the Assembly shall preside over and take part in its proceedings in accordance with the rules of procedure of the Assembly made by the Authority in accordance with paragraph 17 of Annex XI to this Treaty.

4. The Assembly shall have a Public Accounts Committee, which shall be constituted in the manner provided in the rules of procedure of the Assembly and shall perform the functions provided in respect thereof in the said rules of procedure; and the Assembly may have such other committees as may be provided for or permitted under the said rules of procedure.

Article 57

Appointment of members of the Assembly

1. Of the twenty-seven appointed members of the Assembly each Partner State shall appoint nine in accordance with such procedure as each Partner State decides.

2. A person shall be qualified to be appointed a member by a Partner State if he is a citizen of that Partner State and is qualified to be elected a member of its legislature under its electoral laws, and is not an officer in the service of the Community or a servant of a Corporation or the Bank.

3. If an appointed member of the Assembly is temporarily absent from the territories of the Partner States, or for some other reason is temporarily unable to perform his duties, the Partner State which appointed him may appoint some other person, qualified under paragraph 2 of this Article, to be a temporary appointed member in his place; and a temporary appointed member shall, unless his period of office is terminated by the Partner State which appointed him, hold office until the person in whose place he is acting returns to the territories of the Partner States or is able to resume his duties, as the case may be, and so notifies the Chairman of the Assembly in writing.

4. A temporary appointed member of the Assembly shall, while holding office, have all the responsibilities, powers and privileges of the substantive appointed member.

Article 58

Tenure of office of appointed members

1. Subject to this Article, an appointed member of the Assembly shall hold office until the legislature of the Partner State which appointed him first meets after it is next dissolved.

2. An appointed member of the Assembly shall vacate his seat in the Assembly upon the happening of any of the following events—
   (a) upon the delivery of his resignation in writing to the Chairman of the Assembly;
   (b) upon his ceasing to be qualified for appointment as an appointed member;
   (c) upon his appointment as a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary in the Government of a Partner State;
   (d) upon his appointment as an East African Minister or as a Deputy East African Minister;
   (e) upon his having been absent from the Assembly for such period and in such circumstances as are prescribed by the rules of procedure of the Assembly.

Acts of the Community

1. The enactment of measures of the Community shall be effected by means of Bills passed by the Assembly and assented to on behalf of the Community by the Heads of State of the Partner States and every measure that has been duly passed and assented to shall be styled an Act.

2. When a Bill has been duly passed by the Assembly the Chairman of the Assembly shall submit the Bill to the Heads of State of the Partner States.

3. Every Bill that is submitted to the Heads of State under paragraph 2 of this Article shall contain the following words of enactment—
   "Enacted by the President of the United Republic of Tanzania, the President of the Sovereign State of Uganda and the President of the Republic of Kenya on behalf of the East African Community, with the advice and consent of the East African Legislative Assembly."

Article 60

Assent to Bills

1. The President of the United Republic of Tanzania, the President of the Sovereign State of Uganda and the President of the Republic of Kenya may assent or withhold assent to a Bill.

2. A Bill that has not received the assent provided for in paragraph 1 of this Article within nine months of the date upon which it was passed by the Assembly shall lapse.
Chapter XVII. Staff of the Community

Article 61

Offices in the Community
1. There shall be the following offices in the service of the Community—
   (a) a Secretary-General, who shall be the principal executive officer of the Community;
   (b) a Counsel to the Community; and
   (c) an Auditor-General.

2. There shall be such other offices in the service of the Community as, subject to any Act of the Community, the Authority may determine.

3. In this Treaty, 'offices in the service of the Community' does not include an office in the service of a Corporation or of the Bank.

Article 62

Establishment of the East African Community Service Commission
1. There is hereby established a service commission to be known as the East African Community Service Commission for all offices in the service of the Community.

2. The Service Commission shall consist of such number of members as the Authority shall from time to time determine.

3. The Authority shall appoint the members of the Service Commission by instrument in writing, which shall specify the period of office of the member concerned.

4. A person shall not be qualified to be appointed a member of the Service Commission if he holds office as a Minister, a Deputy, Junior or Assistant Minister or a Parliamentary Secretary in the Government of a Partner State, or is a member of the Legislative Assembly or a member of the legislature of a Partner State.

5. A member of the Service Commission shall vacate his office—
   (a) upon the expiry of the period of office specified in his instrument of appointment;
   (b) if he delivers his resignation in writing to the Secretary-General for transmission to the Authority; or
   (c) if he ceases to be qualified for appointment as a member.

6. A member of the Service Commission may be removed from office by the Authority for inability to perform the functions of his office, whether arising from infirmity of mind or body or for any other sufficient cause, or for misbehaviour, but shall not otherwise be removed from office.

Article 63

Appointment and disciplinary control of the Secretary-General and certain other officers
1. The Secretary-General of the Community shall be appointed by the Authority.

2. The Counsel to the Community and the holders of such other offices in the service of the Community as the Authority may, by notice in the Gazette, determine shall be appointed by the Authority after consultation with the Service Commission and with the Secretary-General.

3. If the Secretary-General or any person appointed under paragraph 2 of this Article is absent from the territories of the Partner States, or is unable through illness or for any other reason to perform the functions of his office, the Authority may appoint a person to act in the place of the Secretary-General or of such person, as the case may be, during the period of the absence or inability to act and the person so appointed shall have, while he is so acting, the same powers and responsibilities as the substantive holder of the office.

4. For the purposes of the exercise of the power of disciplinary control and dismissal, the persons appointed under paragraph 2 of this Article shall be subject to the jurisdiction of the Service Commission.

Article 64

Functions of the Service Commission
1. Subject to this Treaty and to any Act of the Community, the Service Commission shall, on behalf of the Community, make appointments to offices in the service of the Community, and shall exercise the powers of disciplinary control and dismissal over persons holding or acting in such offices.

2. For the purposes of paragraph 1 of this Article, references to appointments shall be construed as including references to appointments on promotion and on transfer, and appointments of persons in an acting capacity.

3. The Service Commission may, by order published in the Gazette, and with the approval of the Authority, delegate, subject to such conditions as it may think fit, any of its functions under this Article to any of its members or to any officer of the Community either generally or in respect of any particular class of cases.
4. This Article shall not apply to the Judges of the Court of Appeal for East Africa or to the members of the Common Market Tribunal.

CHAPTER XVIII. FINANCES OF THE COMMUNITY

Article 65

The General Fund and special funds

1. There shall be a General Fund of the Community, and such special funds as may from time to time be established by an Act of the Community.

2. Subject to this Treaty, all moneys received by the Community from whatever source shall be paid into the General Fund, except—

(a) the divisible income tax, the remaining divisible income tax and the divisible customs and excise duties;
(b) sums which fall to be paid into the Distributable Pool Fund under Article 67 of this Treaty; and
(c) sums which are required by an Act of the Community to be paid into one of the special funds referred to in paragraph 1 of this Article.

Article 66

Expenditure from the General Fund

1. All expenditure of the Community, other than expenditure which is required by an Act of the Community to be met from one of the special funds referred to in Article 65 of this Treaty, shall be met from the General Fund.

2. There may be met from the General Fund—

(a) the estimated net annual recurrent expenditure of the University of East Africa;
(b) one-half of the estimated net annual recurrent expenditure of Makerere University College, the University College, Dar es Salaam, and University College, Nairobi; and
(c) expenditure towards the cost of any service provided by the Community under Article 44 of this Treaty, or of any activity which the Authority declares to be in furtherance of the aims of the Community.

Provided that the expenditure under sub-paragraphs (a) and (b) of this paragraph shall cease on the 30th June 1970 or upon the cessation of the arrangements under which the University Colleges mentioned in sub-paragraph (d) of this paragraph are constituent colleges of the University of East Africa, whichever is the sooner.

3. No money shall be paid out of the General Fund unless—

(a) the payment has been authorized by an Appropriation Act of the Community; or
(b) the money is required to meet expenditure charged on the General Fund under this Treaty or by an Act of the Community:

Provided that, if an Appropriation Act for a particular financial year has not come into operation by the first day of that financial year, the Authority may from time to time authorize the payment of money out of the General Fund to meet any expenditure which may properly be met thereout, but so that—

(i) the amount paid out in any particular month for any particular head of expenditure shall not exceed one-twelfth of the total appropriation for the previous financial year for that head;
(ii) the authorization shall not extend beyond the 30th day of September in the same financial year or such earlier date as that on which the Appropriation Act may come into operation; and
(iii) any money paid out under this proviso shall be brought into account when payments are being made under the Appropriation Act.

4. No money shall be paid out of the General Fund except in the manner prescribed by an Act of the Community.

5. The Authority shall cause detailed estimates of the receipts into and the payments out of the General Fund to be prepared for each financial year and shall cause them to be laid before a meeting of the Assembly in the financial year preceding that to which they relate.

6. A Bill for an Appropriation Act providing for the sums necessary to meet the estimated expenditure (other than expenditure charged on the General Fund under this Treaty or by an Act of the Community) to be paid out of the General Fund shall be introduced into the Assembly as soon as practicable after the estimates have been laid before a meeting of the Assembly under paragraph 5 of this Article.

7. If in any financial year it is found—

(a) that the amount appropriated by the Appropriation Act is insufficient to meet any particular head of expenditure or that a need has arisen for expenditure from the General Fund for which no amount has been appropriated by that Act; or
(b) that any expenditure has been incurred for any purpose in excess of the amount appropriated to that purpose by the Appropriation
The Distributable Pool Fund

1. There shall be a Distributable Pool Fund of the Community.

2. There shall be paid into the Distributable Pool Fund—
   (a) a sum equal to 30 per cent of the income tax collected by the East African Income Tax Department on gains or profits of companies engaged in manufacturing or finance business (less 20 per cent of the proportion of the cost of collection referred to in paragraph 1 (b) of Article 68 of this Treaty):
   Provided that, where the tax is collected on or after the effective date and before the final date, the percentages shall be 10 per cent; and
   (b) a sum equal to 3 per cent of the amount of customs duty and excise duty collected by the East African Customs and Excise Department (less a rateable proportion of the cost of collection referred to in paragraph 3 of Article 68 of this Treaty):
   Provided that, where the customs duty or excise duty is collected on or after the effective date and before the final date, the percentage shall be one and one half per cent.

3. Notwithstanding paragraph 2 of this Article, no payment shall be made into the Distributable Pool Fund in respect of income tax collected on or after the final date or in respect of customs duty or excise duty collected on or after the final date.

4. The Distributable Pool Fund shall be distributed among the Partner States in equal shares.

Article 68

Distribution of the principal revenue

1. From the amount of income tax collected by the East African Income Tax Department, there shall be deducted—
   (a) the cost of collection, which shall be paid into the General Fund; and
   (b) so much of the amount as represents income tax on gains or profits of companies engaged in manufacturing or finance business (less a rateable proportion of the cost of collection), which shall be dealt with in accordance with paragraph 4 of this Article, and the balance (in this Treaty referred to as 'the divisible income tax') shall be divided among the Partner States in accordance with paragraph 7 of this Article.

2. In this Article and in Article 67 of this Treaty, the 'gains or profits of companies engaged in manufacturing or finance business' means the income defined in the provisions of Annex XII to this Treaty.

3. From the amount of customs duty and excise duty collected by the East African Customs and Excise Department, there shall be deducted the cost of collection, which shall be paid into the General Fund, and the balance shall be dealt with in accordance with paragraph 4 of this Article.

4. From the amounts which, under paragraph 1 (b) and paragraph 3 of this Article, are to be dealt with in accordance with this paragraph, there shall be deducted—
   (a) the sums which, under Article 67 of this Treaty, fall to be paid into 'the Distributable Pool Fund; and
(b) such sums as are required to make up (with the moneys in the General Fund) the amount of expenditure to be met from the General Fund; and

(i) for the period from the coming into force of this Treaty until the final date as defined in Article 70 of this Treaty, such sums shall be charged against the moneys referred to in paragraph 1 (b) and paragraph 3 of this Article in the ratio which 20 per cent of the moneys referred to in paragraph 1 (b) bears to 3 per cent of the moneys referred to in paragraph 3 respectively; and

(ii) after the said final date, the proportions in which those sums shall be charged against the moneys referred to in paragraph 1 (b) and paragraph 3 of this Article respectively shall correspond to the relative sizes of those two amounts of money,

and the residue of the money referred to in paragraph 1 (b) of this Article (in this Treaty referred to as 'the remaining divisible income tax') and the residue of the money referred to in paragraph 3 of this Article (in this Treaty referred to as 'the divisible customs and excise duties') shall each be divided among the Partner States in accordance respectively with paragraphs 7 and 8 of this Article.

5. The money divided between the Partner States under paragraph 4 of this Article shall be paid direct by the East African Income Tax Department or the East African Customs and Excise Department, as the case may be, to the Partner States.

6. Revenue from transfer taxes payable to a Partner State under Article 20 of this Treaty, less the costs and expenses to be borne by that Partner State under paragraph 13 of that Article, shall be paid direct by the East African Customs and Excise Department to that Partner State, and the said costs and expenses shall be paid into the General Fund.

7. There shall be paid by the East African Income Tax Department to each of the Partner States that portion of the remaining divisible income tax as, according to law, may be ascertained as relating to income accruing in, or derived from, that Partner State.

8. There shall be paid by the East African Customs and Excise Department to each of the Partner States that portion of the divisible customs and excise duties which arise from customs and excise duties collected in respect of goods imported into, or manufactured in, that Partner State and consumed in that Partner State, together with such portion of the divisible customs and excise duties as falls to be paid to that State in accordance with Articles 10, 15, and 18 of this Treaty.

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**Article 69**

Remuneration of the holders of certain offices

1. There shall be paid to the holders of the offices of—

(a) Judge of the Court of Appeal for East Africa;

(b) Chairman or other member of the Tribunal;

(c) Chairman of the Assembly;

(d) Chairman or other member of the Service Commission; and

(e) Auditor-General,

such salaries as may be prescribed by an Act of the Community.

2. The salaries payable to the holders of the offices specified in paragraph 1 of this Article shall be paid from and are hereby charged on the General Fund.

3. A holder of any of the offices specified in paragraph 1 of this Article shall not have his salary or any of his other terms and conditions of service altered to his disadvantage after his appointment.

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**Article 70**

Interpretation of this Chapter

In this Chapter of this Treaty—

'cost of collection' means the expenditure of the East African Income Tax Department or the East African Customs and Excise Department, as the case may be, less appropriations in aid and less the costs and expenses referred to in paragraph 6 of Article 68 of this Treaty;

'divisible customs and excise duties' has the meaning given to it in paragraph 4 of Article 68 of this Treaty;

'divisible income tax' has the meaning given to it in paragraph 1 of Article 68 of this Treaty;

'effective date' means the first day of the month following the date on which a transfer tax is first imposed under this Treaty;

'final date' means the first day of the month following the first anniversary of the date on which the Republic of Kenya has paid in full the second installment to the paid-in capital stock of the Bank pursuant to Article 5 of the Charter of the Bank;

'financial year' means the period from the 1st day of July to the succeeding 30th day of June;

'remaining divisible income tax' has the meaning given to it in paragraph 4 of Article 68 of this Treaty.
Chapter XIX. The Corporations Within the Community

Article 71
Establishment of the Corporations
1. There shall be within the Community, as institutions of the Community, the Corporations specified in paragraph 2 of this Article and the Corporations shall, subject to this Treaty, be constituted in such manner as shall be provided by law.
2. The Corporations shall be—
   The East African Railways Corporation;
   The East African Harbours Corporation;
   The East African Posts and Telecommunications Corporation; and
   The East African Airways Corporation.

Principles of operation
1. It shall be the duty of each of the Corporations to conduct its business according to commercial principles and to perform its functions in such a manner as to secure that, taking one year with another, its revenue is not less than sufficient to meet its outgoings which are properly chargeable to revenue account, including proper allocations to the general reserve and provision in respect of depreciation of capital assets, pension liabilities, and interest and other provision for the repayment of loans and further to ensure that, taking one year with another, its net operating income is not less than sufficient to secure an annual return on the value of the net fixed assets in operation by the Corporation of such a percentage as the Authority may from time to time direct:
   Provided that the Authority may at any time, if it thinks fit, relieve the East African Airways Corporation from any obligation to secure an annual return on the value of net fixed assets in operation by the Corporation.
2. For the purpose of paragraph 1 of this Article—
   (a) 'net operating income' shall be determined by subtracting from gross operating revenues all operating and administrative expenses, including taxes (if any) and adequate provision for maintenance and depreciation; and
   (b) 'value of the net fixed assets in operation' shall be the value of such assets less accumulated depreciation as shown in the statement of accounts of the Corporation.

Provided that, if the amounts shown in such statements of accounts do not reflect a true measure of value of the assets concerned because of currency revaluations, changes in prices or similar factors, the value of the fixed assets shall be adjusted adequately to reflect such currency revaluations, changes in prices or similar factors.

3. It shall be the duty of each Corporation, in performing its obligations under paragraph 1 of this Article, to have regard to its revenues in the territories of the Partner States as a whole and not to its revenues in any particular Partner State or area within the territories of the Partner States.

4. Subject to this Treaty, the Corporations shall so regulate the distribution of their non-physical investments as to ensure an equitable contribution to the foreign exchange resources of each of the Partner States, taking into account inter alia the scale of their operations in each Partner State.

5. The Corporations shall so arrange their purchases within the Partner States as to ensure an equitable distribution of the benefits thereof to each of the Partner States, taking into account inter alia the scale of their operations in each Partner State.

6. The Corporations shall be exempted from income tax and from stamp duty.

Article 73
Control of the Corporations
1. There shall be a Board of Directors for each of the Corporations which shall be, subject to this Treaty, responsible for its policy, control and management through the Director-General.
2. The Authority, the Communications Council and the Board of Directors and the Director-General of each Corporation shall, in respect of that Corporation, and in addition to any other powers and duties conferred or imposed on them by this Treaty or by any Act of the Community, have the powers and perform the duties specified in Annex XIII to this Treaty.

Article 74
Composition of Boards of Directors of the Corporations
1. Subject to this Article, the Boards of Directors of the Corporations, other than the East African Airways Corporation, shall each be composed of a Chairman, who shall be appointed by the Authority, the Director-General, who shall be a director ex officio, and six other members who shall be appointed in the manner provided by paragraph 2 of this Article.
2. Of the six members of the Boards of Directors to be appointed under paragraph 1 of this Article, three shall be appointed one each by the Partner States, and three shall be appointed by the Authority which shall have regard to the desirability of appointing persons with experience in commerce, industry, finance or administration or with technical experience or qualifications.

3. The Board of Directors of the East African Airways Corporation shall be composed of a Chairman, who shall be appointed by the Authority, the Director-General, who shall be a director ex officio, and eight other members of whom two each shall be appointed by the Authority and the Partner States, and the appointing authorities shall have regard to the desirability of appointing persons with experience in commerce, industry, finance or administration or with technical experience or qualifications.

4. A member of the legislature of a Partner State or a member of the Assembly shall not, while he remains such a member, be appointed to a Board of Directors.

Article 75

Resident Directors

1. The three directors appointed by the Partner States to the Board of Directors of the East African Railways Corporation shall be styled Resident Directors.

2. The Board of Directors of the East African Posts and Telecommunications Corporation may resolve (and may if it so desires rescind such a resolution) that the three directors appointed to the Board of Directors of that Corporation by the Partner States shall be styled Resident Directors and that event paragraph 3 of this Article shall apply.

3. Each Resident Director shall have the duty of being the main link between the Partner State which appointed him and the Corporation of which he is a director, and for that purpose he shall reside and have his office in the capital of that Partner State and shall also be a member of the General Purposes Committee of the Board of Directors; but a Resident Director shall have no executive functions in relation to the Corporation other than his function as one of the directors of the Corporation.

Article 76

Director-General of the Corporations.

1. There shall be a principal executive officer, who shall be styled the Director-General, for each of the Corporations and, subject to this Treaty, a Director-General shall be responsible for the execution of the policy of the Board of Directors.

2. The Authority shall be responsible for the appointment, disciplinary control and termination of appointment of the Director-General of each of the Corporations:

   Provided that, except in the case of the appointment of the first Director-General of a Corporation, the Authority shall exercise its powers under this paragraph after consultation with the Board of Directors.

Article 77

Appointment and disciplinary control of staff of the Corporations

1. The Corporations shall employ such staff as may be necessary for the efficient conduct of their operations.

2. The Board of Directors of each Corporation shall be responsible for the appointment, disciplinary control and dismissal of all staff of that Corporation other than the Director-General.

3. A Board of Directors may, subject to such conditions as it shall think fit, delegate any of its functions under paragraph 2 of this Article to the Director-General or to any other member of the staff of the Corporation or to any committee or board established by the Board of Directors.

4. The Board of Directors of each of the Corporations shall introduce and maintain procedures whereby staff aggrieved by the exercise of powers delegated under paragraph 3 of this Article may appeal to a higher authority.

5. For the purpose of Article 76 of this Treaty, and this Article, references to appointments shall be construed so as to include references to appointments on promotion and on transfer or secondment and appointments of persons in an acting capacity.

Article 78

Annual accounts of the Corporations

1. A Board of Directors shall ensure that proper accounts and proper records are kept in relation to the revenue and expenditure of the Corporation, and shall ensure that within six months of the end of each financial year of the Corporation, or such longer period as the Communications Council may allow in any particular case, a statement of accounts of the Corporation is prepared, in accordance with the best commercial
standards and any directions which may be issued by the Authority, and
transmitted to the Auditor-General.

2. Upon the return of the statement of accounts, certified by the Auditor-
General, and the receipt of his report thereon, the Board of Directors
shall immediately transmit that statement of accounts and report of the
Auditor-General to the Communications Council which shall cause the
same to be presented to the Assembly without delay and, in any event,
before the expiry of nine months from the end of the financial year to
which they relate or such longer period as the Communications Council
may allow in any particular case.

**Article 79**

Annual reports of the Corporations

A Board of Directors shall, within nine months after the end of each finan-
cial year, prepare a report upon the operations of the Corporation during
that year and shall transmit such report to the Communications Council
which shall cause the same to be presented to the Assembly with the
statement of accounts and report of the Auditor-General referred to in
Article 78 of this Treaty.

**Chapter XX. The Court of Appeal for East Africa**

**Article 80**

The Court of Appeal for East Africa

There shall be a Court of Appeal for East Africa which shall be constituted
in such manner as may be provided by Act of the Community, and the
Court of Appeal for Eastern Africa established by the East African Com-
mon Services Organization Agreements 1961 to 1966 shall continue in
being under the name of the Court of Appeal for East Africa and shall be
deemed to have been established by this Treaty, notwithstanding the
abrogation of those Agreements by this Treaty.

**Article 81**

Jurisdiction of the Court of Appeal

The Court of Appeal for East Africa shall have jurisdiction to hear and
determine such appeals from the courts of each Partner State as may be
provided for by any law in force in that Partner State and shall have such
powers in connection with appeals as may be so provided.

**Chapter XXI. Pensions and Trade Disputes**

**Article 82**

Pension rights

1. This Article applies to any benefit payable under any law providing for
the grant of pensions, compensations, gratuities or like allowances to per-
sons who are, or have been, officers or servants of the Community, the
Corporations, the Common Services Organization or of the East Africa
High Commission in respect of their services as such officers or servants,
or to the widows, children or personal representatives of such persons in
respect of such services.

2. The law applicable to any benefits to which this Article applies shall,
in relation to any person who has been granted or is eligible for such
benefits, be that in force on the relevant date or any later law that is no less
favourable to the person.

3. In this Article, 'the relevant date' means—

(a) in relation to any benefits granted before the coming into force of
this Treaty, the date upon which those benefits were granted;

(b) in relation to any benefits granted after the date upon which this
Treaty comes into force, to or in respect of any person who was an
officer or servant of the Common Services Organization before that
date or any benefits for which any such person may be eligible, the
date immediately preceding the date on which this Treaty comes
into force; and

(c) in relation to any benefits granted to or in respect of any person who
first becomes an officer or servant of the Community or of a Cor-
poration after the date upon which this Treaty comes into force, the
date upon which he first becomes such an officer or servant.

4. Where a person is entitled to exercise an option as to which of two or
more laws might apply in his case, the law specified by him in exercising
the option shall, for the purpose of this Article, be deemed to be more
favourable to him than any other law.

5. Any benefits to which this Article applies shall—

(a) in the case of benefits that are payable in respect of the service of
any person who at the time he ceased to be an officer or servant of
the East Africa High Commission or the Common Services
Organization was in the service of the East African Posts and
Telecommunications Administration, be a charge upon the funds of
the East African Posts and Telecommunications Corporation;
(b) in the case of benefits that are payable in respect of the service of any person who at the time he ceased to be an officer or servant of the East Africa High Commission or the Common Services Organization was in the service of the East African Railways and Harbours Administration, be a charge upon the funds of either the East African Railways Corporation or the East African Harbours Corporation as the Authority may, in respect of such person, by notice in the Gazette determine;

(c) in the case of benefits that are payable in respect of the service of any person who, immediately preceding his retirement, was an officer or servant of the East African Posts and Telecommunications Corporation, the East African Railways Corporation or the East African Harbours Corporation, be a charge upon the funds of that Corporation;

(d) in the case of any other benefits, be a charge upon the General Fund of the Community or such special fund as may be established for that purpose by an Act of the Community.

6. Where under any law any person or authority has a discretion—

(a) to decide whether or not any benefits to which this Article applies shall be granted; or

(b) to withhold, reduce in amount or suspend any amounts which have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate body consents in the refusal to grant the benefits or, as the case may be, the decision to withhold them, reduce them in amount or suspend them.

7. Where the amount of any benefit to which this Article applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the appropriate body consents in his being granted benefits of a smaller amount.

8. For the purpose of this Article ‘the appropriate body’ means—

(a) in the case of benefits that have been granted or may be granted in respect of the services of any person who, at the time that he ceased to be an officer or servant of the Community, was subject to the jurisdiction of the Service Commission established by this Treaty, that Commission; and

(b) in the case of an officer or servant of any of the Corporations, the body appointed by that Corporation for the purpose of paragraphs 6 and 7 of this Article.

9. Reference in this Article to officers or servants of the Community shall include reference to the Judges, officers and servants of the Court of Appeal for East Africa.

Article 83

Investment of money accruing for the payment of pensions

Upon the coming into force of this Treaty, and until such time as the Authority may determine, the net accruals to money held by the Community or the Corporations for the payment of pensions shall be invested in such stock of the former East Africa High Commission as the Authority may specify; and thereafter such net accruals shall be invested in such stock of the Partner States as the Authority may specify, having regard to the relative proportions of the financial provisions made each year by the Community or the Corporations in respect of pensions for the citizens of each Partner State employed in their service.

Article 84

Settlement of trade disputes

The law relating to the settlement of trade disputes in force in any Partner State shall apply to employment or service under the Community and the Corporations, and to persons in such employment or service, within that State; so however that any such law shall provide that—

(a) any power therein conferred upon any tribunal, court or other authority to make binding awards or orders in respect of the salaries or other conditions of service of persons in employment or service under the Community or the Corporations, and any power incidental thereto, shall be conferred upon, and be exercised by, the East African Industrial Court provided for in Article 85 of this Treaty; and

(b) any award or order made by the East African Industrial Court which accords with paragraph 2 of Article 85 of this Treaty shall be binding.

Article 85

The East African Industrial Court

1. There shall be established a tribunal to be styled the East African Industrial Court, in this Article referred to as ‘the Industrial Court’, which shall be constituted by—

(a) the Chairman, or other member nominated by the Chairman, of the Permanent Labour Tribunal established under the Permanent Labour Tribunal Act 1967 of Tanzania;
(b) the president, or the deputy president if so nominated by the president, of the Industrial Court established under the Trade Disputes (Arbitration and Settlement) Act 1964 of Uganda; and
(c) the President, or other member nominated by the President, of the Industrial Court established under the Trade Disputes Act 1965 of Kenya.

2. The Industrial Court shall exercise the powers referred to in Article 84 of this Treaty in accordance with the principles laid down from time to time by the Authority.

3. The persons referred to in paragraph 1 of this Article shall, in the order set out therein, preside over the sittings of the Industrial Court.

4. The Industrial Court shall regulate its own procedure.

5. The Authority may determine the fees, emoluments or allowances to be paid to members of the Industrial Court.

CHAPTER XXII. DECENTRALIZATION,
THE LOCATION OF HEADQUARTERS AND
THE EAST AFRICAN TAX BOARD

Article 86
Decentralization and related measures
The Partner States agree that the measures in Annex XIV to this Treaty, which relate to decentralization of the operations of the Corporations and of certain of the services administered by the Community, shall be put into effect by the authorities concerned in accordance with the said Annex.

Article 87
Location of headquarters
1. It is agreed that—
(a) the headquarters of the Community, including the Tribunal and the central secretariat, shall be at Arusha in Tanzania;
(b) the headquarters of the Bank shall be at Kampala in Uganda;
(c) the headquarters of the East African Railways Corporation shall be at Nairobi in Kenya;
(d) the headquarters of the East African Harbours Corporation shall be at Dar es Salaam in Tanzania;
(e) the headquarters of the East African Posts and Telecommunications Corporation shall be at Kampala in Uganda; and
(f) the headquarters of the East African Airways Corporation shall be at Nairobi in Kenya.

2. The authorities concerned shall implement paragraph 1 of this Article as soon as possible.

Article 88
The East African Tax Board
1. There is hereby established an advisory body, to be known as the East African Tax Board.

2. The Tax Board shall consist of—
(a) three members appointed one each by the Minister responsible for public finance in each of the Partner States;
(b) the Commissioner-General of the East African Income Tax Department;
(c) the Commissioner-General of the East African Customs and Excise Department;
(d) the three Commissioners of Income Tax in the Partner States;
(e) the three Commissioners of Customs and Excise in the Partner States; and
(f) a senior officer of the central secretariat of the Community designated by the Secretary-General.

3. The members appointed under sub-paragraph (a) of paragraph 2 of this Article shall hold the office of Chairman of the Tax Board in rotation.

4. The functions of the Tax Board shall be—
(a) to render assistance as provided for in paragraph (a) of Article 29 of this Treaty;
(b) to keep under review the administration of the East African Income Tax Department and the East African Customs and Excise Department including the allocation and distribution of revenue collected by those Departments;
(c) to ensure the best possible co-operation between the East African Income Tax Department and the East African Customs and Excise Department;
(d) to study the correlation between the taxes managed and collected by the Community and taxes managed and collected directly by authorities in the Partner States, to make proposals to improve this correlation and to report annually thereon to the Finance Council;
(e) if requested by any Partner State, to render assistance in relation to taxation planning; and
(f) to make an annual report to the Finance Council concerning the operation of the East African Income Tax Department and of the East African Customs and Excise Department, and the organization and the personnel situation in those Departments.
Chapter XXIII. Audit

Article 89

Audit of accounts
1. The public accounts of the Community and of all officers and authorities of the Community shall be audited and reported on by the Auditor-General and for that purpose the Auditor-General and any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

2. It shall be the duty of the Auditor-General to verify that the revenue collected by the East African Income Tax Department and the East African Customs and Excise Department has been allocated and distributed in accordance with this Treaty and to include a certificate to that effect in his report.

3. The Auditor-General shall submit his reports under paragraph 1 of this Article to the East African Ministers who shall cause the same to be laid before the Assembly.

4. The accounts of the Corporations and of all officers and authorities of the Corporations shall be audited by the Auditor-General, and for that purpose the Auditor-General and any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts and upon receipt of a statement of accounts transmitted to him under paragraph 1 of Article 78 of this Treaty the Auditor-General shall examine it, certify it and report on it and shall return the statement with his certificate and report to the Board of Directors of the Corporation concerned in sufficient time to enable compliance with paragraph 2 of Article 78 of this Treaty.

5. In the performance of his functions under this Article, the Auditor-General shall not be subject to the direction or control of any person or authority.

PART V. TRANSITIONAL AND GENERAL

Chapter XXIV. Transitional

Article 90

Transitional provisions
The transitional provisions contained in Annex XV to this Treaty shall apply.

Chapter XXV. General

Article 92

Commencement of the Treaty
This Treaty shall come into force on the first day of December 1967.

Article 93

Duration of the Treaty
1. Parts II and III of this Treaty, together with so much of the other Parts of the Treaty as appertains to the Common Market or the Common Market Council, shall remain in force for 15 years after coming into force and shall be reviewed by the Partner States before the expiry of that period.

2. Subject to paragraph 1 of this Article, this Treaty shall have indefinite duration.

Article 94

Association of other countries with the Community
The Partner States may together negotiate with any foreign country with a view to the association of that country with the Community or its participation in any of the activities of the Community or the Corporations.

Article 95

Modification of the Treaty
1. This Treaty may be modified at any time by agreement of all the Partner States.

2. Notwithstanding paragraph 1 of this Article, Annex VI to this Treaty shall only be amended in accordance with Article 52 of that Annex.

Article 96

Implementation measures of the Partner States
1. Each of the Partner States undertakes to take all steps within its power to secure the enactment and the continuation of such legislation as is necessary to give effect to this Treaty, and in particular—

(a) to confer upon the Community the legal capacity and personality required for the performance of its functions; and

(b) to confer upon Acts of the Community the force of law within its territory.
2. A Partner State shall not, by or under any law of that Partner State, confer any power or impose any duty upon an officer or authority of the Community, or of a Corporation as such, except with the prior consent of the Authority.

**Article 96**

*Effect of Annexes, rules and orders*

1. The Annexes to this Treaty shall form an integral part of this Treaty.

2. Rules and orders made by the Authority pursuant to this Treaty shall be binding on the institutions of the Community and the Partner States.

**Article 97**

*Abrogation of existing agreements*

1. Subject to this Treaty, the East African Common Services Organization Agreements 1961 to 1966 are hereby abrogated.

2. Subject to this Treaty, all the existing agreements between the Partner States or any of them concerning the imposition of customs and excise duties and the allocation and distribution of customs and excise revenue collected by the East African Customs and Excise Department are hereby abrogated.

3. Subject to this Treaty, all the existing agreements between the Partner States or any of them concerning the allocation and distribution of revenue collected by the East African Income Tax Department are hereby abrogated.

4. Subject to this Treaty, the Agreement dated the 22nd November 1961 made between the Governments of the Trust Territory of Tanganyika, the Protectorate of Uganda and the Colony and Protectorate of Kenya in pursuance of section 42A of the East Africa (High Commission) Order in Council 1947 with respect to payments into and out of the Distributable Pool Fund of the East Africa High Commission is hereby abrogated.

**Article 98**

*Interpretation*

1. In this Treaty, except where the context otherwise requires—
   
   'Act of the Community' means an Act of the Community enacted in accordance with this Treaty or an Act of the Common Services Organization or an Act of the East Africa High Commission;
   
   'appointed member' means an appointed member of the Assembly appointed under Article 57 of this Treaty;
   
   'Assembly' means the East African Legislative Assembly established by Article 56 of this Treaty;
   
   'Auditor-General' means the Auditor-General of the Community provided for by Article 61 of this Treaty;
   
   'Authority' means the East African Authority established by Article 46 of this Treaty;
   
   'Bank' means the East African Development Bank established by Article 21 of this Treaty;
   
   'Board of Directors', except in Annex VI to this Treaty, means the Board of Directors of a Corporation;
   
   'Central Banks' means the Bank of Tanzania, the Bank of Uganda and the Central Bank of Kenya;
   
   'Chairman of the Assembly' means the Chairman of the East African Legislative Assembly provided for by paragraph 2 of Article 56 of this Treaty;
   
   'Chairman of the Tribunal' means the Chairman of the Common Market Tribunal provided for by Article 33 of this Treaty;
   
   'common customs tariff' and 'common excise tariff' imply an identical rate of tariff imposed in the same manner;
   
   'Common Market' means the East African Common Market established by Article 1 of this Treaty;
   
   'common services' means the services specified in Annex IX to this Treaty;
   
   'Common Services Organization' means the East African Common Services Organization established by the East African Common Services Organization Agreements 1961 to 1966;
   
   'Community' means the East African Community established by Article 1 of this Treaty;
   
   'Corporation' means a corporation specified in paragraph 2 of Article 71 of this Treaty;
   
   'Council' means a council established by Article 53 of this Treaty;
   
   'Counsel to the Community' means the Counsel to the Community provided for by Article 61 of this Treaty;
   
   'current account payments' means the payments so defined in Annex VII to this Treaty;
   
   'customs duty' includes suspended duty;
   
   'customs laws' means the East African Customs Management Act 1952;
   
   'Deputy East African Ministers' means the Deputy East African Ministers appointed under Article 54 of this Treaty;
   
   'Director-General', except in Annex VI to this Treaty, means the Director-General of a Corporation provided for by Article 76 of this Treaty;
"East African Ministers' means the East African Ministers appointed under Article 49 of this Treaty;
"foreign country' means any country other than a Partner State;
"Gazette' means the Official Gazette of the Community;
"General Fund' means the General Fund provided for by Article 65 of this Treaty;
"goods in transit' means goods being conveyed between a Partner State and a foreign country and passing through another Partner State or States, and 'transit' shall be construed accordingly;
"Heads of State' means the President of the United Republic of Tanzania, the President of the Sovereign State of Uganda and the President of the Republic of Kenya;
"import' with its grammatical variations and cognate expressions means to bring or cause to be brought into the territories of the Partner States from a foreign country;
"Industrial Licensing laws' means the East African Industrial Licensing Ordinance (Tanzania Cap. 324), the East African Industrial Licensing Act (Uganda Cap. 102) and the East African Industrial Licensing Act (Kenya Cap. 491);
"Industrial Licensing Tribunal' means the Tribunal established by the law referred to in paragraph 4 of Article 23 of this Treaty;
"manufactured goods' means the goods defined or otherwise listed in Annex IV to this Treaty;
"Minister' in relation to a Partner State includes the Vice-President of that Partner State;
"Partner States' means the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya;
"Resident Director' means a director of a Corporation who is styled a Resident Director under Article 75 of this Treaty;
"salaries and other conditions of service' includes wages, overtime pay, salary and wage structures, leave, passages, transport for leave purposes, pensions and other retirement benefits, redundancy and severance payments, hours of duty, grading of posts, medical arrangements, housing, arrangements for transport and travelling on duty, and allowances;
"Secretary-General' means the Secretary-General of the Community provided for by Article 61 of this Treaty;
"Service Commission' means the East African Community Service Commission established by Article 62 of this Treaty;
"suspended transfer tax' means a transfer tax the operation of which is suspended at the time of its introduction;
"Tax Board' means the East African Tax Board established by Article 88 of this Treaty;
"transfer tax' includes suspended transfer tax;
"Tribunal' means the Common Market Tribunal established by Article 32 of this Treaty;
"University of East Africa' means the University of East Africa constituted by the University of East Africa Act 1962.

2. In this Treaty, a reference to a law shall be construed as a reference to that law as from time to time amended, added to or replaced.

2. Annexes, including the Charter of the East African Development Bank and the Statute of the Common Market Tribunal

ANNEX I

RULES FOR THE ADMINISTRATION AND APPLICATION OF ARTICLE 11

Interpretation

1. (1) In these Rules—
   'materials' includes products, parts and components used in the production of goods;
   'produced' and 'a process of production' include the application of any operation or process with the exception of any operation or process which consist only of one or more of the following—
   (a) packing, wherever the packing materials may have been produced;
   (b) splitting up into lots;
   (c) sorting or grading;
   (d) marking;
   (e) putting up into sets.
   (2) Energy, fuel, plant, machinery and tools used in the production of goods within the Partner States and materials used in the maintenance of such plant, machinery and tools shall be regarded as wholly produced within the Partner States when determining the origin of such goods.
   (3) In determining the place of production of marine products and goods in relation to a Partner State, a vessel of a Partner State shall be regarded as part of the territory of that State and in determining the place from which such goods originated, marine products taken from the sea, or goods produced therefrom at sea, shall be regarded as having their origin in the territory of a Partner State if they were taken by, or produced...
in a vessel of that State and have been brought directly to the territories of the Partner States.

(4) For the purposes of paragraph (3) of this rule, a vessel which is registered or licensed under any law in force within the Partner States shall be regarded as a vessel of the State in which it is so registered or licensed.

Goods wholly produced in the Partner States

2. For the purposes of paragraph 3 of Article 11 of this Treaty, the following are among the products which shall be regarded as wholly produced in the Partner States—

(a) mineral products extracted from the ground within the Partner States;
(b) vegetable products harvested within the Partner States;
(c) live animals born and raised within the Partner States;
(d) products obtained within the Partner States from live animals;
(e) products obtained by hunting or fishing conducted within the Partner States;
(f) marine products taken from the sea by a vessel of a Partner State;
(g) used articles fit only for the recovery of materials provided that they have been collected from users within the Partner States;
(h) scrap and waste resulting from manufacturing operations within the Partner States;
(i) goods produced within the Partner States exclusively from one or both of the following—

(i) products within sub-paragraphs (a) to (h);
(ii) materials containing no element imported from outside the Partner States or of undetermined origin.

Application of percentage criterion

3. For the purposes of sub-paragraph (6) of paragraph 3 of Article 11 of this Treaty, the following rules shall apply—

(a) any materials which meet the condition specified in sub-paragraph (a) of paragraph 3 of that Article shall be regarded as containing no element imported from outside the Partner States;
(b) the value of any materials which can be identified as having been imported from a foreign country shall be their c.i.f. value accepted by the East African Customs and Excise Department on clearance for home consumption less the amount of any transport costs incurred in transit through the territory of other Partner States;
(c) if the value of any materials imported from a foreign country cannot be determined in accordance with paragraph (b) of this rule, their value shall be the earliest ascertainable price paid for them in the territory of the Partner State where they were used in a process of production;
(d) if the origin of any materials cannot be determined, such materials shall be deemed to have been imported from a foreign country and their value shall be the earliest ascertainable price paid for them in the territory of the Partner State where they were used in a process of production;
(e) the ex-factory value of the goods shall be the price paid or payable for them to the exporter in the territory of the Partner State where the goods were produced, that price being adjusted where necessary to a f.o.b. or free at frontier basis in that territory;
(f) the value under paragraphs (b), (c) or (d) of this rule or the ex-factory value under paragraph (e) of this rule may be adjusted to correspond with the amount which would have been obtained on a sale in the open market between buyer and seller independent of each other; this amount shall also be taken to be the ex-factory value when the goods are not the subject of a sale.

Unit of Qualification

4. (a) Each article in a consignment shall be considered separately.
(b) For the purposes of paragraph (a) of this rule—

(i) tools, parts and accessories which are transferred with an article, the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article so long as they constitute the standard equipment customarily included on the sale of articles of that kind;
(ii) in cases not within sub-paragraph (i) of this paragraph, goods shall be treated as a single article if they are so treated for the purpose of assessing customs duty on like articles.

(c) An unassembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to transfer it in a single consignment may, at the option of the transferee, be treated as one article.

Segregation of Materials

5. (a) For those products or industries where it would be impracticable to segregate physically materials of similar character but different origin used in the production of goods, such segregation may be replaced by an
appropriate accounting system which ensures that no more goods are deemed to originate in the Partner States than would have been the case if it had been possible physically to segregate the materials.

(b) Any such accounting system shall conform to such conditions as may be agreed upon by the Common Market Council in order to ensure that adequate control measures will be applied.

Treatment of mixtures
6. (a) In the case of mixtures, not being groups, sets or assemblies of separable articles dealt with under rule 4, a Partner State may refuse to accept as originating in the Partner States any product resulting from the mixing together of goods which would qualify as originating in the Partner States with goods which would not so qualify, if the characteristics of the product as a whole are not essentially different from the characteristics of the goods which have been mixed.

(b) In the case of particular products where it is recognized by the Common Market Council to be desirable to permit mixing of the kind described in paragraph (a) of this rule, such products shall be accepted as originating in the Partner States in respect of such part thereof as may be shown to correspond to the quantity of goods originating in the Partner States used in the mixing subject to such conditions as may be agreed by the Common Market Council.

Certificates of origin
7. The transferee of any goods from one Partner State to another Partner State shall, if required by law or by the appropriate authority, provide a certificate of the origin of such goods, determined in accordance with the provisions of paragraph 7 of Article 11 of this Treaty and of these rules, signed or otherwise authenticated by the manufacturer of such goods.

ANNEX II

CONTRACTUAL AND OTHER OBLIGATIONS

Tanzania
Contracting Parties: The Government of Tanganyika
Anie S.P.A. of 12 Viale Dell’Arte, Rome, Italy
Hydrocarbons Holding Co. A.G. of Zurich, Switzerland
Tanganyikan & Italian Petroleum Refining Co. (Tiper) Ltd., of Dar es Salaam

Subject: (a) Petroleum products of the types made, or to be made, pursuant to the contract, by the Tanganyikan & Italian Petroleum Refining Company and those obtainable by blending two or more of these petroleum products;
(b) products which correspond commercially to the products aforesaid

Duration: Thirty years from the 19th June 1963

Uganda
Obligations: Those comprised in the Enguli (Manufacture and Licensing) Act (Cap. 96—Laws of Uganda) and the Jaggery and Enguli Base Tax Act, 1966
Subject: Jaggery and Enguli
Duration: Commencing respectively on 20th January 1965 and 1st July 1966—of indefinite duration

Kenya
Subject: Crude oil and petroleum products
Duration: Indefinite duration from September 1959

Subject: Crustacea
Duration: Five years from 1st January 1967

Subject: Nitrogenous fertilizers
Duration: Indefinite duration

Subject: Sugar and sugar products
Duration: Indefinite duration from 6th August 1966
ANNEX III

AGRICULTURAL PRODUCTS

1. Period of operation—no limitation.
   Maize, including maize flour
   Wheat
   Rice, both paddy and husked
   Coffee, raw
   Pyrethrum flowers
   Cotton lint, cotton seed, and unginned cotton
   Sisal fibre, sisal tow, and sisal flume tow
   Beans, peas, lentils and other leguminous vegetables, split or dried
   Meat (including poultry) fresh, chilled or frozen
   Milk and cream, fresh
   Eggs
   Pineapples, fresh
   Passion fruit, fresh
   Groundnuts
   Millets
   Simsim (sesame seed)

2. Period of operation—three years from the coming into force of this Treaty.
   Onions

   Ibisa
   Castor seed
   Copra
   Capsicum, dried
   Sunflower seed
   Cassava
   Cashew nuts
   Sorghum
   Wattle bark

ANNEX IV

MANUFACTURED GOODS

Manufactured goods shall be all those goods referred to in those Sections, Divisions or Items of the Official Import and Export List, as specified in the Schedule to Legal Notice No. 68 of 1963 of the Common Services Organization, which are set out below, subject to the modifications expressed in the description of goods given below:

<table>
<thead>
<tr>
<th>Section, Division</th>
<th>Description of Goods</th>
</tr>
</thead>
<tbody>
<tr>
<td>012 (part)</td>
<td>Bacon, ham and other smoked meat, whether or not in airtight containers (excluding dried meat and salted meat)</td>
</tr>
<tr>
<td>013 (part)</td>
<td>Sausages and other prepared or preserved meat (excluding meat extracts and meat juices)</td>
</tr>
<tr>
<td>022 1 (part)</td>
<td>Milk or cream (in liquid or semi-solid form) evaporated or condensed, including buttermilk and whey but excluding skimmed milk</td>
</tr>
<tr>
<td>022 2</td>
<td>Milk and cream dry (in solid form such as blocks or powder,) including buttermilk, skimmed milk and whey</td>
</tr>
<tr>
<td>023</td>
<td>Butter, including clarified butter</td>
</tr>
<tr>
<td>024</td>
<td>Cheese and curd</td>
</tr>
<tr>
<td>025 2 (part)</td>
<td>Fish and fish preparations (including crustacea and molluscs) in airtight containers</td>
</tr>
<tr>
<td>046 (part)</td>
<td>Meal and flour of wheat (excluding meal and flour of meslin)</td>
</tr>
<tr>
<td>047 (part)</td>
<td>Meal and flour of other cereals (excluding meal and flour of maize)</td>
</tr>
<tr>
<td>048</td>
<td>Cereal preparations and preparations of flour and starch of fruits and vegetables</td>
</tr>
<tr>
<td>053</td>
<td>Fruit preserved and fruit preparations (excluding dried and artificially dehydrated fruit)</td>
</tr>
<tr>
<td>055</td>
<td>Vegetables, roots and tubers, preserved or prepared, not elsewhere specified, whether or not in airtight containers</td>
</tr>
<tr>
<td>06 (part)</td>
<td>Sugar, sugar preparations and honey (excluding item 061 6 0, natural honey)</td>
</tr>
<tr>
<td>071 1 8</td>
<td>Coffee, roasted, including ground, and coffee substitutes containing coffee</td>
</tr>
<tr>
<td>073</td>
<td>Chocolate and other food preparations containing cocoa or chocolate, not elsewhere specified</td>
</tr>
<tr>
<td>074 1 0</td>
<td>Tea (other than unprocessed leaf)</td>
</tr>
<tr>
<td>075 (part)</td>
<td>Spices, ground only</td>
</tr>
<tr>
<td>081</td>
<td>Feeding stuff for animals (excluding unmilled cereals)</td>
</tr>
<tr>
<td>091</td>
<td>Margarine and shortening</td>
</tr>
<tr>
<td>099</td>
<td>Food preparations, not elsewhere specified</td>
</tr>
</tbody>
</table>
ANNEX V

VALUE OF GOODS LIABLE TO TRANSFER TAX

1. (1) The value of any goods liable to transfer tax shall be taken to be the normal price, that is to say the price which they would fetch when they are entered for the payment of transfer tax (or, if they are not so entered, at the time of transfer) on a sale in the open market between a buyer in the country to which the goods are transferred and a seller in the country from which the goods are transferred independent of each other.

(2) The normal price of any goods liable to transfer tax shall be determined on the following assumptions—

(a) that the goods are treated as having been delivered to the buyer at the point of entry into the country to which the goods are being transferred; and

(b) that the seller will bear freight, insurance, commission and all other costs, charges and expenses incidental to the sale and the delivery of the goods at that point of entry; but

(c) that the buyer will bear any tax chargeable in the country to which the goods are being transferred.

2. A sale in the open market between buyer and seller independent of each other presupposes—

(a) that the price is the sole consideration; and

(b) that the price paid is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question); and

(c) that no part of the proceeds of the subsequent resale, use or disposal of the goods will accrue directly or indirectly to the seller or any person associated with him.

3. Where the goods to be valued—

(a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or

(b) are transferred under a foreign trade mark or are transferred for sale (whether or not after further manufacture) under a foreign trade mark,

the normal price shall be determined on the assumption that the price covers the right to use the patent, design or trade mark in respect of the goods.

4. For the purposes of paragraph 3 of this Annex, the expression 'trade mark' includes a trade name and a get up, and a foreign trade mark is a trade mark used for the purpose of indicating that goods in relation to which it is used are those of—

(a) a person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside the country to which the goods are transferred; or

(b) a person associated in business with any such person as is referred to in sub-paragraph (a) of this paragraph; or

(c) a person to whom any such person as is mentioned in sub-paragraph (a) or (b) of this paragraph has assigned the goodwill of the business in connection with which the trade mark is used.

5. Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either one of them has any
interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.

ANNEX VI

THE CHARTER OF THE EAST AFRICAN DEVELOPMENT BANK

WHEREAS the Governments of the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya, who are referred to in the Treaty and this Charter as 'the Partner States', have in Article 21 of the Treaty agreed to establish a Development Bank to be known as the East African Development Bank:

AND WHEREAS the said Governments have agreed in Article 22 of the Treaty that the Charter of the East African Development Bank shall be set out in an Annex to the Treaty:

NOW THEREFORE it is agreed that the East African Development Bank (hereinafter referred to as 'the Bank') shall be established and operate in accordance with the following provisions:

CHAPTER I. OBJECTIVES AND MEMBERSHIP

ARTICLE 1

Objectives of the Bank

1. The objectives of the Bank shall be—

(a) to provide financial and technical assistance to promote the industrial development of the Partner States;

(b) to give priority, in accordance with the operating principles contained in this Charter, to industrial development in the relatively less industrially developed Partner States, thereby endeavouring to reduce the substantial industrial imbalances between them;

(c) to further the aims of the East African Community by financing, wherever possible, projects designed to make the economies of the Partner States increasingly complementary in the industrial field;

(d) to supplement the activities of the national development agencies of the Partner States by joint financing operations and by the use of such agencies as channels for financing specific projects;

(e) to co-operate, within the terms of this Charter, with other institutions and organizations, public or private, national or international,

which are interested in the industrial development of the Partner States; and

(f) to undertake such other activities and provide such other services as may advance the objectives of the Bank.

2. In paragraph 1 of this Article, 'industry' with its grammatical variations and cognate expressions means manufacturing, assembling, and processing industries including processing associated with the agricultural, forestry and fishing industries but does not include the building, transport and tourist industries.

ARTICLE 2

Membership in the Bank

1. The original members of the Bank shall be the Partner States and such bodies corporate, enterprises or institutions who with the approval of the Governments of the Partner States become members on or before the date specified in Article 55 of this Charter.

2. Upon an affirmative decision of the Board of Directors by a majority of the voting power, any body corporate, enterprise or institution, which has not become a member under paragraph 1 of this Article, may, with the approval of the Authority, be admitted to membership of the Bank under such terms and conditions as the Bank may determine.

CHAPTER II. CAPITAL

ARTICLE 3

Authorized capital

1. The authorized capital stock of the Bank shall be 400,000,000 units of account and the value of the unit of account shall be 0.124444 grams of fine gold.

2. The authorized capital stock of the Bank shall be divided into 4,000 shares having a par value of 100,000 units of account each which shall be available for subscription only by members in accordance with Article 4 of this Chapter.

3. The original authorized capital stock of the Bank shall be divided equally into paid-in shares and callable shares.

4. The authorized capital stock of the Bank may, after consultation with the Board of Directors, be increased by the Authority.
Article 4
Subscriptions of shares

1. Each member of the Bank shall subscribe to shares of the authorized capital stock of the Bank.
2. Each member shall be for paid-in shares and convertible shares in equal parts.
3. The initial subscriptions of members to the authorized capital stock of the Bank shall be 80 shares each and the initial subscriptions of the other authorized capital stock of the Bank shall be as determined by the Governments of the Partner States.
4. The initial subscriptions of members, other than original members, to the authorized capital stock of the Bank shall be 80 shares each and the initial subscriptions of the other authorized capital stock of the Bank shall be as determined by the Governments of the Partner States.
5. If the initial subscription to the authorized capital stock of the Bank is increased, the following provisions shall apply:
   (a) subject to this Article, subscriptions to any increase of the authorized capital stock shall be subject to such terms and conditions as the Bank shall determine;
   (b) each member, other than a Partner State, shall subscribe to equal parts only of the increased authorized capital stock.

Article 5
Payment of subscriptions

1. Payment of the authorized capital stock of the Bank shall be made in four installments the first of which shall be 30 per cent. of such amount, and the remaining installments shall be paid within 60 days of their becoming due. If the subscriptions shall by each Partner State be 30 per cent. of such amount within 30 days after the payment of such subscriptions they are paid within 60 days of their becoming due, the first installment shall be paid within 60 days of the first payment. The amount of the authorized capital stock of the Bank shall be increased in accordance with the above payment of such subscriptions.
2. Notwithstanding the provisions of paragraph 1 of this Article, in respect of any installment other than the first installment of the initial subscriptions, the unfunded amount of such subscriptions shall be immediately required, either in full or in part only, as may be required by the Governments of the Partner States.
3. Each installment of the payment of subscriptions shall be paid in convertible currency.
   (a) 30 per cent. shall be paid in convertible currency.
   (b) 5 per cent. shall be paid in the currency of the Partner State concerned.

4. Each payment of a Partner State in its own currency under sub-paragraph (b) of paragraph 3 of this Article shall be in such amount as the Bank may consider necessary, determined to be equivalent to the full amount of such payment in convertible currency.
value in terms of the unit of account as expressed in paragraph 1 of Article 3 of this Charter of the portion of the subscription being paid.

5. The initial payment of a Partner State under sub-paragraph (b) of paragraph 3 of this Article shall be in such amount as the member considers appropriate but shall be subject to such adjustment, to be effected within 90 days of the date on which such payment was made, as the Bank shall determine to be necessary to constitute the full value of such payment in terms of the unit of account as expressed in paragraph 1 of Article 3 of this Charter.

6. Each installment for the payment of subscriptions by members other than Partner States to the original paid-in capital stock shall be paid in convertible currency.

7. Payment of the amount subscribed to the callable capital stock of the Bank shall be subject to call only as and when required by the Bank to meet its obligations incurred under paragraphs (b) and (d) of Article 10 of this Charter on borrowings of funds for inclusion in its ordinary capital resources or on guarantees chargeable to such resources.

8. In the event of a call being made in terms of paragraph 7 of this Article, payment may be made at the option of the member in convertible currency or in the currency required to discharge the obligations of the Bank for the purposes for which the call is made. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

9. The Bank shall determine the place for any payment of subscriptions, provided that, until the first meeting of its Board of Directors, the payment of the first installment referred to in paragraph 1 of this Article shall be made to the Bank of Uganda as Trustee for the Bank.

Chapter III. Ordinary Capital Resources and Special Funds

Article 6

Ordinary capital resources

In the context of this Charter, the term 'ordinary capital resources' of the Bank shall include—

(a) the authorized capital stock of the Bank including both paid-in and callable shares subscribed pursuant to Article 4 of this Charter;
(b) funds raised by borrowings of the Bank by virtue of powers conferred by Article 19 of this Charter to which the commitment to calls provided for in paragraph 7 of Article 5 of this Charter is applicable;
(c) funds received in repayment of loans or guarantees made with the resources specified in paragraphs (a) and (d) of this Article;
(d) income derived from loans made from the above-mentioned funds or from guarantees to which the commitment to calls provided for in paragraph 7 of Article 5 of this Charter is applicable; and
(e) any other funds or income received by the Bank which do not form part of its Special Funds referred to in Article 7 of this Charter.

Special Funds

Article 7

1. The Bank may accept for administration, from such sources as it considers appropriate, Special Funds which are designed to promote the objectives of the Bank.

2. Special Funds accepted by the Bank under paragraph 1 of this Article shall be used in such manner and on such terms and conditions as are not inconsistent with the objectives of the Bank and the agreement under which such funds are accepted by the Bank for administration.

3. The Board of Directors shall make such regulations as may be necessary for the administration and use of each Special Fund. Such regulations shall be consistent with the provisions of this Charter, other than those provisions which expressly relate only to the ordinary operations of the Bank.

4. The term 'Special Funds' as used in this Charter shall refer to the resources of any Special Fund and shall include—

(a) funds accepted by the Bank in any Special Fund;
(b) funds repaid in respect of loans or guarantees financed from any Special Fund which, under the regulations of the Bank covering that Special Fund, are received by such Special Fund; and
(c) income derived from operations of the Bank in which any of the above-mentioned resources or funds are used or committed if, under the regulations of the Bank covering the Special Fund concerned, that income accrues to such Special Fund.

Chapter IV. Operations of the Bank

Article 8

Use of resources

The resources and facilities of the Bank shall be used exclusively to implement the objectives of the Bank as set forth in Article 1 of this Charter.
Capital reserves and surplus included in ordinary capital resources, excluding the special reserve and any other reserves not available for ordinary operations.

Article 9

1. The operations of the Bank shall consist of ordinary operations and special operations. Ordinary operations shall consist of those financed from the Special Funds, other than those Special Funds referred to in Article 7 of this Charter.

2. The ordinary capital resources of the Bank shall be those finance from the Special Funds, other than those Special Funds referred to in Article 7 of this Charter.

3. The ordinary capital resources of the Bank shall not be charged with, nor used to discharge, losses or liabilities arising out of special operations, for which Special Funds were originally used or committed.

4. Expenses relating directly to ordinary operations shall not be charged with, or used to discharge, losses or liabilities arising out of special operations, for which Special Funds were originally used or committed.

Article 10

Methods of Operation

Subject to the conditions set forth in this Charter, the Bank may provide finance or facilitate financing in any of the following ways:

(a) by making or participating in direct loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources, or
(b) by means other than the unimpaired Special Funds, or
(c) by investments in other financial institutions or enterprises, or
(d) by guaranteeing in whole or in part, loans made by others for industrial development.

Article 11

Limitation on operations

1. The total amount outstanding of loans, equity investments and guarantees made by the Bank in its ordinary operations shall not at any time exceed one and a half times the total amount of its unimpaired subscribed capital.
(b) by providing, when local currency required for the purposes of the loan cannot be raised by the borrower on reasonable terms, local currency but not exceeding a reasonable portion of the total local expenditure to be incurred by the borrower.

Article 13

Operating principles
The operations of the Bank shall be conducted in accordance with the following principles—
(a) the Bank shall be guided by sound banking principles in its operations and shall finance only economically sound and technically feasible projects, and shall not make loans or undertake any responsibility for the discharge or re-financing of earlier commitments by borrowers;
(b) in selecting projects, the Bank shall always be guided by the need to pursue the objectives set forth in Article 1 of this Charter;
(c) subject to this Article, the Bank shall ensure that, taken over consecutive periods of five years, the first of which shall begin upon the commencement of the operations of the Bank, it shall so conduct its operations that it shall have loaned, guaranteed or otherwise invested, as nearly as is possible, in the United Republic of Tanzania 38% per cent of the total sum which it has loaned, guaranteed or otherwise invested of its ordinary capital resources and the Special Funds, in the Sovereign State of Uganda 38% per cent thereof and in the Republic of Kenya 25% per cent thereof:

Provided that, after a period of ten years from the commencement of operations of the Bank, the Partner States shall review the percentages specified in this paragraph and thereafter the Authority, after consultation with the Board of Directors, may by order published in the Gazette of the Community alter the percentages specified in this paragraph;
(d) the operations of the Bank shall provide principally for the financing directly of specific projects within the Partner States but may include loans to or guarantees of loans made to the national development agencies of the Partner States so long as such loans or guarantees are in respect of and used for specific projects which are agreed to by the Bank;
(e) the Bank shall seek to maintain a reasonable diversification in its investments;
(f) the Bank shall seek to revolve its funds by selling its investments in equity capital to other investors wherever it can appropriately do so on satisfactory terms;

(g) the Bank shall not finance any undertaking in the territory of a Partner State if that Partner State objects to such financing;
(h) before a loan is granted or guaranteed or an investment made, the applicant shall have submitted an adequate proposal to the Bank, and the Director-General of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with his recommendations;
(i) in considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain finance or facilities elsewhere on terms and conditions that the Bank considers reasonable for the recipient, taking into account all pertinent factors;
(j) in making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be able to meet their obligations under the loan contract;
(k) in making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned;
(l) in guaranteeing a loan made by other investors, the Bank shall charge a suitable fee or commission for its risk;
(m) in the case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw the loan funds only to meet payments in connection with the project as they fall due;
(n) the Bank shall take all necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank are used only for the purpose for which the loan was granted and with due attention to considerations of economy and efficiency; and
(o) the Bank shall ensure that every loan contract entered into by it shall enable the Bank to exercise all necessary powers of entry, inspection and supervision of operations in connection with the project and shall further enable the Bank to require the borrower to provide information and to allow inspection of its books and records during such time as any part of the loan remains outstanding.

Article 14

Prohibition of political activity
1. The Bank shall not accept loans, Special Funds or assistance that may in any way prejudice, limit, deflect or otherwise alter its objectives or functions.
2. The Bank, its Director-General and officers and staff shall not interfere in the political affairs of any Partner State, nor shall they be influenced in their decisions by the political character of a Partner State. Only economic
considerations shall be relevant to their decisions and such considerations shall be weighed impartially to achieve and carry out the objectives and functions of the Bank.

Article 15
Terms and conditions for direct loans and guarantees
1. In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish, in conformity with the operating principles set out above and subject to the other terms and conditions of this Charter, the terms and conditions for the loan or the guarantee concerned, including payment of principal, interest, commitment fee and other charges, maturities and dates of payment in respect of the loan, or the fees and other charges in respect of the guarantee, respectively.
2. The contract shall provide that all payments to the Bank under the contract shall be made in the currency loaned, unless, in the case of a loan made or guaranteed as part of special operations, the regulations of the Bank provide otherwise.
3. Guarantees by the Bank shall also provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower or any other guarantor, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.
4. Whenever it considers it appropriate, the Bank may require as a condition of granting or participating in a loan that the Partner State in whose territory a project is to be carried out, or a public agency or instrumentality of that Partner State acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof.
5. The loan or guarantee contract shall specifically state the currency in which all payments to the Bank thereunder shall be made.

Article 16
Commission and fees
1. In addition to interest, the Bank shall charge a commission on direct loans made or participated in as part of its ordinary operations at a rate to be determined by the Board of Directors and computed on the amount outstanding on each loan or participation.
2. In guaranteeing a loan as part of its ordinary operations, the Bank shall charge a guarantee fee at a rate determined by the Board of Directors payable periodically on the amount of the loan outstanding.
3. Other charges, including commitment fee, of the Bank in its ordinary operations and any commission, fees or other charges in relation to its special operations shall be determined by the Board of Directors.

Article 17
Special Reserve
The amount of commissions and guarantee fees received by the Bank under the provisions of Article 16 of this Charter shall be set aside as a Special Reserve which shall be kept for meeting liabilities of the Bank in accordance with Article 18 of this Charter. The Special Reserve shall be held in such liquid form as the Board of Directors may decide but the Board of Directors shall ensure that any part of the Special Reserve which it may decide to invest in the territories of the Partner States shall be invested, as nearly as possible, in equal proportions in each Partner State.

Article 18
Defaults on loans and methods of meeting liabilities of the Bank
1. In cases of default on loans made, participated in or guaranteed by the Bank in its ordinary operations, the Bank shall take such action as it considers appropriate to conserve its investment including modification of the terms of the loan, other than any term as to the currency of repayment.
2. Payments in discharge of the Bank's liabilities on borrowings or guarantees chargeable to the ordinary capital resources shall be charged firstly against the Special Reserve and then, to the extent necessary and at the discretion of the Bank, against other reserves, surplus and capital available to the Bank.
3. Whenever necessary to meet contractual payments of interest, other charges or amortization on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in relation to loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of the uncalled subscribed callable capital in accordance with paragraphs 7 and 8 of Article 5 of this Charter.

Chapter V. Miscellaneous Powers and Duties of the Bank
Article 19
Miscellaneous powers
In addition to the powers specified elsewhere in this Charter, the Bank shall be empowered—
(a) to borrow funds in the territories of the Partner States, or elsewhere,
and in this connection to furnish such collateral or other security therefor as the Bank shall determine:

Provided that—

(i) before selling its obligations or otherwise borrowing in the territory of a country, the Bank shall obtain the approval of the Government of that country to the sale; and

(ii) before deciding to sell its obligations or otherwise borrowing in a particular country, the Bank shall consider the amount of previous borrowing, if any, in that country with a view to diversifying its borrowing to the maximum extent possible;

(f) to buy and sell securities which the Bank has issued or guaranteed or in which it has invested;

(g) to guarantee securities in which it has invested in order to facilitate their sale;

(d) to invest funds not immediately needed in its operations in such obligations as it may determine and invest funds held by the Bank for pensions or similar purposes in marketable securities, but the Bank shall ensure that any funds which it may decide to invest in the territories of the Partner States shall be invested, as nearly as possible, in equal proportions in each Partner State;

(e) to provide technical advice and assistance which may serve its purposes and come within its functions and where appropriate, for example in the case of special feasibility studies, the Bank shall charge for such services; and

(f) to study and promote the investment opportunities within the Partner States.

Article 20

Allocation of net income

1. The Board of Directors shall determine annually what part of the net income of the Bank, including the net income accruing to the Special Funds, shall be allocated, after making provision for reserves, to surplus and what part, if any, shall be distributed to the members.

2. Any distributions to members made pursuant to paragraph 1 of this Article shall be in proportion to the number of shares held by each member and payments shall be made in such manner and in such currency as the Board of Directors shall determine.

Article 21

Power to make regulations

The Board of Directors may make such regulations, including financial regulations, being consistent with the provisions of this Charter as it considers necessary or appropriate to further the objectives and functions of the Bank.

Article 22

Notice to be placed on securities

Every security issued or guaranteed by the Bank shall bear on its face a conspicuous statement to the effect that it is not an obligation of any Government, unless it is in fact the obligation of a particular Government, in which case it shall so state.

Chapter VI. Currencies

Article 23

Determination of convertibility

Whenever it shall become necessary under this Charter to determine whether any currency is convertible, such determination shall be made by the Bank after consultation with the International Monetary Fund.

Article 24

Use of currencies

1. The Partner States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank for payments in any country of the following—

(a) currencies received by the Bank in payment of subscriptions to its capital stock;

(b) currencies purchased with the currencies referred to in sub-paragraph (a) of this paragraph;

(c) currencies obtained by the Bank by borrowing for inclusion in its ordinary capital resources;

(d) currencies received by the Bank in payment of principal, interest, dividends or other charges in respect of loans or investments made out of any of the funds referred to in sub-paragraphs (a), (b) and (c) of this paragraph or in payment of fees in respect of guarantees made by the Bank; and

(e) currencies received from the Bank in distribution of the net income of the Bank in accordance with Article 20 of this Charter.

2. The Partner States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of currency received by the Bank which does not
come within the provisions of paragraph 1 of this Article unless such currency forms part of the Special Funds of the Bank and its use is subject to special regulations.

3. The Partner States may not maintain or impose any restriction on the holding or use by the Bank, for making amortisation payments or for repurchasing in whole or in part the Bank's own obligations, of currencies received by the Bank in repayment of direct loans made out of its ordinary capital resources.

4. Each Partner State shall ensure, in respect of projects within its territories, that the currencies necessary to enable payments to be made to the Bank in accordance with the provisions of the contracts referred to in Article 15 of this Charter shall be made available in exchange for currency of the Partner State concerned.

Article 25

Maintenance of value of currency holdings

1. Whenever the par value in the International Monetary Fund of the currency of a Partner State is reduced or the foreign exchange value of the currency of a Partner State has, in the opinion of the Bank, depreciated to a significant extent within the territory of that Partner State, such Partner State shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of subscription, of the amount of the currency of such Partner State paid in to the Bank by that Partner State under sub-paragraph (b) of paragraph 3 of Article 5 of this Charter, and currency furnished under the provisions of this paragraph, provided, however, that the foregoing shall apply only so long as and to the extent that such currency shall not have been initially disbursed or exchanged for another currency.

2. Whenever the par value in the International Monetary Fund of the currency of a Partner State is increased, or the foreign exchange value of the currency of a Partner State has, in the opinion of the Bank, appreciated to a significant extent within the territory of that Partner State, the Bank shall return to such Partner State within a reasonable time an amount of the currency of that Partner State equal to the increase in the value of the amount of such currency to which the provisions of paragraph 1 of this Article are applicable.

CHAPTER VII. ORGANIZATION AND MANAGEMENT OF THE BANK

Article 26

Structure

The Bank shall have a Board of Directors, a Director-General and such other officers and staff as it may consider necessary.

Article 27

Board of Directors

1. All the powers of the Bank shall, subject to this Charter, be vested in the Board of Directors.

2. The Board of Directors shall consist of not more than five nor fewer than three members of whom—

(a) three shall be appointed by the Partner States, each of which shall appoint one; and

(b) up to two shall be elected by the members other than the Partner States in accordance with such procedure as the said members shall from time to time decide:

Provided that no single member shall be represented by more than one director.

3. All directors shall be persons possessing high competence and wide experience in economic, financial and banking affairs.

4. Directors shall hold office for a term of three years and shall be eligible for re-appointment or re-election:

Provided that—

(a) of the first directors of the Bank two, who shall be chosen by the directors by lot, shall hold office for two years;

(b) a director shall remain in office until his successor has been appointed or elected;

(c) a director appointed or elected in place of one whose office has become vacant before the end of his term shall hold office only for the remainder of that term;

(d) a director appointed by a Partner State may be required at any time by that Partner State to vacate his office.

5. There shall be appointed or elected, as the case may be, an alternate director in respect of each substantive director and an alternate director shall be appointed or elected in the same manner and for the same term of office as the director to whom he is an alternate; and an alternate director shall remain in office until his successor has been appointed or elected.
Article 30

1. There shall be a Director-General of the Bank, who shall be appointed by the Board of Directors, and who, while he remains Director-General, may not hold office as a Director or an alternate to a Director.

2. Subject to paragraph 3 of this Article, the Director-General shall hold office for a term of five years and may be re-appointed.

3. The Director-General shall vacate his office if the Authority after consultation with the Board of Directors so decides.

4. If the office of Director-General becomes vacant for any reason, a successor shall be appointed for a new term of five years.

5. The Director-General shall preside at meetings of the Board of Directors but shall have no vote.

6. The Director-General shall be the legal representative of the Bank.

7. The Director-General shall be chief of the staff of the Bank and shall conduct under the direction of the Board of Directors the current business and technical duties of the Bank.

8. The Director-General shall subject to the paramount importance of securing the highest standards of efficiency and technical competence, pay due regard to the recruitment of citizens of the United States.

Article 29

1. The voting power of each member of the Board of Directors shall be equal to the number of shares of the capital stock of the Bank held by that member.

2. (a) An Appointed Director shall be entitled to cast the number of votes corresponding to his total voting power in the Board of Directors.

(b) The number of the Bank's shares represented by the votes of such Director may be cast as a unit, and the voting power of each member of the Board of Directors shall be equal to the number of shares of the capital stock of the Bank held by that member.

(g) The voting power of each member of the Board of Directors shall be equal to the number of shares of the capital stock of the Bank held by that member.

(h) The voting power of each member of the Board of Directors shall be equal to the number of shares of the capital stock of the Bank held by that member.
Article 32

Offices of the Bank
The principal office of the Bank shall be located at Kampala in Uganda and the Bank may establish offices or agencies elsewhere.

Article 33

Channel of communications, depositories
1. Each member of the Bank shall designate an appropriate official, entity or person with whom the Bank may communicate in connection with any matter arising under this Charter.
2. Each Partner State shall designate its central bank, or such other agency as may be agreed upon with the Bank, as a depository with which the Bank may keep its holdings of currency and other assets.

Article 34

Working language
The working language of the Bank shall be English.

Article 35

Accounts and reports
1. The Board of Directors shall ensure that proper accounts and proper records are kept in relation to the operations of the Bank and such accounts shall be audited in respect of each financial year by auditors of high repute selected by the Board of Directors.
2. The Bank shall prepare and transmit to the Authority and to the members of the Bank, and shall also publish, an annual report containing an audited statement of its accounts.
3. The Bank shall prepare and transmit to its members quarterly a summary statement of its financial position and a profit and loss statement showing the results of its operations.
4. All financial statements of the Bank shall show ordinary operations and the operations of each Special Fund separately.
5. The Bank may also publish such other reports as it considers desirable in carrying out its objectives and functions and such reports shall be transmitted to members of the Bank.

Chapter VIII. Withdrawal and Suspension of Members

Article 36

Withdrawal of members
1. A Partner State may not withdraw from the Bank.
2. Any member, other than a Partner State, may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its principal office.
3. Withdrawal by a member under paragraph 2 of this Article shall become effective, and its membership shall cease, on the date specified in its notice but in no event less than six months after the date that notice has been received by the Bank. However, at any time before the withdrawal becomes finally effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.
4. A withdrawing member shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice. If the withdrawal becomes finally effective, the member shall not incur any liability for obligations resulting from operations of the Bank effected after the date on which the withdrawal notice was received by the Bank.

Article 37

Suspension of membership
1. If a member of the Bank, other than a Partner State, fails to fulfill any of its obligations to the Bank, the Board of Directors may suspend such member by a majority vote of the total number of Directors representing not less than 75 per cent of the total voting power of the members including the affirmative votes of each of the Partner States.
2. The member so suspended shall automatically cease to be a member of the Bank six months from the date of its suspension unless the Board of Directors decides, within that period and by the same majority necessary for suspension, to restore the member to good standing.
3. While under suspension, a member shall not be entitled to exercise any rights under this Charter but shall remain subject to all its obligations.

Article 38

Settlement of accounts
1. After the date on which a member ceases to be a member, it shall remain liable for its direct obligations to the Bank and for its contingent
liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member is outstanding; but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Bank nor share either in the income or the expenses of the Bank.

2. At the time a member ceases to be a member, the Bank shall arrange for the repurchase of its shares by the Bank as a part of the settlement of accounts with such member in accordance with the provisions of paragraphs 3 and 4 of this Article. For this purpose, the repurchase price of the shares shall be the value shown by the books of the Bank on the date the member ceases to be a member.

3. The payment for shares repurchased by the Bank under this Article shall be governed by the following conditions—

(a) any amount due to the member concerned for its shares shall be withheld so long as that member remains liable, as a borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the contingent liability of the member for future calls on its subscription for shares in accordance with paragraph 7 of Article 5 of this Charter. In any event, no amount due to a member for its shares shall be paid until six months after the date on which the member ceases to be a member;

(b) payments for shares may be made from time to time, upon their surrender by the member concerned, to the extent by which the amount due as the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans and guarantees referred to in sub-paragraph (a) of this paragraph, until the former member has received the full repurchase price;

(c) payments shall be made in such available currencies as the Bank determines, taking into account its financial position; and

(d) if losses are sustained by the Bank on any guarantees or loans which were outstanding on the date when a member ceased to be a member and the amount of such losses exceeds the amount of the reserve provided against losses on that date, the member concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain liable on any call for unpaid subscriptions in accordance with paragraph 7 of Article 5 of this Charter, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

4. If the Bank terminates its operations pursuant to Article 39 of this Charter within six months of the date upon which any member ceases to be a member, all rights of the member concerned shall be determined in accordance with the provisions of Articles 39 to 41 of this Charter. Such member shall be considered as still a member for the purposes of such Articles but shall have no voting rights.

Chapter IX. Termination of Operations

Article 39

Termination of operations

1. The Bank may terminate its operations by resolution of the Board of Directors approved by a vote representing not less than 85 per cent of the total voting power of the members and with the approval also of the Authority.

2. After such termination, the Bank shall forthwith cease all activities, except those incidental to the orderly realization, conservation and preservation of its assets and the settlement of its obligations.

Article 40

Liability of members and payment of claims

1. In the event of termination of the operations of the Bank, the liability of all members for uncalled subscriptions to the capital stock of the Bank shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgement, to ensure a pro rata distribution among holders of direct and contingent claims.

Article 41

Distribution of assets

1. No distribution of assets shall be made to members on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for and any such distribution shall
be approved by the Board of Directors by a vote representing not less than 85 per cent of the total voting power of the members.

2. Any distribution of the assets of the Bank to the members shall be in proportion to the capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall consider fair and equitable. The shares of assets distributed need not be uniform as to type of asset. No member shall be entitled to receive its share in such a distribution of assets until it has settled all of its obligations to the Bank.

3. Any member receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

Chapter X. Status, Immunities and Privileges

Article 42

Purpose of Chapter
To enable the Bank effectively to fulfil its objectives and carry out the functions with which it is entrusted, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territories of each of the Partner States.

Article 43

Legal status
The Bank shall possess full juridical personality and, in particular, full capacity—
(a) to contract;
(b) to acquire, and dispose of, immovable and movable property; and
(c) to institute legal proceedings.

Article 44

Judicial proceedings
1. Actions may be brought against the Bank in the territories of the Partner States only in a court of competent jurisdiction in a Partner State in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. No action shall be brought against the Bank by members or persons acting for or deriving claims from members. However, members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Charter, in the regulations of the Bank or in contracts entered into with the Bank.

Immunity of assets

Article 45

1. Property and other assets of the Bank, wheresoever located and by whomever held, shall be immune from requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action and premises used for the business of the Bank shall be immune from search.

2. The Bank shall prevent its premises from becoming refuges for fugitives from justice, or for persons subject to extradition, or persons avoiding service of legal process or a judicial proceeding.

Immunity of archives

Article 46

The archives of the Bank and all documents belonging to it, or held by it, shall be inviolable wherever located.

Freedom of assets from restriction

Article 47

To the extent necessary to carry out the objectives and functions of the Bank and subject to the provisions of this Charter, all property and other assets of the Bank shall be free from restrictions, regulations, controls, and moratoria of any nature.

Personal immunities and privileges

Article 48

Directors, alternates, officers and employees of the Bank and experts and consultants rendering services to the Bank shall have the immunities and privileges provided for under Article 3 of the Treaty to which this Charter is annexed.

Exemption from taxation

Article 49

1. The Bank shall be enabled to import free of customs duty any goods required for the purpose of its operations except such goods as are intended for sale, or are sold, to the public.

2. No transfer tax may be imposed upon manufactured goods which are required by the Bank for the purpose of its operations, otherwise than upon such goods as are intended for sale, or are sold, to the public.

3. The Bank shall be exempted from income tax and stamp duty.
Article 30

Implementation
Each Partner State shall promptly take such action as is necessary to make effective within that Partner State the provisions set forth in this Chapter and shall inform the Bank of the action which it has taken on the matter.

Article 31

Waiver of immunities
1. The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.
2. The Bank shall take every measure to ensure that the privileges, immunities, exemptions and facilities conferred by this Charter are not abused and for this purpose shall establish such regulations as it may consider necessary and expedient.

Chapter XI. Amendment, Interpretation and Arbitration

Article 52

Amendment of the Charter
1. This Charter may be amended only by a resolution of the Board of Directors approved by a vote representing not less than 85 per cent of the total voting power of the members and thereafter approved by the Authority.
2. An amendment to this Charter shall be published as a Legal Notice in the Gazette of the Community and shall enter into force three calendar months after the date of such publication unless the resolution referred to in paragraph 1 of this Article otherwise provides.
3. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Board of Directors shall be required for the approval of any amendment of the Charter modifying—
   (a) the right of a member, other than a Partner State, to withdraw from the Bank as provided in Article 36 of this Charter;
   (b) the right to subscribe to capital stock of the Bank as provided in paragraph 3 of Article 4 of this Charter; and
   (c) the limitation on liability as provided in paragraphs 8 and 9 of Article 4 of this Charter.

Article 53

Interpretation or application
Any question of interpretation or application of the provisions of this Charter arising between any member and the Bank or between two or more members of the Bank shall be submitted to the Board of Directors for decision.

Article 54

Arbitration
1. If a disagreement shall arise between the Bank and a member or between the Bank and a former member of the Bank including a disagreement in respect of a decision of the Board of Directors under Article 53 of this Charter, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Bank, another by the member or former member concerned and the third, unless the parties otherwise agree, by the Executive Secretary of the Economic Commission for Africa or such other authority as may have been prescribed by regulations made by the Board of Directors.
2. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding on the parties and a decision of the arbitrators may include an order as to payment of costs and expenses.
3. The third arbitrator shall be empowered to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

Chapter XII. Final Provisions

Article 55

Signature and deposit
1. Upon the signature of the Treaty to which this Charter is annexed on behalf of all three Partner States, a copy of this Charter shall be deposited with the Secretary-General of the Common Services Organization where it shall remain open until the first day of December 1967 for signature by the bodies corporate, enterprises or institutions approved under paragraph 1 of Article 2 of this Charter.
2. Immediately after the first day of December 1967 the Secretary-General of the Community shall send certified copies of this Charter to all the Partner States and others who by signing this Charter become members of the Bank.
Article 56

Entry into force
This Charter shall enter into force at the same time as does the Treaty to
which it is annexed.

Article 57

Commencement of operations
1. As soon as this Charter enters into force, the Directors shall be ap-
pointed or elected in accordance with the provisions of Article 27 of this
Charter and the Secretary-General of the Community shall call the first
meeting of the Board of Directors.
2. At its first meeting the Board of Directors shall determine the date on
which the Bank shall commence its operations.
3. The Bank shall notify its members of the date of the commencement
of its operations.

Article 58

Definitions
In this Charter, unless the context otherwise requires—
'Authority' means the East African Authority established by Article 46
of the Treaty to which this Charter is annexed;
'Board of Directors' means the Board of Directors of the Bank;
'Community' means the East African Community established by Article
1 of the Treaty to which this Charter is annexed;
'Director-General' means the Director-General of the Bank;
'Treaty' means the Treaty for East African Co-operation to which this
Charter is annexed.

ANNEX VII

Current Account Payments
1. Payments for goods of all kinds, including any payment of insurance
in respect of such goods or any element in the price thereof in respect of
such insurance, and payments for water and electricity, imported or to be
imported into the Partner State from which payment is to be made.
2. Payments in respect of goods traded under transit or merchanting
arrangements.

3. Payments in respect of the carriage of goods or passengers by any
means of transport, including payments for the chartering of such
transport.
4. Payments in respect of services incidental to the carriage of goods or
passengers by any means of transport, including warehousing and storage
and transit facilities.
5. Payments in respect of the operation of transport services, including
bunkering and provisioning, maintenance, assembly and repair of equip-
ment and installations, fuel and oil, garaging, and expenses of staff.
6. Payments in respect of postal and telecommunications services.
7. Payments in respect of business services, including payments for agency
and representation services, advertising, banking commission and charges,
insurance and reinsurance, commission and brokerage services, and assistance
relating to the production and distribution of goods and services at all
stages.
8. Payments for professional services, including legal, medical, dental,
aranticipating, accounting and auditing and engineering services.
9. Payments in respect of travel, subsistence and accommodation.
10. Payments in respect of fees and remuneration for other services,
including education and personal services.
11. Payments in respect of construction carried out in the Partner State
from which payment is to be made.
12. Payments in respect of processing, finishing, servicing and mainten-
ance work.
13. Payments of interest and other investment income on shares, loans,
mortgages, overdrafts and debentures, of profits from business, and con-
trontual amortization.
14. Payments by or to subsidiary concerns, branches or sub-branches in
respect of overhead costs shared with a parent concern or branch.
15. Payments in respect of rentals.
16. Payments in respect of any tax, rate, fine, fee or charge levied or im-
posed under any law by any public authority, including charges for cus-
toms clearance, demurrage, licences and permits, court fees and fines,
and fees for registration of companies, partnerships, business names, trade
marks and patents.
17. Payments in respect of business expenses, including wages, salaries,
allowances, directors' fees, gratuities and severance payments.
18. Payments of pensions, including any commuted portion thereof, and of superannuation and Provident Fund benefits.

19. Remittances from current income to, by or on behalf of persons (other than bodies corporate) in a Partner State who are not citizens of that Partner State.

20. Payments to, by or on behalf of persons visiting or residing in another Partner State whose personal income is not sufficient to cover their current expenses or the current expenses of their family.

21. Payments in respect of claims for damage, legal obligations for damages or for maintenance.

22. Payments in respect of subscriptions to and entrance and membership fees of any association.

23. Payments by persons having emigrated from the Partner State from which the payment is to be made to another Partner State, of amounts not less than those permitted for emigrants to any foreign country.

24. Payments in respect of royalties and of use of patent rights, designs, trade marks and inventions.

25. Donations out of current income towards charities.

26. Payments in respect of inheritances, subject to regulation of the timing of transfers of such payments.

27. Payments in respect of prizes, including premium bond, lottery and sports prizes.

(24) ANNEX VIII

Statute of the Common Market Tribunal

Article 1

Preliminary

The Tribunal shall be constituted and shall perform its duties in accordance with this Treaty and this Statute.

Article 2

Oath and declaration

1. Before entering upon their duties, the members of the Tribunal shall in public session individually undertake, by oath or affirmation, to perform their duties impartially and conscientiously and to preserve the secrecy of the Tribunal's deliberations.

2. When entering upon their duties, the members of the Tribunal shall make a declaration to the effect that they will, both during and after the termination of their office, respect the obligations resulting therefrom and in particular the duty of exercising honesty and discretion as regards the acceptance, after their term of office, of certain positions or benefits, and will abide by the direction of the Tribunal in cases of doubt.

Article 3

Holding of other offices

Except with the consent of the Authority, a member of the Tribunal shall neither hold any political office or any office in the service of a Partner State, the Community or a Corporation, nor engage in any trade, vocation or profession.

Article 4

Resignation

1. The Chairman of the Tribunal may at any time resign his office by letter delivered to the Secretary-General for transmission to the Authority, but his resignation shall not take effect until his successor enters upon his duties.

2. A member of the Tribunal other than the Chairman may at any time resign his office by letter delivered to the Chairman of the Tribunal for transmission to the Authority, but his resignation shall not take effect until his successor enters upon his duties.

Article 5

Replacement of member

A member of the Tribunal appointed to replace a member whose term of office has not expired shall be appointed in the same manner as was that member and for the remainder of that member's term of office.

Article 6

Registrar and staff

1. There shall be a Registrar of the Tribunal who shall hold office in the service of the Community and whose functions shall, subject to this Statute and to the rules of procedure of the Tribunal, be determined by the Tribunal.
2. Before entering upon his duties, the Registrar of the Tribunal shall undertake, by oath or affirmation sworn or made before the Tribunal in public session, to perform his duties impartially and conscientiously and to preserve the secrecy of the Tribunal’s deliberations.

3. The Tribunal shall have such officials and staff, who shall hold office in the service of the Community, as may be necessary to enable it to perform its functions.

Article 7

Seat of the Tribunal

The seat of the Tribunal shall be at Arusha in Tanzania, but the Tribunal may in any particular case sit and exercise its functions elsewhere within the Partner States if it considers it desirable.

Sessions of the Tribunal

1. The Tribunal shall remain permanently in session, except for judicial vacations, and the dates and length of such vacations shall be determined by the Chairman with due regard for its obligations.

2. Subject to this Statute and to the rules of procedure, the Tribunal shall sit in plenary session only with all its members present:

Provided that, in any case where the Tribunal has commenced the hearing of a case before it and not more than one member of the Tribunal is unable to continue such hearing and is temporarily absent therefrom, it shall be competent to the Tribunal, notwithstanding the temporary absence of such member and with the agreement of the parties to the case before it, to continue and determine the hearing of such case.

Article 8

Functions of the Chairman

Notwithstanding paragraph 2 of Article 8 of this Statute, the rules of procedure may impose functions upon the Chairman of the Tribunal sitting alone in relation to administrative, procedural and other preliminary matters not being matters falling to be dealt with by the Tribunal by interim order under Article 39 of this Treaty.

Article 9

Duty to attend

Members of the Tribunal shall be bound, unless they are prevented from attending by illness or other serious reasons duly explained to the Chairman, to hold themselves permanently at the disposal of the Tribunal.

Article 10

References

1. Matters in dispute shall be referred to the Tribunal by a reference addressed to the Registrar specifying the subject matter of the dispute and the parties to it.

2. The Registrar shall immediately send a copy of the reference to all concerned.

Article 12

Representation before the Tribunal

Every party to a case before the Tribunal shall be represented by a person appointed by that party for the case; a representative need not be an advocate but he may be assisted by an advocate entitled to appear before a superior court of any of the Partner States.

Article 13

Proceedings

1. The proceedings of the Tribunal shall consist of a written part and an oral part.

2. The written part of the proceedings shall include the reference, the application, the response to the application, the reply, the rejoinder and the submissions, together with all papers and documents in support.

3. The written part of the proceedings shall be presented to the Registrar, in the order and within the time fixed by the rules of procedure or by the Tribunal in any particular case, and a copy of every paper or document presented by one party shall be communicated to the other party.

4. The oral part of the proceedings shall consist of the hearing by the Tribunal of witnesses, experts, representatives and advocates.

Article 14

Hearings

The hearing before the Tribunal shall be under the control of the Chairman and shall be in public, unless the Tribunal decides otherwise or a party requests that the public be not admitted.

Article 15

Production of documents

1. The Tribunal may at any time request the parties to produce all documents and supply all information or explanations which the Tribunal considers desirable. Formal note shall be taken of any refusal.
2. The Tribunal may also request a Partner State, which is not a party to the case, or an institution of the Community to supply all information which the Tribunal considers necessary for the proceedings.

Article 16

Inquiries and expert opinions
The Tribunal may, in relation to any proceedings and at any time, charge any person, body or institution with the task of carrying out an inquiry or giving an expert opinion.

Article 17

Witnesses
1. During the hearing relevant questions may be put to the witnesses and experts under the conditions laid down by the rules of procedure.
2. During the hearing the Tribunal may examine the experts and witnesses and ask questions of the representatives and advocates.
3. The Tribunal shall have, with respect to defaulting witnesses, the powers granted to the superior court in the Partner State where it is at the relevant time sitting, and may impose sanctions accordingly.
4. Minutes shall be kept of each hearing and shall be signed by the Chairman and the Registrar.

Article 18

List of cases
The list of cases shall be fixed by the Chairman.

Article 19

Costs
Unless otherwise decided by the Tribunal, each party shall bear its own costs.

Article 20

Advisory opinions
1. A request for an advisory opinion under Article 38 of the Treaty shall be made by means of a written request containing an exact statement of the question upon which an opinion is required and shall be accompanied by all documents likely to be of assistance.
2. Upon receipt of a request under paragraph 1 of this Article, the Registrar shall forthwith give notice thereof to the Partner States and notify them that the Tribunal will be prepared to accept, within a time to be fixed by the Chairman, written submissions, or to hear, at a hearing held for the purpose, oral submissions relating to the question.
3. The Tribunal shall, unless for special reasons it makes an order to the contrary, deliver an advisory opinion in public session.

Article 21

In the exercise of its advisory function the Tribunal shall be guided by the provisions of this Statute relating to references to the extent which it considers them applicable.

Interpretation of decisions
In the case of difficulty as to the meaning or scope of a decision or an advisory opinion, the Tribunal shall interpret it upon the request of any party or any institution of the Community establishing an interest therein.

Article 22

Revision
1. An application for revision of a decision may be made to the Tribunal only if it is based upon the discovery of some fact of such nature as to be a decisive factor, which fact was, when the decision was delivered, unknown to the Tribunal and to the party claiming revision.
2. On an application for revision, the procedure shall commence, where the application is admissible, with a decision of the Tribunal explicitly finding that the new fact alleged does exist and is of such a character as to lay the case open to revision, and declaring the application admissible on that ground.
3. Before declaring an application for revision of a decision to be admissible, the Tribunal may require prior compliance with the terms of the decision.
4. No application for revision of a decision may be made after the expiry of five years from the date of the decision.

Amendment of the Statute
The Authority may, after consultation with the Tribunal, by order from time to time amend or add to this Statute, and the Tribunal may propose amendments or additions to this Statute.
ANNEX IX

SERVICES TO BE ADMINISTERED BY THE COMMUNITY
OR BY THE CORPORATIONS

Part A. Services to be Administered by the Community
1. The secretariat of the Community, including services relating to the
   Common Market and the Chambers of the Counsel to the Community.
2. The East African Directorate of Civil Aviation.
3. The East African Meteorological Department.
4. The East African Customs and Excise Department.
5. The East African Income Tax Department.
8. The Auditor-General's Department.
10. The East African Legislative Assembly.
11. The East African Agriculture and Forestry Research Organization.
12. The East African Freshwater Fisheries Research Organization.
15. The East African Veterinary Research Organization.
16. The East African Leprosy Research Centre.
17. The East African Institute of Malaria and Vector-Borne Diseases.
18. The East African Institute for Medical Research.
19. The East African Virus Research Organization.
20. The East African Industrial Research Organization.
22. The East African Tuberculosis Investigation Centre.
23. Services arising from the operations of the East African Currency
    Board.
24. Services for the administration of grants or loans made by the govern-
    ment of any country, any organization or any authority, for the
    purposes of projects or services agreed between the Authority and
    the Partner States.
25. Services, including statistical services, for the purposes of co-
    ordinating the economic activities of the Partner States.
26. Services for the purposes of any body or authority established in
    pursuance of paragraph 4 of Article 43 of this Treaty.
27. Services for the purposes of the East African Industrial Court
    established by Article 85 of this Treaty.

Part B. Services to be Administered by the Corporations
1. The East African Railways Corporation—services and facilities
    relating to rail, road and inland waterways transport and inland
    waterways ports.
2. The East African Harbours Corporation—harbour services and
    facilities (other than inland waterways ports).
3. The East African Posts and Telecommunications Corporation—posts,
    telecommunications and other associated services.
4. The East African Airways Corporation—services and facilities relating
    to East African and international air transport.

ANNEX X

MATTERS WITH RESPECT TO WHICH ACTS OF
THE COMMUNITY MAY BE ENACTED

1. Finances of the Community.
2. Appropriations from the General Fund.
3. Audit of the accounts of the Community and the accounts of the
   Corporations.
4. Civil aviation.
5. Customs, excise and transfer tax—administrative and general pro-
   visions (but not including tariff, rates of tax and allowances).
6. Income tax—administrative and general provisions (but not including
   rates of tax and allowances).
7. Powers, privileges and immunities of the East African Legislative
   Assembly and the Chairman and members thereof.
8. Research within the Partner States.
9. Control of pesticides.
10. The University of East Africa; Makerere University College; the University College, Dar es Salaam; and University College, Nairobi.
11. The East African Staff College.
15. Pensions, gratuities and other retirement benefits payable out of the funds of the Community or the Corporations.
16. Staff of the Community, the East African Community Service Commission, and staff of the Corporations.
17. Posts and telegraphs, telephones, radio communications and other associated matters.
18. Services and facilities relating to rail, road and inland waterways transport and inland waterways ports.
19. Harbour services and facilities (other than inland waterways ports).
20. Borrowing for the purposes of the Community and the Corporations.
22. The Court of Appeal for East Africa (but not including the jurisdiction or powers of the Court).
23. Legal proceedings by or against the Community and the Corporations, or any officers or authorities thereof.
25. Industrial licensing in East Africa.
26. The establishment of advisory or consultative bodies in respect of any service or Corporation or in respect of any matter of common interest to the Partner States.
27. Any matter, not mentioned elsewhere in this Annex, which is incidental to the execution, performance or enforcement of any function conferred by this Treaty or by an Act of the Community upon any institution or authority, or officer in the service, of the Community, or upon any authority or servant of a Corporation.

ANNEX XI

PROCEDURAL PROVISIONS

Procedure of Authority
1. (a) Subject to this Treaty, the Authority shall determine its own procedure, including that for convening its meetings, for the conduct of business theretofore and at other times, and for the rotation of the office of Chairman among the members of the Authority.

(b) The East African Ministers shall attend meetings of the Authority (and speak at such meetings to the extent required or permitted by the Authority) unless, on any particular occasion, the Authority otherwise directs but the absence of an East African Minister or Ministers from a meeting of the Authority shall in no way invalidate its proceedings.

Delegation of the Authority's functions
2. (a) Subject to this Treaty, the Authority may delegate the exercise of any executive function, subject to any conditions which it may think fit to impose, to a member of the Authority, to the East African Ministers jointly or any one of them, to a Council, or to an officer in the service of the Community.

(b) An Act of the Community may make provision for the delegation of any powers, including legislative powers, conferred on the Authority by this Treaty or by any Act of the Community, to the East African Ministers jointly, or to any one of them, to an officer in the service of the Community or to a Director-General.

Decisions of the Authority
3. (a) Any member of the Authority may record his objection to a proposal submitted for the decision of the Authority and, if any such objection is recorded, the Authority shall not proceed with the proposal unless the objection is withdrawn.

(b) Subject to the provisions of any Act of the Community, the acts and decisions of the Authority may be signified under the hand of the Secretary-General or of any officer in the service of the Community authorized in that behalf by the Authority.

Procedure of the East African Ministers
4. (a) Subject to any directions which may be given by the Authority, the East African Ministers shall determine their procedure, including that for convening their meetings, for the conduct of business theretofore and at
other times, and for the rotation of the office of Chairman among the East African Ministers, and such procedure may provide that a decision in writing signed by all the East African Ministers shall be as valid and effectual as if it had been made at a meeting of the East African Ministers.

(b) Subject to any Act of the Community, the acts and decisions of the East African Ministers may be signed by any East African Minister or by any officer in the service of the Community authorized by the East African Ministers in that behalf.

Meetings of the Councils
5. Subject to any directions which may be given by the Authority, the Councils shall determine the frequency of their meetings but the Chairman of any Council shall, at the request of any of the Partner States, summon that Council to meet within ten days.

Chairmanship of the Councils
6. (a) Subject to any directions which may be given by the Authority, within each Council the East African Ministers shall hold the office of Chairman in rotation for periods of four months in such order as may be determined by the Authority.

(b) If the person holding the office of Chairman of a Council is absent from a meeting of that Council, there shall preside at that meeting such member of the Council as the members present may elect for that purpose, unless the Authority otherwise directs.

Procedure of Councils
7. (a) Subject to any directions which may be given by the Authority, a Council shall determine its own procedure, including that for convening its meetings and the conduct of business therein at other times.

(b) The procedure determined by a Council under sub-paragraph (a) of this paragraph may include arrangements under which the exercise of any function of the Council is delegated, subject to such conditions as the Council may think fit to impose, to the East African Ministers jointly, or to any one of them, or to any officer in the service of the Community or to an authority or a servant of a Corporation.

(c) When the Communications Council is conducting business relating to any of the Corporations, the Chairman of the Board of Directors and the Director-General of that Corporation shall be entitled to attend and speak.

Decisions of Councils
8. (a) Any member of a Council may record his objection to a proposal submitted for the decision of that Council and, except where Article 36 of this Treaty applies, unless such objection is withdrawn the proposal shall be referred to the Authority for its decision.

(b) If the Communications Council makes a decision which is contrary to a proposal submitted by the Board of Directors of a Corporation for the approval of that Council, that Board of Directors may refer the question at issue through the East African Ministers to the Authority for its decision.

(c) No further action shall be taken in relation to a proposal before a Council or a decision of a Council, as the case may be, in respect of which a reference has been made to the Authority whilst that reference is under consideration by the Authority, unless the reference is withdrawn and the Authority is notified accordingly.

(d) Subject to any Act of the Community, the acts and decisions of a Council may be signed by any member of the Council or by any officer in the service of the Community authorized by the Council in that behalf.

Questions as to membership of the Assembly
9. (a) Any questions that may arise whether any person is an appointed member of the Assembly or whether any seat in the Assembly is vacant shall be determined by the Partner State responsible for the appointment in question.

(b) The Partner States shall notify the Chairman of the Assembly of every determination made under sub-paragraph (a) of this paragraph, and for the information of the Chairman shall forward to him a copy of the instrument of appointment of every appointed member of the Assembly.

Chairman of the Assembly
10. (a) The Chairman of the Assembly shall be appointed by the Authority, by instrument in writing.

(b) A person shall not be qualified to hold the office of Chairman of the Assembly if he is an appointed member of the Assembly, a member of the legislature of a Partner State, a member of a Board of Directors, an officer in the service of the Community, a servant of a Corporation, an officer in the service of the Government of a Partner State, or a director, alternate director or a servant of the Bank.

(c) The Chairman of the Assembly shall vacate his office—

(i) upon the expiry of the period of office specified in his instrument of appointment;

(ii) if he delivers his resignation in writing to the Secretary-General for transmission to the Authority; or

(iii) if he ceases to be qualified for appointment as Chairman.
(d) The Chairman of the Assembly may be removed from office by the Authority for inability to perform the functions of his office, whether arising from infirmity of mind or body or from any other cause, or for misbehaviour, but shall not otherwise be removed from office.

Invitation of persons to assist the Assembly

11. (a) The Chairman of the Assembly, at the request of the East African Ministers, shall invite any person to attend the Assembly, notwithstanding that he is not a member of the Assembly, if in the opinion of the East African Ministers the business before the Assembly renders his presence desirable.

(b) A person so invited shall be entitled to take part in the proceedings of the Assembly relating to the matters in respect of which he was invited as if he were a member of the Assembly, but he shall not have a right to vote in the Assembly.

Meetings of the Assembly

12. (a) The meetings of the Assembly shall be held at such times and places as the Authority may appoint.

(b) The Assembly shall meet at least once in every year and a period of twelve months shall not elapse between the commencement of the last meeting in any year and the first meeting in the following year.

Presiding in the Assembly

13. There shall preside at any sitting of the Assembly—

(a) the Chairman;

(b) in the absence of the Chairman, such member of the Assembly as the Authority may appoint; or

(c) in the absence of the Chairman or a person so appointed, such member as the Assembly may elect for the sitting.

Quorum and vacancies in the Assembly

14. (a) If, during any sitting of the Assembly, the attention of the person presiding is drawn to the fact that there are fewer than ten members present and if, after such interval as may be prescribed by the rules of procedure of the Assembly, the person presiding ascertains that there are present at the sitting fewer than ten members, he shall adjourn the Assembly.

(b) In reckoning the number of members who are present for the purposes of sub-paragraph (a) of this paragraph, the person presiding shall not be taken into account.

(c) The Assembly may transact business notwithstanding that there is a vacancy among its members, and the attendance or participation of any person not entitled to attend or participate in the proceedings of the Assembly shall not invalidate those proceedings.

Voting in the Assembly

15. (a) Subject to sub-paragraph (c) of this paragraph, all questions proposed for decision in the Assembly shall be determined by a majority of the votes of the members present and voting.

(b) The Chairman of the Assembly, the Secretary-General and the Counsel to the Community shall not be entitled to vote in the Assembly.

(c) When in the absence of a Chairman a member is presiding in the Assembly, the member presiding shall retain his right to vote.

(d) If the votes of the members are equally divided upon any motion before the Assembly, the motion shall be lost.

(e) A Bill for the amendment or repeal of the Court of Appeal for Eastern Africa Act 1962 shall not be passed in the Assembly unless it has received, on the second reading thereof, the votes of not less than two-thirds of all the members of the Assembly.

Bills and Motions in the Assembly

16. (a) Subject to the rules of procedure of the Assembly, any member may propose any motion or introduce any Bill in the Assembly:

Provided that a motion which does not relate to the functions of the Community shall not be proposed in the Assembly, and a Bill which does not relate to a matter with respect to which Acts of the Community may be enacted shall not be introduced into the Assembly.

(b) Except with the consent of the Authority, signed by an East African Minister, the Assembly shall not—

(i) proceed on any Bill, including an amendment to any Bill, that, in the opinion of the person presiding, makes provision for any of the following purposes—

(1) for the imposition of any charge upon any fund of the Community or any fund of a Corporation;

(2) for the payment, issue or withdrawal from any fund of the Community of any moneys not charged thereon or the increase in the amount of any such payment, issue or withdrawal; or

(3) for the remission of any debt due to the Community or a Corporation;

(ii) proceed upon any motion, including any amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the said purposes.
Rules of Procedure of the Assembly
17. The Authority may make, amend, add to or revoke rules governing the procedure of the Assembly (including the Standing Orders thereof).

Publication of Acts of the Community
18. The Authority shall cause every Act of the Community to be published in the Gazette.

Publication and commencement of rules and orders of the Authority
19. The Authority shall cause all rules and every order made by it under this Treaty to be published in the Gazette; and such rules or order shall come into force on the date of publication unless otherwise provided therein.

(Article 68)

ANNEX XII

Income of Companies Engaged in Manufacturing or Finance Business

1. The expression 'income of companies engaged in manufacturing or finance business' means income of companies engaged within the Partner States in the business of manufacturing and income of companies engaged within the Partner States in the business of finance, being in either case income which is chargeable at the corporation rate under the laws in force in the Partner States.

2. For the purpose of the definition in paragraph 1 of this Annex, a company is engaged in the business of manufacturing if it is a company whose major activity, in terms of gross revenue, falls within one of the classifications in List A hereunder.

3. For the purposes of paragraph 2 of this Annex, where the end-product of an earlier activity is used as the raw material of a later activity and the major part of the company's revenue is from the sale of the final production, the company shall be classified according to the activity at the final stage.

4. For the purpose of the definition in paragraph 1 of this Annex, a company is engaged in the business of finance if it is a company whose major activity in terms of gross revenue falls within any one of the classifications in List B hereunder.

Classifications
(i) Food manufacturing industries (except beverages)
(ii) Beverage industries
(iii) Tobacco manufacture
(iv) Manufacture of textiles
(v) Manufacture of footwear, other wearing apparel and made up textile goods
(vi) Manufacture of wood and cork (except furniture)
(vii) Manufacture of furniture
(viii) Manufacture of pulp, paper and paperboard
(ix) Printing, publishing and allied industries
(x) Manufacture of leather and leather and fur products, except footwear and other wearing apparel
(xi) Manufacture of rubber products
(xii) Manufacture of chemical and chemical products
(xiii) Manufacture of products of petroleum and coal
(xiv) Manufacture of non-metallic mineral products (except petroleum and coal)
(xv) Basic metal industries
(xvi) Manufacture of metal products except machinery and transport equipment
(xvii) Manufacture of machinery except electrical machinery

Examples of Activity
Includes slaughtering, dressing, packing and canning, manufacture of prepared feeds for animals and fowls, the manufacture of ice other than dry ice.
Production of distilled spirits, wines, malt liquors, soft drinks and carbonated beverages.
Preparation of fibre, manufacture and finishing of fabrics (including carpets, linoleum, artificial leather, ropes and twine, and waterproofing of fabrics). Also includes the manufacture of garments in knitting mills (e.g. hosiery).
All types of footwear except vulcanized (which is included in (x) manufacture of rubber products); all wearing apparel by cutting and sewing fabrics, leather, fur and other material, all made up textile goods.
Sawmills, manufacture of boxes, baskets, ladders and coffins.
Includes bookbinding, engraving and etching.
Tanning of hides, preparation of furs, manufacture of fur and skin, rugs, handbags, saddlery.
Natural and synthetic rubber; tubes, tyres, vulcanized footwear.
Basic chemicals, dyes, vegetable and animal oils and fats, paints, soap, ink, matches, insecticides (except lard and other edible fats from livestock).
Petroleum refineries and other manufacturers of products from petroleum and coal.
Pottery, cement, bricks, glass, china etc.
All processes from smelting to the semi-finished stage in rolling mills and foundries.
Cutlery, hand tools, hardware, bolts and nuts; enamelling, galvanizing, blacksmithing and welding.
Tractors, refrigerators, airconditioning units, sewing machines, typewriters.
Classifications

Examples of Activity

(viii) Manufacture of electrical machinery, apparatus, appliances and supplies
All machinery and apparatus for the generation, storage and transmission of electricity; vacuum cleaners, etc., insulated wire and cable, radios, electric lamps etc.

(ix) Manufacture of transport equipment
Does not include tyres and tubes (ix), agricultural and road building tractors (xvii), aeronautical instruments (xx).

(x) Miscellaneous manufacturing industries
Scientific instruments, photographic and optical goods, watches and clocks, jewellery, musical instruments, lamp shades, tobacco pipes and cigarette holders, advertising displays, moulded or extruded plastic products.

LIST B

(i) Banks and other financial institutions
Banks, credit companies, investment companies.

(ii) Insurance
Insurance carriers of all kinds, life, fire, accident etc., insurance agents and brokers.

(Articles 55 and 73)

ANNEX XIII

CONTROL OF THE CORPORATIONS

Part A. The East African Posts and Telecommunications Corporation

The Director-General

1. It shall be the duty of the Director-General—
(a) to conduct and manage, subject to the direction of the Board of Directors, the business and operations of the Corporation;
(b) to keep the Board fully informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
(c) to submit to the Board annual estimates of revenue and expenditure; and
(d) to submit annually a draft statement of accounts and a draft report for the consideration of the Board.

2. Subject to this Treaty and to the direction of the Board of Directors, the Director-General may—
(a) establish and operate postal and telecommunications services and services, including agency services for the Partner States, which may conveniently be performed in association therewith;
(b) regulate and control radio communications;
(c) approve recurrent expenditure within limits which shall be determined by the Board;
(d) approve any individual capital work of which the estimated cost does not exceed 100,000 Uganda shillings or such other sum as the Authority may, by order, determine;
(e) approve any alteration in salaries or other conditions of service not involving expenditure in excess of the limits determined by the Board;
(f) approve any alteration in the establishment other than an alteration involving a major reorganization or a substantial reduction in the number of employees;
(g) if required by a Partner State, manage its Post Office Savings Bank;
(h) allocate functions and delegate powers to officers of the Corporation; and
(i) perform the duties and exercise the powers imposed on or vested in him by any Act of the Community.

The Board of Directors

3. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, it shall be the duty of the Board of Directors—
(a) to provide postal and telecommunications services and services, including agency services for the Partner States, which may conveniently be performed in association therewith;
(b) to regulate and control radio communications;
(c) to determine policy regarding all the operations of the Corporation and to ensure the application of that policy;
(d) to keep the Communications Council informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
(e) to approve annual estimates of revenue and expenditure;
(f) if required by a Partner State, to manage its Post Office Savings Bank;
(g) to establish a General Purposes Committee from among its members; and
(h) to publish the tariffs charged by the Corporation and the rules made by the Board of Directors.

4. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, the Board of Directors may—
(a) approve any alteration in the tariff of a service which would not affect the gross revenue of the service concerned to an extent greater than two per cent;
(b) approve any alteration in salaries or other conditions of service of employees other than an alteration which would require a tariff increase of more than two per cent in the service concerned;
(c) approve any individual capital work of which the estimated cost does not exceed 2,000,000 Uganda shillings or such other sum as the Authority may, by order, determine;
(d) delegate functions to its General Purposes Committee;
(e) consider legislative proposals and recommend their enactment;
(f) refuse to provide a new service in a Partner State at a rate or charge which is insufficient to meet the costs involved in the provision of such service, unless the Partner State undertakes to make good the amount of the loss incurred by the provision of such service;
(g) approve any alteration in the organization or establishment which is beyond the competence of the Director-General; and
(h) give directions to the Director-General.

The Communications Council
5. It shall be the responsibility of the Communications Council—
(a) to receive and consider the information concerning the Corporation provided by the Board of Directors, and upon being consulted by the Board to assist it with advice or directions;
(b) to give to the Board of Directors directions of a general nature on matters of policy;
(c) to give effect to the directions of the Authority;
(d) to consider and approve the development plan and associated loan programme of the Corporation; and
(e) to consider and approve in principle legislative proposals submitted by the Board of Directors.

6. Subject to this Treaty and to any directions which may be given by the Communications Council by the Authority, the Communications Council may—
(a) give directions of a general nature to the Board of Directors;
(b) approve any alteration in the tariff of a service which is beyond the competence of the Board of Directors;
(c) approve any alteration in salaries or other conditions of service of employees of the Corporation which is beyond the competence of the Board of Directors; and
(d) approve any individual capital work of which the estimated cost exceeds 2,000,000 Uganda shillings or such other sum as the Authority may, by order, determine.

The Authority
7. Subject to this Treaty and to any Act of the Community, the Authority shall be responsible for the general direction and control of the Corporation.
8. The Authority may—
(a) give directions of a general nature to the Communications Council; and
(b) determine matters referred to it by the Communications Council.

Interpretation
9. In this Part, except where the context otherwise requires, ‘service’ means postal service, telephone service or telegraph service.

Part B. The East African Railways Corporation

The Director-General
1. It shall be the duty of the Director-General—
(a) to conduct and manage, subject to the direction of the Board of Directors, the business and operations of the Corporation;
(b) to keep the Board fully informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
(c) to submit to the Board annual estimates of revenue and expenditure; and
(d) to submit annually a draft statement of accounts and a draft report for the consideration of the Board.

2. Subject to this Treaty and to the direction of the Board of Directors, the Director-General may—
(a) establish and operate services and facilities relating to rail, road and inland waterways transport and inland waterways ports;
(b) approve recurrent expenditure within limits which shall be determined by the Board;
(c) approve any individual capital work of which the estimated cost does not exceed 400,000 Kenya shillings or such other sum as the Authority may, by order, determine;
(d) approve any alteration in salaries or other conditions of service not involving expenditure in excess of the limits imposed by the Board;
(e) approve any alteration in the establishment other than an alteration involving a major re-organization or a substantial reduction in the number of employees;
5. It shall be the responsibility of the Communications Council—
(a) to receive and consider the information concerning the Corporation and the matters of policy, as provided by the Board of Directors, and, upon being consulted by the Board, to give effect to the directions of the Authority; and
(b) to consider and approve the development plan and associated loan agreements of the Corporation, and to give effect to the directions of the Authority.

6. Subject to this Treaty and to any directions given by the Authority, the Communications Council—
(a) subject to the provisions of the corresponding Act of the Government of Kenya, shall—
(i) give directions of a general nature to the Board of Directors;
(ii) approve any major alteration in the tariff of rates, fees and other charges;
(iii) approve any individual capital work or other conditions of service of employees;
(iv) consider legislative proposals and recommend their enactment; and
(v) give directions to the Board of Directors concerning any matter of policy involving agreement with, or the interests of, a foreign country.

7. The Authority may—
(a) give directions of a general nature to the Communications Council; and
(b) determine matters referred to it by the Communications Council.

8. The Authority may—
(a) give directions of a general nature to the Communications Council; and
(b) determine matters referred to it by the Communications Council.

9. If there is a difference of opinion between the Communications Council and the Board of Directors concerning what constitutes a minor or major alteration in the tariff of rates, fees and other charges, or a minor or major alteration in the terms of any contract or agreement entered into in the interests of the Corporation, the difference of opinion shall be referred to the Director-General.
alteration in salaries or other conditions of service of the employees of
the Corporation, the difference shall be referred to the Authority to be
resolved.

Part C. The East African Harbours Corporation

The Director-General

1. It shall be the duty of the Director-General—
   (a) to conduct and manage, subject to the direction of the Board of
       Directors, the business and operations of the Corporation;
   (b) to keep the Board fully informed of the affairs of the Corporation,
       and to consult it where appropriate and give effect to its directions;
   (c) to submit to the Board annual estimates of revenue and expenditure;
       and
   (d) to submit annually a draft statement of accounts and a draft report
       for the consideration of the Board.

2. Subject to this Treaty and to the direction of the Board of Directors,
the Director-General may—
   (a) establish and operate harbour services and facilities (other than
       inland waterways ports);
   (b) approve recurrent expenditure within limits which shall be de-
       termined by the Board;
   (c) approve any individual capital work of which the estimated cost does
       not exceed 400,000 Tanzania shillings or such other sum as the
       Authority may, by order, determine;
   (d) approve any alteration in salaries or other conditions of service not
       involving expenditure in excess of the limits imposed by the Board;
   (e) approve any alteration in the establishment other than an alteration
       involving a major re-organization or a substantial reduction in the
       number of employees;
   (f) allocate functions and delegate powers to officers of the Cor-
       poration; and
   (g) perform the duties and exercise the powers imposed on or vested
       in him by any Act of the Community.

The Board of Directors

3. Subject to this Treaty and to any directions of a general nature which
may be given to the Board of Directors by the Communications Council,
the Board of Directors shall—
   (a) to determine policy regarding all the operations of the Corporation
       and to ensure the application of that policy;
   (b) to keep the Communications Council informed of the affairs of the
       Corporation, and to consult it where appropriate and give effect
       to its directions;
   (c) to approve annual estimates of revenue and expenditure;
   (d) to establish a General Purposes Committee from among its mem-
       bers; and
   (e) to publish the tariff of rates and other charges made by the Corpora-
       tion and the rules made by the Board of Directors.

4. Subject to this Treaty and to any directions of a general nature which
may be given to the Board of Directors by the Communications Council,
the Board of Directors may—
   (a) approve any minor alteration in the tariff of rates and other charges;
   (b) approve any minor alteration in salaries or other conditions of
       service of employees;
   (c) approve any individual capital work, not included within a pro-
       gramme of works approved by the Communications Council, of
       which the estimated cost does not exceed 5,000,000 Tanzania shillings
       or such other sum as the Authority may, by order, determine;
   (d) delegate functions to its General Purposes Committee;
   (e) consider legislative proposals and recommend their enactment;
   (f) refuse to provide new harbour services or facilities in a Partner
       State at a rate or charge which is insufficient to meet the costs
       involved in the provision of such services or facilities, unless the
       Partner State undertakes to make good the amount of the loss
       incurred by the provision of such services or facilities;
   (g) approve any alteration in the organization or establishment which
       is beyond the competence of the Director-General; and
   (h) give directions to the Director-General.

The Communications Council

5. It shall be the responsibility of the Communications Council—
   (a) to receive and consider the information concerning the Corporation
       provided by the Board of Directors, and upon being consulted by
       the Board to assist it with advice or directions;
   (b) to give to the Board of Directors directions of a general nature on
       matters of policy;
   (c) to give effect to the directions of the Authority;
   (d) to consider and approve the development plan and associated loan
       programme of the Corporation; and
   (e) to consider and approve in principle legislative proposals submitted
       by the Board of Directors.
6. Subject to this Treaty and to any directions which may be given to the Communications Council by the Authority, the Communications Council may—

(a) give directions of a general nature to the Board of Directors;
(b) approve any major alteration in the tariff of rates and other charges;
(c) approve any major alteration in salaries or other conditions of service of employees of the Corporation;
(d) approve any individual capital work of which the estimated cost exceeds 5,000,000 Tanzania shillings or such other sum as the Authority may, by order, determine; and
(e) give directions to the Board of Directors concerning any matter of policy involving agreement with or the interests of a foreign country.

The Authority
7. Subject to this Treaty and to any Act of the Community, the Authority shall be responsible for the general direction and control of the Corporation.

8. The Authority may—

(a) give directions of a general nature to the Communications Council;

and

(b) determine matters referred to it by the Communications Council.

General
9. If there is a difference of opinion between the Communications Council and the Board of Directors concerning what constitutes a minor or a major alteration in the tariff of rates and other charges, or a minor or major alteration in salaries or other conditions of service of the employees of the Corporation, the difference shall be referred to the Authority to be resolved.

Part D. The East African Airways Corporation

The Director-General
1. It shall be the duty of the Director-General—

(a) to conduct and manage, subject to the direction of the Board of Directors, the business and operations of the Corporation;
(b) to keep the Board fully informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
(c) to submit to the Board annually a programme of services and financial estimates for the ensuing year; and

(d) to submit to the Board, in respect of every five-year period in the operations of the Corporation, a draft development plan including estimates of expected traffic growth, proposals for the development of air routes and for the use and operation of aircraft, and estimates of probable revenue and expenditure.

2. Subject to this Treaty and to the direction of the Board of Directors, the Director-General may—

(a) establish and operate air transport services, and facilities relating thereto, within the Partner States and elsewhere;
(b) approve recurrent expenditure within limits which shall be determined by the Board;
(c) approve any individual capital work of which the estimated cost does not exceed 200,000 Kenya shillings or such other sum as the Authority may, by order, determine;
(d) approve any alteration in salaries or other conditions of service not involving expenditure in excess of the limits imposed by the Board;
(e) approve any alteration in the establishment other than an alteration involving a major re-organization or a substantial reduction in the number of employees;
(f) allocate functions and delegate powers to officers of the Corporation; and

(g) perform the duties and exercise the powers imposed on or vested in him by any Act of the Community.

The Board of Directors
3. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, it shall be the duty of the Board of Directors—

(a) to provide air transport services, and facilities relating thereto, within the Partner States and elsewhere;
(b) to determine policy governing the operation of the Corporation;
(c) to keep the Communications Council informed of the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;
(d) to approve the annual programme of services and the financial estimates submitted by the Director-General;
(e) to prepare in respect of every five-year period in the operations of the Corporation a development plan, including estimates of expected traffic growth, proposals for the development of air routes and for the use and operation of aircraft, and estimates of probable revenue and expenditure for submission to the Communications Council;
to submit to the Communications Council for approval any proposals affecting tariff policies in respect of international air services, which the Corporation wishes to put forward to the International Air Transport Association;

to submit to the Communications Council for approval any proposals for an alteration in the tariff of rates, fares and other charges in respect of air transport services provided within the Partner States; and

give effect to any directions given to it by the Authority.

4. Subject to this Treaty and to any directions of a general nature which may be given to the Board of Directors by the Communications Council, the Board of Directors may—

(a) approve any minor alteration in the tariff of rates, fares and other charges in respect of any service or facility, other than an air transport service provided within the Partner States;

(b) approve any minor alteration in salaries or other conditions of service of employees;

(c) approve any individual capital work, not included within a development programme approved by the Communications Council or by the Authority, of which the estimated cost does not exceed 5,000,000 Kenya shillings or such other sum as the Authority may, by order, determine;

(d) consider legislative proposals and recommend their enactment;

(e) provide services or facilities requested by a Partner State so however that where the amount of the fares or other charges able to be recovered by the Corporation in respect of such services or facilities is less than the cost thereof, the Corporation shall not be obliged to provide such services or facilities unless that Partner State undertakes to make good the amount of such loss;

(f) approve any alteration in the organization or establishment of the Corporation which is beyond the competence of the Director-General; and

(g) give policy directions to the Director-General.

The Communications Council

5. It shall be the responsibility of the Communications Council—

(a) to receive and consider the information concerning the Corporation provided by the Board of Directors, and upon being consulted by the Board to assist it with advice or directions;

(b) to give to the Board of Directors directions of a general nature on matters of policy;

(c) to keep the Authority informed about the affairs of the Corporation, and to consult it where appropriate and give effect to its directions;

(d) to consider and approve in principle legislative proposals submitted by the Board of Directors.

6. Subject to this Treaty and to any directions which may be given to the Communications Council by the Authority, the Communications Council may—

(a) give directions of a general nature to the Board of Directors;

(b) approve any alteration in the tariff of rates, fares and other charges in respect of air transport services provided within the Partner States;

(c) approve any tariff proposals, in respect of international air services, which the Corporation wishes to put forward to the International Air Transport Association;

(d) approve the annual programme of services and the financial estimates of the Corporation;

(e) approve, in respect of every five-year period in the operations of the Corporation, the development plan submitted to it by the Board of Directors;

(f) approve any major alteration in salaries or other conditions of service of employees of the Corporation;

(g) approve any individual capital work of which the estimated cost exceeds 5,000,000 Kenya shillings or such other sum as the Authority may, by order, determine; and

(h) give directions to the Board of Directors concerning any matter of policy involving agreement with, or the interests of, a foreign country.

The Authority

7. Subject to this Treaty and to any Act of the Community, the Authority shall be responsible for the general direction and control of the Corporation.

8. The Authority may—

(a) give directions of a general nature to the Communications Council;

(b) give directions to the Board of Directors as to the exercise and performance of the functions of the Corporation in relation to any matter which appears to the Authority to affect the public interest; and

(c) determine matters referred to it by the Communications Council or by the Board of Directors.
General

9. If there is a difference of opinion between the Communications Council and the Board of Directors concerning what constitutes a minor or a major alteration in the tariff of rates, fares and other charges or a minor or major alteration in salaries or other conditions of service of the employees of the Corporation, the difference shall be referred to the Authority to be resolved.

Interpretation

10. In this Part, unless the context otherwise requires—

'air transport services and facilities relating thereto' includes, without prejudice to the generality of the expression, air transport services and services for the provision of hotel and catering facilities, for the carriage of passengers to and from airports and aerodromes, and for the collection, delivery and storage of baggage and freight;

'air transport services' means services for the transport of passengers or freight by air;

'international air services' means air transport services provided to or from any place outside the Partner States.

ANNEX XIV

DECENTRALIZATION AND RELATED MEASURES

Part A. Services Administered by the Community

The East African Customs and Excise Department

1. (a) There shall be appointed for each Partner State a Commissioner of Customs and Excise who shall be an officer in the service of the Community.

(b) There shall be a Commissioner-General of the East African Customs and Excise Department who shall, subject to this Treaty and to any law, have the general control of the Department.

(c) Subject to the general control of the Commissioner-General, a Commissioner of Customs and Excise shall control the operations of the Department, including revenue collection, within the Partner State for which he is Commissioner, and shall have the duty to supply the Minister responsible for finance of that Partner State with such information, including statistical information, as may be required from time to time by that Minister.

(d) Notwithstanding sub-paragraph (c) of this paragraph, the Commissioner-General shall retain control over functions which are necessary to ensure effective co-ordination in the three Partner States.

The East African Income Tax Department

2. (a) There shall be appointed for each Partner State a Commissioner of Income Tax who shall be an officer in the service of the Community.

(b) There shall be a Commissioner-General of the East African Income Tax Department who shall, subject to this Treaty and to any law, have the general control of the Department.

(c) Subject to the general control of the Commissioner-General, a Commissioner of Income Tax shall control the operations of the Department, including revenue collection, within the Partner State for which he is Commissioner, and shall have the duty to supply the Minister responsible for finance of that Partner State with such information, including statistical information, as may be required from time to time by that Minister.

(d) Notwithstanding sub-paragraph (c) of this paragraph, the Commissioner-General shall retain control over functions which are necessary to ensure effective co-ordination in the three Partner States.

Directorate of Civil Aviation

3. (a) There shall be appointed for each Partner State a Director of Civil Aviation who shall be an officer in the service of the Community.

(b) There shall be a Director-General of Civil Aviation who shall, subject to this Treaty and to any law, have the general control of the Directorate.

(c) The Director of Civil Aviation for a Partner State shall be responsible to the Director-General but shall have as much control of the operations of the Directorate as is practical within the territory of the Partner State for which he is Director.

(d) The area of control of each Director shall be determined by the Director-General and need not correspond exactly with the territorial boundaries of the Partner States.

(e) In accordance with a programme to be agreed by the East African Ministers, Sub-Flight Information Centres shall be established at Dar es Salaam and Entebbe to handle air movements, in Tanzania and Uganda respectively, below flight level 145 as from time to time determined in accordance with the rules for international air navigation of the International Civil Aviation Organization.

(f) The programme referred to in sub-paragraph (e) of this paragraph shall give priority to the establishment of the Sub-Flight Information Centre at Dar es Salaam.
East African Meteorological Department

4. (a) The operations of the Department shall in each Partner State be placed under the control of a senior officer in the service of the Community.

(b) Each of the senior officers responsible for the operations of the Department in a Partner State shall have comparable status and responsibilities and their functions and the services which they control shall be gradually developed in accordance with the availability of staff and finance.

Part B. The Corporations

The East African Railways Corporation

1. (a) Strong and functionally comparable regional railway headquarters, including revenue and accounting services, shall be established in Dar es Salaam, Kampala and Nairobi.

(b) The Board of Directors and the Communications Council shall, when considering the capital development programme of the Corporation, give a high priority to sanctioning expenditure to enable—

(i) Mwanza to become the operating headquarters of the inland marine services (but the workshops and dockyard shall remain at Kisumu);

(ii) diesel locomotive facilities and carriage and wagon depots to be established in Uganda.

(c) The Board of Directors and the Communications Council shall, within sensible operating and financial parameters and for an initial period to be agreed, give preference to Tanzania and to Uganda in establishing new services and facilities.

(d) The Board of Directors and the Communications Council shall give consideration to the initiation of a preliminary economic and engineering survey of a possible new line of communication between Musoma, Arusha and Tanga.

The East African Harbours Corporation

2. The Board of Directors and the Communications Council shall, when considering the capital development programme of the Corporation, give special consideration to the development of harbours in Tanzania.

The East African Posts and Telecommunications Corporation

3. (a) Strong and functionally comparable regional headquarters, including revenue and accounting services, shall be established in Dar es Salaam, Kampala and Nairobi.

(b) The implementation of sub-paragraph (a) of this paragraph shall involve a measure of devolution of functions from the headquarters of the Corporation to the regional headquarters in each Partner State and there shall be a corresponding adjustment of establishments.

The East African Airways Corporation

4. The Board of Directors and the Communications Council shall ensure that future development should, so far as possible, be sited in Uganda and Tanzania, the first priority being given to development in Uganda, and in particular that—

(i) a workshop be established in Uganda for the overhaul of all Pratt and Whitney piston engines; and

(ii) the maintenance and overhaul base for Friendship, Dakota and other piston-engined aircraft be transferred to Entebbe.

ANNEX XV

TRANSITIONAL PROVISIONS

1. The amounts collected by the East African Income Tax Department and the East African Customs and Excise Department which immediately before the coming into force of this Treaty fall to be paid to the Distributable Pool Fund of the Common Services Organization but have not been so paid, shall, upon the coming into force of this Treaty, be paid to the Distributable Pool Fund of the Community.

2. Until rules governing the procedure of the Assembly are made under paragraph 17 of Annex XI to this Treaty, the Standing Orders of the Central Legislative Assembly, established by Article 16 of the Constitution of the Common Services Organization, shall apply for regulating the procedure of the Assembly with such modifications as the Authority may prescribe by order published in the Gazette of the Community.

3. The Service Commission established by Article 62 of this Treaty shall assume its functions under this Treaty on such date as may be appointed by the Authority by notice published in the Gazette of the Community and until that date those functions shall be performed by the Secretary-General.

4. Upon the coming into force of this Treaty, the Secretary-General and the Legal Secretary of the Common Services Organization shall assume the offices of Secretary-General of the Community and Counsel to the Community respectively and shall be deemed to have been appointed thereto under Article 63 of this Treaty.
5. Until provision is made by Act of the Community for the salary of an office to which Article 69 of this Treaty applies there shall be paid to the holder of that office such salary as shall be determined by the Authority.

6. Until the Assembly first meets after the coming into force of this Treaty, the Authority may, in anticipation of the enactment of an Appropriation Act in accordance with Article 66 of this Treaty and notwithstanding the provisions of that Article, authorize money to be paid from the General Fund for any purpose for which the Assembly might lawfully appropriate money in accordance with this Treaty in any case where the payment of such money is not already provided for in any law.

7. References—

(a) in sub-paragraph (a) of paragraph 5 of Article 82 of this Treaty, to a charge upon the funds of the East African Posts and Telecommunications Corporation shall, in respect of any period commencing on the day of the coming into force of this Treaty and ending on the day of the establishment of that Corporation, be construed as references to a charge upon the Posts and Telecommunications Fund; and

(b) in sub-paragraph (b) of paragraph 5 of Article 82 of this Treaty, to a charge upon the funds of the East African Railways Corporation or of the East African Harbours Corporation shall, in respect of any period commencing on the day of the coming into force of this Treaty and ending on the day of the establishment of those Corporations, be construed as references to a charge upon the Railways and Harbours Fund.

DONE AT KAMPALA, UGANDA, on the sixth day of June, in the year one thousand nine hundred and sixty-seven.

IN FAITH WHEREOF the undersigned have placed their signatures at the end of this Treaty and the Annexes thereto.

For the Government of the United Republic of Tanzania

JULIUS K. NYERERE
President

For the Government of the Sovereign State of Uganda

A. MILTON OBOTE
President

For the Government of the Republic of Kenya

JOMO KYENYATTA
President
APPENDIX 4
KENYA-TANZANIA JOINT COMMUNIQUE

1. Ministerial delegations representing the Government of the Republic of Kenya and the Government of the United Republic of Tanzania met in Arusha on December 5, 1983 to discuss agreement on trade, transport and communications and tourism, pursuant to the instructions of the Heads of State of the two countries contained in the Communiqué issued at Arusha on November 16, 1983.

The Kenya delegation was headed by the Hon. Elijah Mwangale, the Minister for Foreign Affairs, and consisted of the Hon. A.J. Omanga, the Minister for Commerce and Industry, Hon. H. Kosgey, the Minister for Transport and Communications, Hon. Professor G. Saitoti, the Minister for Finance and Planning, Hon. Maina Wanjigi, the Minister for Tourism and Wildlife, Hon. P. Nyakiamo, Minister of State in the Office of the President, Hon. Justice Mathew Muli, Attorney General, and high ranking officials.

The Tanzania delegation was headed by Hon. J.S. Melecela, Minister for Communications and Transport, and consisted of Hon. C.G. Kahama, Minister for Natural Resources and Tourism, Hon. J.S. Warrioba, Attorney General and Minister for Justice, Hon. M.S. Nyang'anyi, Minister for Trade, Hon. H. Kirigini, Minister for Livestock Development, Hon. A.M. Khamis, Minister for Trade, Zanzibar, and high ranking officials.

2. The meeting was held in a frank, friendly atmosphere and a spirit of goodwill and co-operation which has characterised the fraternal relations between the two countries since November 16, 1983.
3. At the conclusion of the meeting, the delegations concluded and initialled agreements in the following areas:

(a) **Trade**

Desiring to develop and endeavouring to strengthen and develop balanced trade relations between their two countries the two delegations agreed that the two countries will endeavour to trade between themselves on the basis of equality and mutual benefit. In this regard a Trade Agreement was concluded and a Memorandum of Understanding was signed. They further agreed to accord each other Most-Favoured-Nation treatment.

On the question of transit trade, the two countries recognized its importance and agreed to facilitate its conduct across their respective territories. The two countries, recognizing the need to streamline border trade in general and livestock in particular, agreed that it should be regularised as soon as the modalities pertaining to payment are settled, and in this regard, charged the relevant authorities of the two countries with the task of determining such modalities as a matter of urgency.

(b) **Transport and Communications**

An Agreement was reached between the two countries as to the operation of Air Services by their designated airlines. In the case of Kenya Airways, it was agreed that the route schedule will be points in Kenya - Dar-es-Salaam and four points beyond, and in the case of Air Tanzania, points in Tanzania - Nairobi and four points beyond. Accordingly, the designated airlines of the two countries can start their operations as soon as the formalities are completed. As to road transport, it was agreed that services for both passenger and freight on designated roads will resume as soon as is practicable. Agreement was also reached as to operation of rail and lake services and it is expected that these operations will come into effect as soon as technical and operational problems are resolved.
The two countries also agreed to co-operate in the fields of posts and telecommunications, civil aviation, meteorology, port services and coastal shipping.

(c) Tourism

On tourism, a memorandum of understanding was concluded covering areas of co-operation. Both countries have agreed to facilitate the free flow of tourists across their borders by air charter, scheduled flights, ground transport by vehicles through designated entry points and by sea. They also agreed to carry out joint promotion on their markets and to effect payments for services rendered in each country in convertible currency.

It was further agreed that both countries will identify and conserve their tourist attractions such as wildlife and natural beauties while they endeavour to provide the necessary infrastructure and superstructure for the proper utilization of these resources.

It was also agreed that both countries will exchange information, research papers, publicity materials and that they will exchange educational visits and carry out joint research programmes.

4. The two countries agreed to set up Joint Technical Committees in each field to ensure the smooth implementation of the various areas of co-operation agreed upon.

5. Some of the Agreements reached will be subject to ratification by the Governments of each country and the two delegations undertook to urge their governments to speed up the process of ratification so that these Agreements can be implemented.

ARUSHA, TANZANIA

December 5, 1963.
APPENDIX 5

TRADE AGREEMENT BETWEEN THE UNITED REPUBLIC OF TANZANIA
AND THE REPUBLIC OF KENYA

The Government of the United Republic of Tanzania and the Government of the Republic of Kenya, in this agreement referred to hereafter as "The Contracting Parties" desirous of strengthening and developing trade relations between the two countries on the basis of equality and mutual benefit, have agreed as follows:

ARTICLE ONE (TANZANIA)

1. The Government of the United Republic of Tanzania and the Government of the Republic of Kenya shall exert their utmost efforts to increase the volume of trade between them especially with regard to the goods and commodities indicated in the two schedules (A) and (B) annexed to this Agreement and which form an integral part of this Agreement.

Schedule (A) indicates Tanzania goods which can be exported to the Republic of Kenya. Schedule (B) indicates Kenyan goods which can be exported to the United Republic of Tanzania.

2. The two schedules referred to above shall not preclude trade in goods and commodities not mentioned therein.

ARTICLE TWO (TANZANIA)

ARTICLE ONE (KENYA)

1. The Contracting Parties shall accord each other the most-favoured-nation treatment in all matters with respect to the trade relations between the two countries.

2. The most favoured nation treatment shall not apply to the following:
   (a) Privileges and advantages granted or which may be granted by any of the two contracting parties to neighbouring countries to facilitate border trade.
   (b) Privileges and advantages arising out of joining a regional organisation, common market agreement, customs union or free trade zone by either of the two contracting parties.
   (c) Either Contracting party has accorded under any scheme for expansion of trade and economic cooperation among the developing countries and to which either Contracting Party is or may become a party.
ARTICLE THREE (TANZANIA)

ARTICLE TWO (KENYA)

1. The exchange of goods and commodities between the two countries shall at all times be subject to all relevant laws and regulations with respect to import and export which are in force in their respective countries at the date of execution thereof, or which may come into force during the validity of this Agreement.

2. The Contracting Parties shall issue import and export licences, as long as such licences are or shall be required, in accordance with the laws and regulations in force in the territory of either Contracting Party. Licences shall be granted on terms not less favourable than those granted to any other country.

ARTICLE FOUR (TANZANIA)

Subject to any agreement which may be reached by the monetary authorities of the Contracting Parties regarding other modes of settlement, all payments between the two countries shall be effected in any freely convertible currency agreed upon by the two countries including their national currencies. Such payments shall be made in accordance with the exchange laws and regulations in force in each country.

ARTICLE THREE (KENYA)

Subject to any agreement which may be reached by the monetary authorities of the Contracting Parties regarding other modes of settlement, all payments between the two countries shall be effected in any freely convertible currency agreed upon by the two parties in accordance with the Exchange Laws and Regulations in force in each country.

ARTICLE FIVE (TANZANIA)

ARTICLE FOUR (KENYA)

The two Contracting Parties shall as far as possible ensure that the goods and commodities imported by either party from the other shall not be re-exported without the prior approval of the other party.
ARTICLE SIX (TANZANIA)
ARTICLE FIVE (KENYA)

The two Contracting Parties agree to take all measures necessary for promoting and expanding trade relations between their two countries including facilities for holding fairs and exhibitions, and establishing trade centres by any of the two countries in the country of the other party in accordance with the laws and regulations in force in their countries.

ARTICLE SEVEN (TANZANIA)
ARTICLE SIX (KENYA)

Each Contracting Party shall accord to the other most favoured nation treatment concerning importation and exemption from duties and fees of samples and advertising materials as well as materials forwarded for testing and experimental purposes or for display in fairs and exhibitions including equipment, materials, and containers necessary for this purpose in accordance with the laws and regulations in force in the country of either of the two contracting parties, on condition that such good shall be re-exported.

ARTICLE EIGHT (TANZANIA)
ARTICLE SEVEN (KENYA)

1. For the purpose of the Agreement, goods originating in Kenya shall be regarded as Kenya products and goods originating in Tanzania as Tanzanian products.
2. The country of origin shall be deemed to be the country where a product was produced and manufactured or underwent its last substantial processing; or, in the case of non-processed agricultural products, the country where the products were actually produced. The Contracting Parties reserve the right to subject the importation of any goods to the submission of certificates of origin by an organization authorised in this respect by the Government of the country of origin.

ARTICLE NINE (TANZANIA)
ARTICLE EIGHT (KENYA)

1. The two Contracting Parties agree to promote and facilitate transit trade across their two countries in compliance with the laws and regulations in force in both countries and shall not subject such transit trade to duties except for costs of services pertaining to transit operations.
2. The Contracting Parties shall accord each other to the laws and regulations in force in the country concerned treatment no less favourable than that accorded to other countries in respect of goods of one Contracting Party being transported to or from any other country through the territory of the other Contracting Party.

ARTICLE TEN (TANZANIA)

ARTICLE NINE (KENYA)

1. In order to facilitate the implementation of this agreement, a Joint Trade Committee will be established. The Committee will meet once a year or as often as may be mutually agreed upon.

2. The functions of the Joint Trade Committee will include the following:
   (a) Review the implementation of the provisions of this Agreement.
   (b) Consider and propose means of ensuring the development and diversification of trade between the two countries.
   (c) Examine problems which may arise in the implementation of this Agreement and propose measures for their solution.

ARTICLE ELEVEN (TANZANIA)

ARTICLE TEN (KENYA)

This Agreement may be amended from time to time by exchange of letters resulting from close consultations between the two Contracting Parties and such amendments shall become constituent parts of the Agreement.

ARTICLE TWELVE (TANZANIA)

ARTICLE ELEVEN (KENYA)

1. This Agreement shall come into force after the exchange of the instruments of ratification between the two countries and shall remain in force for a period of two years.

2. During the period within which the Agreement is in force, either Party may give six month's notice in writing of its intention to terminate the Agreement.

3. After the termination of this Agreement, the Provisions thereof shall continue to apply to the contracts concluded under the Agreement but not fully executed on the date of the termination of the Agreement.

DONE AT ............ THIS .............. day of ................. 19___ in two originals in the English Language, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA

FOR THE GOVERNMENT OF THE REPUBLIC OF KENYA
EXPORTS FROM THE UNITED REPUBLIC OF TANZANIA TO THE REPUBLIC OF KENYA

1. Galvanized water pipes
2. Radio and Gramaphones
3. Tyres & Tubes
4. Dry Cell Batteries
5. Textiles
6. Ready-made garments
7. Leather and leather products
8. Tobacco
9. Cotton
10. Farm implements
11. Handicrafts
12. Instant Coffee
13. Cashew Kernels
14. Mosquito Coils
15. Spirits: Konyagi/Afrikoko/Whisky/Gin/Brandy/Wine
16. Bicycle tyres and tubes
17. Aluminium Sheets and Circles
18. Transformers and Switchgears
19. Radiators
20. Motor vehicle batteries and battery containers
21. Aluminium holloware
22. GCI Sheets
23. Non-galvanized pipes
24. Cold Rolled Steel Sheets
25. Ceramics
26. Clove stem oil
27. Coir Fibre
28. Copra Cake
29. Meerschaum Pipes
30. Electrical Fittings
31. Cardamons
32. Z-Burlines - for roofing
33. Hides and Skins
34. Cotton Seed Cake
35. Hedge Sisal
36. Timber
37. Prawns & Lobsters
EXPORTS FROM THE REPUBLIC OF KENYA TO THE UNITED REPUBLIC OF TANZANIA

1. Cement
2. Cosmetics
3. Pharmaceutical products:
   (a) Patent medicines
   (b) Vaccines
   (c) Veterinary vaccines and drugs
4. Industrial chemicals, e.g. Soda Ash
5. Milk and Cereals (Baby foods)
6. Medicated soaps
7. Metal box tin components
8. Shoe Polish
9. Petrol and petroleum products
10. Bottles and jars
11. Medical instruments
12. Live poultry
13. Paper and paper boards
14. Fibre boards and Building boards
15. Exercise books
16. Envelopes
17. Sanitary towels
18. Asbestos sheets
19. Bars and rods
20. Foot wear
21. Gramophone Records
22. Dyes and Chemicals for leather and textiles Industries
23. Lubricants and oils for plant and machinery
24. Industrial Sugar
25. Packaging materials in raw material form
26. Drawn Wire (for nails, etc.)
28. Sturic Rubber (ready made) for beach sandals, bicycle pedals, etc.

29. Blowing agents (various) for sturic rubber,

30. Improved seeds

31. Foodstuffs

32. Live animals

33. Animal feed
TOURISM COOPERATION AGREEMENT BETWEEN THE
GOVERNMENTS OF THE REPUBLIC OF KENYA AND
THE UNITED REPUBLIC OF TANZANIA

The Government of the Republic of Kenya and the
United Republic of Tanzania (hereinafter referred to as
the Contracting Parties);

Desiring to develop tourist relations between
their respective countries following the Arusha Summit
Communique of November 16th 1985;

Realising the need for both countries to collaborate
in the promotion and development of tourism for their mutual
benefits; and Guided by the Principles governing relations
between States have agreed as follows:

ARTICLE I
Each of the Contracting Parties shall identify and conserve their
tourist attractions such as wildlife, natural beauties,
treasures of culture and civilization and will endeavour to
provide the necessary infra and super structures for the proper
utilization of these resources.

ARTICLE II
The Contracting Parties shall take the necessary steps with
a view to promoting and intensifying the tourist exchange
between them giving special attention to contacts made between
their authorised tourists organizations and agencies.

ARTICLE III
The Contracting Parties shall encourage their authorised travel
agencies to promote tours between their respective countries on
mutually advantageous basis with a view to increasing the tourist
traffic flow between them and shall support joint promotion of
their tourist attractions in third markets and will endeavour
to make better known their tourist attractions.
ARTICLE IV

The Contracting Parties shall exchange educational visits of both Government officials, national tourist organisation and private travel agencies in order to familiarise themselves with tourism potentialities and facilities and shall further enhance the already existing co-operation in the field of tourism including wildlife training, exchange of experts and expertise.

ARTICLE V

The Contracting Parties shall undertake joint research programmes and exchange tourism statistics in order to improve tourism promotion.

ARTICLE VI

The Contracting Parties shall exchange information, studies and publicity literature such as films, brochures and posters and shall facilitate on reciprocal basis, the presentation of documentary materials regarding their activities and achievements in the field of tourism, subject to customs regulations and laws applicable in either country.

ARTICLE VII

The Contracting Parties shall cooperate and strengthen anti-poaching activities in order to enhance conservation of wildlife and exchange, wherever possible, species that are extinct in one country but available in the other; such exchange should be on terms and conditions to be mutually agreed upon.

ARTICLE VIII

The Contracting Parties agree to ease and streamline customs, immigration and other travel regulations to facilitate the smooth flow of their nationals and visitors to the two countries.
ARTICLE IX

The Contracting Parties agree that goods and services rendered in each country to tourists from third markets shall be paid for in freely convertible currency.

As regards interstate tourists comprising of nationals of the Contracting Parties, payments for goods and services rendered shall be made in accordance with arrangements agreed to by the respective Central Banks.

ARTICLE X

The Contracting Parties agree that tourists shall be transported in and out of each country:

(a) By air:
   (i) by scheduled air services subject to the air service agreement in force between the two Contracting Parties;
   (ii) by long haul air charters utilised in conjunction with respective national airlines of each country;
   (iii) by local charters subject to the laws and regulations existing in the two countries;

(b) By road:
   (i) through entry points to be designated from time to time by the Contracting Parties and;
   (ii) through operating modalities to be worked out by the authorised tourism agencies subject to the approval of the Contracting Parties.

(c) By sea:
   (i) by regular cruises or charters to designated ports to be notified from time to time by the Contracting Parties;
   (ii) Sea sports activities shall be organised on an ad hoc basis subject to the laws and regulations governing those activities in each country.
ARTICLE XI
The Contracting Parties agree that the insurance companies operating in their respective countries will effect an arrangement whereby vehicles used in the tourism trade between the Contracting Parties are insured to cover risks in both countries.

ARTICLE XII
The Contracting Parties agree that vehicles to be used in the tourism trade shall be subject to road transport regulations in force in the two countries.

ARTICLE XIII
The Contracting Parties agree to set up a Joint Consultative Committee constituted by representatives of the countries. The Joint Committee's function shall include:

a) the supervision and implementation of this agreement
b) the explorations and recommendation of ways of enhancing co-operation in tourism and its promotion;
c) the resolution of any problem that may arise in regard to the implementation of this agreement.

The said Committee shall meet alternately in the two countries on the date to be agreed at least twice a year.

ARTICLE XIV
This agreement may be amended by the Contracting Parties from time to time and any such amendments shall form an integral part of this agreement.

ARTICLE XV
This agreement and any amendments thereto shall come into force from the date designated by the two Governments and shall remain in force for a period of two years and shall be automatically renewed for the same periods unless during the period within which it is in force, either party gives the other notice in writing of its intention to terminate it; in which case this agreement and any amendments thereto shall terminate within 6 months after the date when the notice has been received by the other Contracting Party.
IN WITNESS whereof the undersigned, duly authorised by their respective Governments, have signed this agreement.
DONE in duplicate at: KAIROBI this 12th day of JUDE 1935

IN THE ENGLISH LANGUAGE BOTH TEXTS BEING EQUALLY AUTHENTIC.

FOR THE GOVERNMENT OF
REPUBLIC OF KENYA

FOR THE GOVERNMENT OF THE
UNITED REPUBLIC OF TANZANIA
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