

ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE STUDIES

SCHOOL OF LAW

PUBLIC INTERNAL LAW STREAM

Ethiopia's Accession to the East African Community: Legal Challenges, Opportunities, and Integration Lessons

A Thesis Submitted in Partial Fulfillment of the Requirement for a Master of Laws Degree in Public International Law.

By

Gemechis Mekonnen

GSE/2398/14

Advisor: Zelalem Mogessie Teferra (Ph.D.)

November, 2025

Addis Ababa, Ethiopia

Declaration

I, the undersigned, declare that this thesis is my original work and has not been presented for a degree in any other university. All sources of materials used for the thesis have been fully acknowledged.

Name: Gemechis Mekonnen
Date: November, 2025

Approval Page

Addis Ababa University

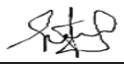
College of Law and Governance Studies

School of Law

Public International Law Stream

Ethiopia's Accession to the East African Community: Legal Challenges, Opportunities, and Integration Lessons

Supervisor

Name	Signature	Date
Zelalem Mogessie Teferra (Ph.D.)		11 November 2025

Approved by a Board of Examiners

Examiner One	Examiner Two
Name: _____	Name: _____
Signature: _____	Signature: _____
Date: _____	Date: _____

Acknowledgment

First and foremost, I would like to express my deepest gratitude to God for bestowing upon me the strength, wisdom, and patience to complete this research.

I would like to convey my sincere gratitude to all those who have provided their invaluable insights, expertise, and support throughout the course of this research. Special thanks to my advisor, Zelalem Mogessie (Ph.D.) for his continuous guidance, encouragement, and feedback.

I also extend my appreciation to my colleagues and peers who generously shared their knowledge and experiences, significantly enriching this work.

Lastly, I would like to thank my family and friends for their patience, understanding, and unwavering brief in my capabilities.

Abstract

This study explores the legal and institutional implications of Ethiopia's potential accession to the East African Community (EAC). It analyzes the EAC's legal framework such as the EAC treaty, Customs Union and Common Market Protocol against Ethiopia's existing legal framework. Drawing comparative lessons from Poland's accession to European Union and Vietnam's integration to ASEAN, the research identifies key legal reforms, institutional adjustments, and phased implementation strategies essential for successful integration. The study also focus on evaluating the challenges Ethiopia might face, such as those related to trade liberalization, competition, and regulatory harmonization, and suggests mechanisms to mitigate potential drawbacks. Additionally, it highlights the opportunities, including expanded market access and regional influence. The study employs a doctrinal and comparative methodology to provide practical policy recommendations for Ethiopia's effective and strategic entry into the EAC.

Keywords: East African Community, Regional Integration, Legal Harmonization, Customs Union, Common Market, Trade Liberalization, Trade Barriers, New Regionalism.

Table of Contents

Declaration ii

Approval Page iii

Acknowledgment iv

Abstract v

Table of Contents vi

Acronyms viii

Chapter One 1

Introduction 1

1.1. Background 1

1.2. Statement of the Problem 3

1.3. Research Question 4

1.4. Research objective 4

1.5. Methodology 4

1.6. Scope of the Study 5

1.7. Significance of Study 5

1.8. Limitation of the Study 5

1.9. Organization of the Research 6

1.10. Citation Style 6

Chapter Two 7

The Legal and Institutional Landscape of the EAC 7

2.1. Theoretical Framework 7

2.2. The Legal and Institutional Framework of the EAC 13

2.3. Institutional framework 19

2.4. Ethiopia and regional integration Experience 21

Chapter Three 23

Comparative Analysis of Accession Experiences: Lessons for Ethiopia from Somalia's EAC, Poland's EU and Vietnam's ASEAN Integration 23

3.1. Rationale for case Selection and Comparative Relevance 23

3.1.1 Legal Harmonization 24

3.1.2 Judicial Sovereignty and Dispute Resolution 26

3.1.3 Mitigation Mechanisms: Trade Remedies and Safeguards 28

Chapter Four 32
Assessing Ethiopia's Legal Framework for EAC Accession: Challenges And Pathways To Alignment 32
4.2.1 Introduction 32
4.2.1 Capital Requirements and Sectoral Investment Restrictions 33
4.2.2 State Subsidies 35
4.2.3 Tariff and Customs Regimes 38
4.2.4 Investment and Tax Dispute Resolution Mechanisms 40
4.3 Case Law Insight: British American Tobacco Uganda v. Attorney General of Uganda 43
4.4 Recent Policy Position: Ethiopia Prioritizes AfCFTA Over Immediate EAC Membership 45
4.5 Opportunities and Challenges for Ethiopia's Accession to the EAC 46
4.5.1 Opportunities 46
4.5.2 Challenges 48
Chapter Five 52
Conclusion and Recommendations 52
5.1 Conclusion 52
5.2 Recommendations 53
References 55

Acronyms

EAC	East African Community
AU	African Union
OAU	Organization of African Unity
UDEAC	Central African Customs and Economic Union
RECs	Regional Economic Communities
ECOWAS	Economic Community of West African States
SADC	Southern African Development Community
PTA	Preferential Trade Area for Eastern and Southern Africa
EACJ	East African Court of Justice
EACA	East African Competition Authority
EU	European Union
ASEAN	Association of Southeast Asian Nations
CET	Common External Tariff
IGAD	Intergovernmental Authority on Development
COMESA	Common Market for Eastern and Southern Africa
WTO	World Trade Organization
TRIPS	Trade-Related Aspects of Intellectual Property Rights
NTB	Non-Tariff Barrier
USD	United States Dollar
FTA	Free Trade Area

Chapter One

Introduction

1.1. Background

In recent times, the world has witnessed on the one hand, a trend towards globalization, which has resulted in a "more interconnected world economy and world society" characterized by fewer and less significant trade borders, and on the other hand, a trend towards regionalization and cooperation between states or groups of states.[1] In Africa too, regional integration is a major development strategy for African countries which share the aim of continent-wide economic, social and cultural integration.[2] The 1960s marked a pivotal period for the emergence of modern African economic integration. Two major factors contributed to this development: the decolonization of African states and the emergence of the Organization of African Unity (OAU).[3] The rise of the question of self-determination, ambitious and capable African leaders, national interests, and the unprecedented depth of the continent's economic crisis have all contributed to the transformation from political to economic Pan-Africanism.[4]

The OAU has shown its support for economic integration in the continent by supporting initiatives such as the Economic Community of Central African States (hereinafter referred to by the French acronym "UDEAC") even it was unsuccessful attempt in Africa's integration.[5] Another major attempt at economic integration in Africa was the establishment of the East African Community (EAC), which was as an intergovernmental organization established in 1967 by Kenya, Tanzania, and Uganda. The EAC aimed to foster economic cooperation and integration among the three East African countries.[6] By the late 1980s the OAU shifted its

[1] Masinde Wanyama and Christopher Otieno Omolo, 'The road to East African integration' in Emmanuel Ugirashebuja and others (eds), East African Community Law: Institutional, Substantive and Comparative EU Aspects (Brill 2017) 1.
[2] Tharani A, 'Harmonization in the EAC' in Emmanuel Ugirashebuja and others (eds), East African Community Law: Institutional, Substantive and Comparative EU Aspects (Brill 2017) 1.
[3] Jorge Braga de Macedo and Omar Kabbaj, preface to Regional Integration in Africa (Development Centre of the Organisation for Economic Co-operation and Development and African Development Bank 2002) 18.
[4] Jean-Emmanuel Pondi, 'The OAU: from political to economic Pan-Africanism' (1987) 7(1) SAIS Review 199.
[5] Kwaku Danso, 'The African Economic Community: Problems and Prospects' (1995) 42(4) Africa Today 31.
[6] Digital Teachers, 'Account for the collapse of the East African Community in 1977' (Digital Teachers, 2 February 2022) https://digitalteachers.co.ug/account-for-the-collapse-of-the-east-african-community-in-1977/ accessed 27 July 2024.

attention to other regions in Africa aiming to create Regional Economic Communities (hereinafter referred to as "RECs") including Economic Community of West African States (hereinafter referred to as "ECOWAS"), Southern African Development Community (hereinafter referred to as "SADC"), Preferential Trade Area for Eastern and Southern Africa hereinafter referred to as "PTA"), and the Arab Maghreb Union.[7]

Despite its success, the EAC collapsed in 1977 due to various political and economic difficulties.[8] The prevailing ideological differences between member countries formed a fundamental weak nexus in the Community.[9] The three founding member countries were very different in terms of their ideological orientations; Kenya had adopted capitalism, Tanzania embraced socialism, while Uganda was also left-leaning. These differences made cooperation increasingly difficult and led to the break of EAC.[10]

However, with support from the African Union and the renewed initiative of founding members, the EAC was revived as a regional economic integration scheme. In 1993, a Permanent Tripartite Commission for Cooperation was set up to oversee the drafting of EAC treaty, and in November 1999, the Treaty for the reestablishment of the East African Community was signed by the Heads of State of Kenya, Uganda and Tanzania.[11] The Treaty entered into force on 7th July 2000. Two new members, Rwanda and Burundi, acceded to the Community in 2007 and the Republic of South Sudan in 2016, bringing its membership to six.[12] Currently, the EAC is comprised of eight Partner States with the Democratic Republic of the Congo acceding to the EAC Treaty on 8 April, 2022 and Somalia acceding to the EAC Treaty on 15 December, 2023.[13]

[7] Danso (n 5) 2.
[8] Sena Eken, 'Breakup of the East African Community: problems of regional integration' (1979) Finance & Development 1.
[9] John Ravenhill, 'Regional integration and development in Africa: lessons from the East African Community' (1979) 17(3) Journal of Commonwealth & Comparative Politics 5.
[10] Ibid.
[11] Emmanuel Ugirashebuja, John Eudes Ruhangisa, Tom Ottervanger and Armin Cuyvers (eds), East African Community Law: Institutional, Substantive and Comparative EU Aspects (Brill Nijhoff 2017) 16.
[12] Ibid.
[13] East African Community, 'Overview of EAC' (East African Community, updated 2025) https://www.eac.int/overview-of-eac accessed 23 July 2024.

The EAC has made commendable achievements since 2000 and is now considered across Africa as an example of successful regional integration.[14] Since its re-establishment, the EAC's integration process has been accelerating based on political will, mutual interests, and the recognition of potential gains from the integrated economy.[15] In line with trade integration as the core objective of the EAC, the Customs Union was established in 2005, followed by a Common Market in 2010.[16] The duty free access Customs Union Protocol came into effect in 2005, allowing all goods manufactured in one EAC country and sold in another to be treated as if they were manufactured locally, thus eliminating internal tariffs among members.[17]

Ethiopia, despite being a political and economic powerhouse in the region and home to the AU headquarters, is not a member of the EAC. However, Ethiopia has shown interest in joining the EAC,[18] aligning with a broader regional trend where more countries seek integration under the community.

1.2. Statement of the Problem

Ethiopia has undergone significant legal and institutional reforms over the past decade, indicating its growing interest in global and regional trade, including potential membership in the EAC. However, accession to the EAC requires alignment with its legal instruments, such as the EAC Treaty, the Common Market Protocol, the Customs Union Protocol and other supplementary EAC instruments.[19]

Beyond legal reforms, Ethiopia must also address institutional gaps by reforming existing bodies or establishing new ones in key areas like customs, immigration, and finance. Integration also requires adherence to the decisions of EAC organs such as the East African Court of Justice

[14] Arthur Bainomugisha and Sabastiano Rwengabo, 'The promise and efficacy of the East African Community' ACODE Policy Briefing Paper No 41 (Advocates Coalition for Development and Environment 2016) 1.
[15] Frederick Onyango Ogola, George N Njenga, Peter C Mhando and Moses N Kiggundu, 'A profile of the East African Community' (2015) 1 Africa Journal of Management 6.
[16] Ibid.
[17] Ibid.
[18] Business Day Africa, 'Ethiopia set to join the EAC, pushing bloc population to 420 million' (BusinessDay Africa, 12 April 2024) https://businessdayafrica.org/ethiopia-to-join-eac-increasing-bloc-population-to-420-million/ accessed 27 July 2025.
[19] Macharia Munene, 'Ethiopia in East Africa Community: Potentials and Pitfalls' (Mashariki RPC, 7 May 2024) https://masharikirpc.org/ethiopia-in-east-africa-community-potentials-and-pitfalls/ accessed 24 July 2024.

(hereinafter referred to as "EACJ").[20] Without addressing institutional capacity and alignment, Ethiopia risks undermining the effectiveness of its integration, making the goal lacking efficiency and effectiveness.

Despite the clarity of the need for reform, there is a lack of specialized research on how a state-led economy can transition into a supranational bloc without causing operational and regulatory shocks. While the experiences of Poland (EU accession) and Vietnam (ASEAN integration) offer global insights into managing such transitions, and Somalia's recent EAC accession provides immediate regional context, these lessons have not been synthesized into a practical framework for Ethiopia. This research addresses the problem of how Ethiopia can navigate these legal ensuring that its prospective integration is both efficient and compatible with EAC supranational standards.

1.3. Research Question

This research seeks to address the following main research question: How can Ethiopia's national legal frameworks be aligned with the supranational standards of the East African Community, and what lessons can be drawn from the integration experiences of Poland, Vietnam, and Somalia to EU, ASEAN and EAC inform this prospective legal roadmap?

1.4. Research objective

This study's primary objective is to assess the legal, institutional, and broader implications of Ethiopia's potential EAC accession. It will identify required legal harmonization (especially in trade, investment, labor, and competition), evaluate institutional capacity gaps, and analyze relevant accession experiences (Poland and Vietnam) to inform Ethiopia's integration process.

1.5. Methodology

This research employs a qualitative, doctrinal, and comparative legal methodology to examine the implications of Ethiopia's potential accession to the EAC. The research employs doctrinal legal analysis, reviewing and interpreting primary legal sources such as the EAC Treaty, the

[20] E.F. Ssempebwa, 'The Role of the East African Court of Justice in Regional Integration: The Past Twenty Years' (Paper presented at the EACJ 20th Anniversary Commemoration, Arusha, 4 November 2021) 3.

Common Market Protocol, the Customs Union Protocol, and relevant Ethiopia's laws in areas including trade, investment, labor, and competition.

Further, it also utilizes a comparative approach to draw insights from Poland's accession to the European Union, Vietnam's entry into ASEAN and Somalia's accession to the EAC focusing on how these countries managed legal harmonization, institutional reforms, and transitional challenges. In addition, it incorporates case study and policy documents, official reports, and expert opinions to assess Ethiopia's institutional capacity and regulatory readiness.

1.6. Scope of the Study

This study examines the legal, institutional, economic, and political implications of Ethiopia's potential accession to the EAC. Specifically, it will analyze EAC's legal harmonization requirements, assess institutional framework gaps from the dimension of Ethiopia's potential EAC integration, furthermore, it will draw comparative lessons from global accession experience of Poland into the EU and Vietnam into ASEAN to give insights and practical lesson for Ethiopia on navigating regional integration and it also explores potential benefits and challenges of Ethiopia's EAC membership relying on expert opinion.

1.7. Significance of Study

This research provides a relevant and comprehensive investigation of Ethiopia's potential accession to the East African Community (EAC), offering insights for policymakers, legal experts, researchers and stakeholders.

1.8. Limitation of the Study

This research is primarily limited by its speculative nature, as Ethiopia has not yet formally acceded to the EAC, necessitating a reliance on hypothetical legal modeling rather than settled case law. Additionally, the lack of similar research on this specific bilateral relationship restricts the availability of empirical data, forcing the study to depend on comparative analyses of previous accessions.

1.9. Organization of the Research

This research is organized into five chapters. Chapter one introduces the study, providing the background, problem statement, objectives, research questions, scope, and significance of the research. Chapter two presents the theoretical framework and reviews Ethiopia's current regional affiliations and the legal structure of the EAC. Chapter three gives a comparative analysis of Poland's and Vietnam's accession experiences to the EU and ASEAN, drawing lessons for Ethiopia. Chapter Four analyzes Ethiopia's legal and institutional alignment with EAC standards and explores key integration challenges, forwards relevant case study and considers input from experts to assess the pros and cons of accession. Chapter Five summarizes the findings, and provides recommendations for a smooth and strategic integration into the EAC.

1.10. Citation Style

The Researcher will use The Oxford University Standard for Citation of Legal Authorities (OSCPLA) as a preferred referencing style.

Chapter Two

The Legal and Institutional Landscape of the EAC

2.1. Theoretical Framework

Literature on regional integration theories indicates that the concept has been heavily influenced by European integration experiences.[21] However, it is imperative to understand the purpose and evolution of these theories, as they can assist in analyzing the role and effectiveness of international organizations.

Scholars offer various reasons for studying these theories. Thomas Diez and Antje Wiener highlight two major reasons: first, to understand how the legitimacy of supranational entities is established; and second, to analyze why states pursue integration, how supranational entities are formed, and how national and collective interests are managed in the process.[22] Similarly, Bjorn Hettene and Fredrik Soderbaum emphasize that studying integration theories is crucial for understanding the different socio-economic contexts of integration.[23] Below are some of the significant integration theories that have shaped the discourse.

A. Functionalism and Neofunctionalism

One of the earliest and most influential theories of regional integration is functionalism. This is regarded as foundational in the study of international organization. A notable proponent for functionalism was David Mitrany, who has been called the father of functionalism.[24] Mitrany argued that modern governance trends to favor organizing governments based on specific needs and objectives, tailored to the conditions of their time and place, rather than on predetermined constitutional division of jurisdiction, rights and powers.[25] He emphasized the importance of

[21] Andrés Malamud and Philippe C Schmitter, 'The Experience of European Integration and the Potential for Integration in South America' in Alex Warleigh-Lack, Nick Robinson and Ben Rosamond (eds), New Regionalism and the European Union: Dialogues, Comparisons and New Research Directions (Taylor & Francis 2011) 1.
[22] Thomas Diez and Antje Wiener, 'Introducing the Mosaic of Integration Theory: Its Past, Present and Future' (Paper presented at the EUSA 8th Biennial International Conference, Nashville TN, 27–29 March 2003) 8.
[23] Björn Hettne and Fredrik Söderbaum, 'Theorising the Rise of Regionness' (2000) 5(3) New Political Economy 3.
[24] Jaap de Wilde, 'David Mitrany (1888–1977): Functionalism as Statecraft and Revolt' Saved from Oblivion: Interdependence Theory in the First Half of the Twentieth Century: A Study on the Causality between War and Complex Interdependence (Dartmouth/Aldershot, 1991) 1.
[25] David Mitrany, A Working Peace System (Oxford University Press 1943) 20.

international organizations focusing on addressing specific issues essential to human welfare such as health, transportation and communication which are vital to sustain human wellbeing and peace.[26]

However, as Ben Rosmand points out, Mitrany's vision of functionalism reflects a largely technocratic and idealistic view of governance, emphasizing technical cooperation over political considerations.[27] Functionalism is widely understood to be based on a positive view of human nature assuming that humans are rational, peaceful and that conflict and disharmony are not inherent to the human condition.[28]

James Caporaso and John Keeler also provide three main criticisms against Mitrany's functionalism theory. First, they argue that it is impractical because it envisions international cooperation without considering political interests and power dynamics. Second, they contend functionalism lacks well developed theory of politics, making it effectively analytically weak. Third, they assert that the theory does not account for decision making in international law as it overlooks the role of international power and individual choice, instead solely relying on predetermined on social and economic factors.[29]

Building on functionalist thought, neofunctionalism was the next major theory to emerge. The main proponents of neofunctionalism were Ernst Haas and Leon Lindberg, who posited that economic and technical cooperation are main drivers of integration.[30] The theory argues that economic cooperation creates a "spillover" effect influencing states, politicians, and citizens. Furthermore, it asserts that state preferences are not static but are subject to change from domestic competitions for influence.[31]

According to Haas, the European Coal and Steel Community (here in after referred to as "ECSC") represented a successful model of sectoral integration that aided broader economic and

[26] Mitrany (n 24) 31.
[27] Ben Rosamond, Theories of European Integration (Palgrave Macmillan 2000) 33.
[28] Ibid.
[29] James A Caporaso and John TS Keeler, 'The European Community and Regional Integration Theory' (Paper presented at the Third Biennial International Conference of the European Community Studies Association, Washington DC, 27–29 May 1993) 4-10.
[30] Andreas Niemann, 'Theoretical Framework and Research Design' in Explaining Decisions in the European Union, (Cambridge University Press 2006) 1.
[31] Ernst B Haas, The Uniting of Europe: Political, Social, and Economic Forces, 1950–1957 (University of Notre Dame Press 2004; originally published Princeton University Press 1958) 13.

political unity, paving the way for the formation of the European Union. Integration, in this view, results from the functional advantages and interdependence created through cooperation.[32]

However, neofunctionalism has also not gone challenged. scholars such as Andew Moravscik critiques neofunctionalism, by arguing that it does not provide sufficient explanation for integration as it neglects the role of external factors and political bargaining. He further argues that historical prediction of neofunctionalism were wrong because it has become evident that external factors which he refers as "exogenous factors" have often played a more decisive role in shaping integration processes.[33]

B. Intergovernmentalism

Intergovernmentalism is a theory of regional integration that emphasizes the central role of sovereign states in driving and controlling the integration process.[34] Prominent scholars such as Stanley Hoffmann and Andrew Moravcsik have been instrumental in championing the intergovernmentalism approach, particularly in contrast to functionalism and neofunctionalism theories.[35]

In a critical review of functionalism functionalism theory, Hoffman argues that nation states remain the fundamental building block of international relations and integration, despite efforts to diminish their significance.[36] He states that "states remain the basic units in spite of all the remonstrations and exhortations" suggesting that states maintain their power and legitimacy, even with efforts towards greater international governance.[37] He further emphasizes that states are willing to cede their sovereignty on matters of "low politics" such as economic issues instead

[32] Ernst B Haas, The Uniting of Europe: Political, Social, and Economic Forces, 1950–1957 (2nd edn, University of Notre Dame Press, 2004) 13.
[33] Andrew Moravcsik, 'The European Constitutional Compromise and the Neofunctionalist Legacy' (2005) 12(2) Journal of European Public Policy 7.
[34] Dirk Leuffen, Berthold Rittberger and Frank Schimmelfennig, 'Intergovernmentalism' in Integration and Differentiation in the European Union (Springer International Publishing, 2022) 1.
[35] Ibid.
[36] Stanley Hoffmann, 'Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe' (1966) 95(3) Daedalus 3.
[37] Ibid.

of "high politics" such as security, defense and foreign policy.[38] This distinction shows the selective and strategic nature of integration under intergovermentalism.

Similarly, Andrew Moravcsik, in developing liberal intergovernmentalism, contends that major decisions in European integration are best understood through mid-range theories rooted in economic interests, interstate bargaining, and institutional choice.[39] Therefore, instead of attributing integration to spillover effects or supranational momentum, Moravcsik maintains that governments act rationally based on sovereign preferences and negotiate outcomes that reflect the relative power and interests of member states.[40]

However, Leon Lindberg challenges aspects of this approach by suggesting that intergovernmentalism supports neo-functionalist claims and that they are complementary than contradictory.[41] In particular, he draws attention to Moravcsik's analysis that shows how states' participation at the European level enables them to gain relative autonomy in relation to their domestic constituencies.[42] Lindberg argues that this same analysis can be applied to an understanding of the Commission in this process of national interest formation, suggesting that even intergovernmentalism interpretations rely on tools or mechanisms emphasized by neofunctionalism. [43]

C. New Regionalism

The concept of New Regionalism emerged as a response to the changing global political and economic order in the post-Cold War era.[44] Bjorn Hettne, a key proponent of this theory, addresses it in his article titled "Globalization and the new regionalism: The Second Great

[38] Hoffmann (n 36) 3.
[39] Andrew Moravcsik, 'Theoretical Logic of Intergovernmentalism' (SSRN Scholarly Paper No 3772589, Social Science Research Network, 2021) 1.
[40] Ibid.
[41] Andrew Moravcsik, 'Preferences, Power and Institutions in 21st-Century Europe' (SSRN Scholarly Paper No 3772589, Social Science Research Network 2021) 20.
[42] Rosamond (n 27) 145.
[43] Ibid.
[44] UNU-WIDER, Research for Action: The New Regionalism (UNU2007) 7.

Transformation".[45] In his analysis, Hettene identifies five key aspects that distinguish new regionalism and old regionalism which are imperative for understanding the theory.

First, he argues that the formation and influence of regionalism have undergone big transformation. Old regionalism was shaped by the bipolar structure of Cold War context where the USA and the Soviet Union dominated global politics and economics. In contrast, new regionalism exists within a multipolar world order, where regional actors such as the EU, ASEAN and AU play significant roles in shaping international economics and political agendas.[46]

Second, while old regionalism was primarily imposed from above by superpowers, new regionalism is spearheaded by constitutes and other non-state actors amplifying the bottom-up approach to integration.[47] This shows that, under new regionalism integration is not only dictated by states, but through internal motivation and inclusivity.

Third, the old regionalism based itself on principles such as economic protectionism policies aiming to create closed regional cooperation. By contrast, new regionalism tries to move in the direction of economic cooperation, often described as open regionalism, aligning with trade liberalization and seeking compatibility with an increasing interdependent global economy.[48]

Fourth, old regionalism limited on its objectives, primarily focusing on economic and security integration objectives. New regionalism however, has broader agenda that not only focus on trade and economic cooperation, but also environment in areas such as social policy, security and democracy, including the whole issue of accountability and legitimacy.[49]

Fifth, the trajectory of old regionalism primarily focused on state-to state relation, whereas new regionalism incorporates a wide array of actors including non-state participants such as

[45] Björn Hettne, András Inotai and Osvaldo Sunkel (eds), Globalism and the New Regionalism (Palgrave Macmillan 1999) 7.
[46] Ibid 7-12.
[47] Ibid.
[48] Hettne (n 45).
[49] Ibid 24.

international organization, and multinational corporation reflecting structural transformation of international relation.[50]

Similarly, Shaun Breslin and Richard Higgott offer complementary perspective to explain the difference between the old regionalism and new regionalism. They argue that new regionalisms are defined in rejection of the old order in terms of both theorizing and practice.[51] According to their assessment, the resurgence in formal regional arrangements can be attributed to several factors.

First and foremost, the end of bipolarity and the Cold War significantly altered the international system. With the diminishing influence of Cold War divisions, superpowers have shifted their foreign policy strategies, becoming more open to regional arrangements. In particular, they highlight that the United States, once skeptical of regional blocs, has become more supportive of those that either include the U.S. or promote neoliberal economic principles aligned with its interests.[52]

Second, they note the influence of neoliberalism and evolving political economies in the Global South, which have contributed to the rise of new regionalism. Regional cooperation is increasingly seen as a tool for economic modernization, market access, and political stability, particularly in Africa, Asia, and Latin America.[53] Finally, they argue that the decline of the Westphalian state system and the reducing significance of state borders in an era of a more globalized economy have further encouraged the rise of new regionalism.[54]

Overall, new regionalism places greater attention on the role of non-state actors in shaping regional cooperation. In addition, it leaves behind the Eurocentric perspective by incorporating the perspectives of the Global South, particularly those from Africa and Asia. This shift underlines that regional integration is no longer solely a Western driven process instead a global phenomenon shaped by diverse historical, cultural, and political contexts. This theory best aligns as foundation of the EAC because it reflects the post-cold war initiative driven by regional

[50] Hettne (n 45).
[51] Shaun Breslin and Richard Higgott, 'Studying Regions: Learning from the Old, Constructing the New' (2000) 5(3) New Political Economy 347-59.
[52] Ibid.
[53] Breslin and Higgott (n 51)
[54] Ibid.

priorities, a wide development agenda beyond economic integration such political federation, the participation of non-state actors and integration into the global economy.

2.2. The Legal and Institutional Framework of the EAC

The EAC legal framework is primarily based on its founding Treaty and key protocols establishing the Customs Union, Common Market and Monetary Union as well as legislation such as the EAC Customs Management Act and the EAC Competition Act.[55] However, these are not the only legal instruments of the EAC; there are also proposed instruments that are not yet in force such as the EAC elimination of non-tariff Barriers Act and the EAC Investment Policy. For the purpose of this research, the legal analysis will be limited to those instruments that are currently in force and directly relevant to the research question and scope.

A. The EAC Treaty

The most significant legal instrument of the EAC is the treaty that established the organization referred to as the EAC Treaty. It was signed in 1999 by Kenya, Uganda and Tanzania and entered into force in 2000.[56] It was created to forge a lasting regional bloc to promote economic, political and social integration after the failure of earlier cooperation effort in the region.[57] Unlike the European Union, where the powers of the institutions were clearly delineated from the outset, the EAC adopted a more flexible and politically driven approach to integration.[58] The Treaty comprises 153 articles, signaling both political will and legal preparedness among Partner States.[59]

Although, the treaty does not provide an exhaustive list of competences, Article 5 outlines a broad objective: to deepen cooperation across multiple sectors. Scholars argue that EAC

[55] East African Community, 'Legal framework' https://www.eac.int/regional-framework/legal-framework accessed 22 November 2024.
[56] East African Community, 'About EAC' (East African Community n.d.) https://www.eac.int/about-eac accessed 27 July 2025.
[57] Treaty for the Establishment of the East African Community (adopted 30 November 1999, entered into force 7 July 2000) preamble.
[58] Samwel Odoyo Njura, A Comparative Analysis of the European Union (EU) and the East African Community (EAC) Economic Integration Models: Lessons for Africa (MA thesis, University of Nairobi, October 2016) 76.
[59] Wanyama (n 1) 16.

competences are implied rather than explicitly enumerated, relying on consensus and gradual legal development.[60]

Article 6 reinforces the legal force of the Treaty's objectives by outlining fundamental principles including mutual trust, political will and sovereign equality, equitable distribution of benefits, peaceful settlement of disputes and cooperation for mutual benefit. These principles are not only merely aspirational but legally binding on Partner States, serving as standards for national and regional action.

In support of this, Article 7 provides a practical legal roadmap for achieving the community's objectives. It emphasizes people-centered and market-driven cooperation based on free movement of goods and services, and policy harmonization. It also invokes principles such as subsidiarity, complementarity and asymmetry. Article 8 establishes the supremacy of EAC laws and standards, requiring Partner States to align their policies with regional objectives and refrain from any actions that would undermine the community's goal.

The treaty also outlines key stages of integration through specific provisions. Chapter 11 addresses the role of Partner States in developing and adopting an East African Trade Regime and cooperation in trade liberalization and development. Article 75 establishes a Customs Union, aimed at eliminating internal tariff and non-tariff barriers, setting common external tariff and addressing practices such as dumbing and subsidies via protocol. Article 76 also establishes Common Market, ensuring free movement of goods, services, capital and labor. The EAC's ambitious long-term vision is reflected in Articles 82, 83 and 123, which outline plans for a Monetary Union and a future Political Federation, including the coordination of foreign and security policies.

Legal enforceability is addressed in Article 16, which declares that all decisions, directives, and regulations made under the Treaty are binding on Partner States. Article 27 also assigns jurisdiction to the EACJ over interpretation and application of the Treaty solidifying the notion that breaches to any agreement are not tolerated. Article 30 further gives the opportunity for individuals residing in Partner States to challenge the legality of acts or decisions by Partner States or EAC institutions. Finally, Article 151 ensures that once protocols and annexes are

[60] Treaty for the Establishment of the East African Community (n 57) art 5.

signed and ratified, they become integral parts of the Treaty, carrying equal legal weight thus illuminating the enforceability of laws of the community. Therefore, the EAC treaty demonstrates a strong commitment to integration via its broad goals and roadmaps of Customs Union, Common Market then Monetary Union and formation of a political Federation. It also provides a flexible integration approach and strong legal framework for guiding and enforcing the integration process.

B. Protocol on the Establishment of the EAC Customs Union

This Protocol lays out the foundation for deeper economic integration among EAC partner states.[61] The preamble states that the significance of the document is to eliminate tariff and non-tariff barriers and the establishment of a Common External Tariff (hereinafter referred to as "CET") on goods imported from outside the Community. In this regard, Article 2 establishes Customs Union, and mandates the removal of customs duties on intra-regional trade, the elimination of non-tariff barrier and maintains a common external tariff in respect of all goods imported into the community. Article 6 and the subsequent provisions call for the harmonization of trade documents, standards and training programs to increase the volume of trade among Partner States. Furthermore, Articles 16–18 address unfair trade practices, including dumping, subsidies, and countervailing measures, which may harm domestic industries. These practices must be reported to the Secretariat for investigation, and countermeasures such as duties may be applied to protect domestic industries.

The Protocol also includes safeguarding measures and allows for transitional periods to protect states from a sudden surge of an imported product that directly or indirectly causes serious injury to local industries. Also, under Article 22, Partner States are allowed to impose trade restriction for legitimate reasons such as public health, security and environmental protection upon showing clear intention to the community and the EAC Committee on Trade Remedies which is a body established according to Article 24 of the Protocol.

The Customs Union can be seen as a crucial legal step toward genuine economic integration by establishing legally binding commitments for elimination of trade barriers and implementation of

[61] Protocol on the Establishment of the East African Community Customs Union (adopted March 2004, entered into force 1 January 2005) preamble.

unified external trade policy.[62] The commitments under this Protocol demonstrate a practical approach aiming to enhance intra-regional trade while providing for legal mechanisms to manage the potential impacts of trade liberalization on Partner States, thus enhancing trust and cooperation among members.[63]

C. Protocol on the Establishment of the EAC Common Market

Protocol on the Establishment of the EAC Common Market is a binding integration instrument that builds upon the Customs Union Protocol by enabling the free movement of goods, services, capital, labor and other essential rights such as residence and establishment.[64] Articles 3 and 4 of the Protocol provide guiding principles for common market including commitments such as non-discrimination, the provision of equal treatment, the maintenance of transparency, and the assurance of accountability in its implementation.

To facilitate the movement of goods and services, free from tariffs or significant restrictions, the Protocol, under Articles 6, 16, and other supplementary instrument such as the East African Community Protocol on Standardization, Quality Assurance, Metrology and Testing, and the East African Community Standardization, Quality Assurance, Metrology and Testing Act of 2006 mandates Partner States to remove existing trade barriers, refrain from enacting new ones, and ensure compliance across all levels of governance.

The free movement of capital, right to work establishment and residence is also clearly laid out in Article 24, 10, 13 and 14 respectively. In this regard, businesses are allowed to repatriate and invest their capital from across Partner States. However, Article 25 provides for exceptions for free movement of capital due to reasons of prudential supervision, public policy considerations, and money laundering or financial sanctions provided these exceptions are mutually agreed upon. Article 10 ensures the right to work in any Partner States without discriminations; it encourages states to facilitate the admission of workers and reduce administration burdens. In addition, Article 13 and 14 ensures that all restrictions on the right of establishment based on

[62] East African Community, 'Customs union' https://www.eac.int/customs-union accessed 27 July 2025.
[63] East African Community, 'Regional integration progress' (East African Community nd). https://www.eac.int/sgforum/regional-integration-progress 1 December 2024.
[64] Protocol on the Establishment of the East African Community Common Market (adopted November 2009, entered into force 1 July 2010) arts 2(d), 3, preamble.

nationality whether of individuals, firms, or companies are removed and treated in accordance with the Community's standards.

In summary, the EAC Common Market Protocol is a legally binding instrument that aims to enable member or partner countries of a regional economic community to operate as a single market for goods, services, capital and labor, having common revenue and trade laws.[65] While it mandates the removal of restrictions, it allows narrowly defined exceptions to capital movement for reasons like public policy, provided these are mutually agreed upon.[66] This Protocol's legal force and scope are deemed necessary to advance EAC's integration agenda.

D. The EAC Competition Act and EAC Customs Management Act

The EAC had introduced the EAC Competition Act to promote fair business practice, consumer protection and regional economic integration.[67] This legal instrument aims to create a market in which producers and traders would compete freely on the quality of products and services they offer and the prices they charge rather than through the improper exercise of market power, whether acquired unilaterally or in concert with others.[68] According to Part 2 of the Act, anti-competitive concerted practices that restrict trade and limit competition with unfair trade practices including price fixing, bid-rigging, and market division are outlawed.

Part 3, 4, and 5 of the Act lay ground for the consumer protection and further prohibits abuse of market dominance. They also require Partner States to notify mergers and acquisition and barring those actions which potentially reduce competitions by creating dominant players while prohibiting discrimination and state subsidies that grants unfair financial advantage to products or business. Moreover, Part 28 to 36 clearly stipulates for consumer protection by prohibiting false advertisement, exploitative behavior during selling and vouches for product safety by providing mandatory standards for goods while assigning liability to damages incurred to the consumers due to unsafe product.

---

[65] Kennedy Gastorn and Masinde Wanyama, 'The EAC common market' in Emmanuel Ugirashebuja and others (eds), East African Community Law: Institutional, Substantive and Comparative EU Aspects (Brill 2017) 1.
[66] Ibid.
[67] East African Community Competition Authority, 'About East African Community Competition Authority' https://www.eacompetition.org/about/about-east-african-community-competition-authority accessed 4 December 2025.
[68] Joyce Karanja Ng'ang'a, 'EAC competition law' in Emmanuel Ugirashebuja and others (eds), East African Community Law: Institutional, Substantive and Comparative EU Aspects (Brill 2017) 1.

The Act also addresses the manner in which public procurement is handled. Part 18 requires that all suppliers from the community to be treated equally in accordance with laws and practices that establish technical requires that blocs cross border trade, and awards to be on clear, pre-set criteria which has a mechanism for lodging complaint with the Competition Authority in accordance to Part 20 of the Act.

This Act is also instrumental in establishing the East African Community Competition Authority which is entrusted with the powers: to investigate, provide binding decision, impose penalties, hold hearing and refer matters to the EAC Court of Justice in accordance with Part 42 of the Act to support facilitation of fair and transparent trade within the Community.[69]

The purpose of EAC Customs Management Act was to enhance customs control, trade facilitation, and regional cooperation among Partner States. Its main purpose is to establish a common customs framework, overseen by the Directorate of Customs.[70] It has established Directorate responsible for harmonizing customs policies, coordinating the Common External Tariff, promoting technology in customs, and monitoring the Act's implementation.[71] It also has the authority to inspect, detain, and seize goods to ensure compliance with EAC customs standards, promoting transparency, efficiency, and fairness.

The EAC Competition Act is a critical legal instrument designed to foster a fair and integrated regional market. It addresses anti-competitive practices like price-fixing, abuse of dominance, and anti-competitive mergers, ensuring consumer protection and a level playing field.[72] The Act's focus on transparent public procurement and the establishment of the EAC Competition Authority, with its investigative and enforcement powers, provides a robust framework for fair trade and economic integration within the Community making both key instrument of trade cooperation and integration under EAC framework. [73]

[69] East African Community Competition Authority (n 67).
[70] East African Community, 'Review of the EAC Customs Management Act, 2004' https://www.eac.int/customs/eac-cma-2004-review accessed 12 December 2024.
[71] Ibid.
[72] East African Community Competition Authority, 'Mandate and functions' https://www.eacompetition.org/about/mandate-and-functions accessed 12 December 2024.
[73] The East African Community Competition Act 2006, pt IX.

2.3. Institutional framework

From the lens of regional integration theories, the EAC aligns most closely with the principles of new regionalism, as it emphasizes bottom-up initiatives, the involvement of non-state actors, and a broad integration agenda that extends beyond economic cooperation to include political federation.[74] Taking into consideration this theoretical foundation which emphasizes bottom-up initiatives, we shall discuss the main organs of the EAC as follows.

A. The Summit

The Summit which is established under Article 9 and further elaborated in Article 10 of EAC Treaty, it is the highest decision making organ of the EAC. It comprises of the Heads of State or Government from each partner states and holds meeting at least once a year. It provides strategic directions, reviews annual progress and oversees other issues such as regional cooperation.[75] At this stage, decisions are made by consensus, ensuring equal rights among Partner States. This organ is also endowed with exclusive powers such as admitting new members, and appoints judges to the EAC court of justice.[76]

B. The Council of Ministers

The Council of Ministers which is composed of the Ministers or Cabinet Secretariats of Partner States is the central policy-making organ of the EAC.[77] Article 14 of the treaty outlines the Council's main responsibilities which include policy decisions, initiating legislation, overseeing the budget of the community, and issuing binding legislations.[78] The Council meets at least twice a year, to review and monitor the implementation of Community initiatives.[79] Similar to the

[74] Süleyman Dal, 'Regional Integration in Africa: EAC and ECOWAS' (Afrika'da Bölgesel Entegrasyon) (dergipark.org.tr, 2023) 6.
[75] Wilbert T K Kaahwa, 'The Institutional Framework of the EAC' in Emmanuel Ugirashebuja and others (eds), East African Community Law: Institutional, Substantive and Comparative EU Aspects (Brill 2017) 54.
[76] Ibid.
[77] East African Community, 'Common market flyer' https://www.eac.int/commonmarket/documentation/doc_view/49-common-marketflyer.raw?tmpl=com accessed 12 December 2024.
[78] Wilbert T. K. Kaahwa, 'The Institutional Framework of the EAC' in Emmanuel Ugirashebuja and others (eds), East African Community Law: Institutional, Substantive and Comparative EU Aspects (Brill 2017) 58.
[79] Treaty for the Establishment of the East African Community (n 57) art 15(1).

Summit, decisions in the Council are made on the principle of consensus and are legally binding on Partner States. [80]

C. Coordination Committee and Sectoral Committee

The EAC also has established Coordination Committee and Sectoral Committee to facilitate the operation. The Co-ordination Committee which constitutes the Permanent Secretaries of the Partner States is responsible to follow up the implementation of the Council's policy.[81] This Committee submits reports and recommendations to the Council, implement the decisions of the Council, and investigates the implementation of the Treaty.[82][83]

The Coordination Committee is supported by a Sectoral Committee, whose function is stated under Article 21 of the treaty; it is entrusted with the implementation and monitoring of programmes, and submits from time to time, reports and recommendations to the Coordination Committee to drive the regional integration goals of the Community.

D. The East African Court of Justice

The EAC treaty Article 23 provides the establishment and role of the Court. Accordingly, it states that the role of this organ is to ensure adherence to the Community's law through interpretation and application of and compliance with the treaty. Structurally, the court is composed of judges appointed by the Summit from the Partner States. However, Article 27 of the treaty provides the jurisdiction of the Court could expand to other issues other than trade and investment upon determination by the Council.

The Court is responsible to hear cases brought it to by the Partner States, the Secretary General and Citizens of the Partner States. In this regard, Articles 28-30 of the treaty clearly identify instances in which these different parties within the Community can bring claims under the treaty, including failure to meet obligation by other parties, and legality of legislations. Moreover, the court has also the capacity to issue advisory opinions on legal matters pertaining to the community upon request from the organs as per Article 36 of the treaty.

[80] Treaty for the Establishment of the East African Community (n 57) art 15(1). art 15 (4).
[81] Treaty for the Establishment of the East African Community (n 57) art 17.
[82] Ibid art. 18.
[83] Ibid art. 19 (1).

The treaty under Article 33 deals with the authority of national courts over disputes involving the Community –it obliges national courts to follow the decisions already made by the Court on the same issue signifying the community Court's interpretation as authoritative over national ones. The judgments rendered by the Court are binding and enforceable under national civil procedure laws of Partner States in which executions is to take place according to Article 44 of the treaty. Overall, the EACJ plays a vital role in upholding the rule of law and promote justice within the regional integration framework.

2.4. Ethiopia and regional integration Experience

Ethiopia is a founding member of regional organizations such as the Intergovernmental Authority on Development (hereinafter referred to as "IGAD") and the Common Market for Eastern and Southern Africa (hereinafter referred to as "COMESA") established in 1996 and 1994, respectively.[84] These regional organizations aim to achieve distinct goals via integration.

IGAD is dedicated to assisting and complementing the efforts of its member states in areas such as peace, security, agriculture, environment, economic cooperation and social development.[85] Ethiopia has played significant role within IGAD by focusing mainly on peace and security of the Horn of Africa. Along with other IGAD member states, Ethiopia has actively worked in mediating conflicts in South Sudan and Somalia giving highlight to the organization's commitment to regional stability.[86]

Conversely, COMESA focuses on facilitating regional trade and investment.[87] As a member of COMESA, Ethiopia has sought to enhance trade and economic cooperation with neighboring states. However, despite the organization's aim of deeper economic integration in the region, Ethiopia has yet to ratify the COMESA Free Trade Area.[88] This trade agreement aims to promote

[84] European Community, Ethiopia – European Community Country Strategy Paper and National Indicative Programme for the Period 2008–2013 (2007) 22.
[85] USAID, 'Intergovernmental Authority on Development (IGAD)' (USAID, 2024) https://www.usaid.gov/east-africa-regional/fact-sheet/intergovernmental-authority-development, accessed 12 December 2024.
[86] Kasaija Phillip Apuuli, 'The mediation support unit of the Intergovernmental Authority on Development: prospects and challenges' in Mediating Peace in Africa: A Study on the Role of Mediation Support Units (ACCORD 2023) 11.
[87] United Nations Economic Commission for Africa, 'COMESA - Trade and Market Integration' (UNECA) https://archive.uneca.org/oria/pages/comesa-trade-and-market-integration accessed 14 December 2024
[88] Mekuannet Tadele, 'East Africa: Why It Is the Time for Ethiopia to Join the Comesa Free Trade Area (Comesa FTA)' (AllAfrica.com, 17 October 2024) https://allafrica.com/stories/202410170572.html accessed 20 January 2025.

trade and investment by assisting member state towards tariff reduction, trade liberalizations and Customs cooperation.[89] Ethiopia's failure to ratify the key COMESA treaties has significantly limited its role within the organization over the years.[90]

Ethiopia has faced different challenges hindering ratification, including a lack of mutual trade interests among member states particularly as Ethiopia's exports are primarily destined for markets outside the COMESA region and Ethiopia's limited regulatory, policy, and institutional capacity to implement trade liberalization measures.[91]

While Ethiopia has successfully leveraged IGAD for political and security cooperation, its economic integration under COMESA remains underdeveloped. Addressing institutional and policy gaps, aligning domestic trade interests with regional priorities, and resolving inter-organizational overlaps are important for Ethiopia to fully benefit from regional economic integration.[92]

These similar challenges, such as its current trade experience outside the EAC would also potentially diminish Ethiopia's accession to the EAC and its full participation in its integrated market and customs union. Accession would require significant internal reforms to align with EAC's established frameworks for trade liberalization, customs procedures, and regulatory harmonization.

[89] Common Market for Eastern and Southern Africa (COMESA), 'Overview of COMESA' https://www.comesa.int/overview-of-comesa/ accessed 14 December 2024.
[90] Mehari Taddele Maru, Ethiopia's Regional Diplomacies: A Dominant Interpretation of the Horn of Africa (SAIIA Occasional Paper No 198, October 2014) 5.
[91] COMESA (n 87).
[92] Alazar Kebede, Ethiopia and Regional Economic Integration: Challenges and Opportunities (Capital Ethiopia, 30 April 2025) https://capitalethiopia.com/2025/04/07/ethiopia-and-regional-economic-integration-challenges-and-opportunities/ accessed 14 November 2024.

Chapter Three

Comparative Analysis of Accession Experiences: Lessons for Ethiopia from Somalia's EAC, Poland's EU and Vietnam's ASEAN Integration

3.1. Rationale for case Selection and Comparative Relevance

Poland and Vietnam were selected as case studies due to their comparative relevance to Ethiopia's ongoing economic transition and national objective for regional integration. While the three countries have their own social and geopolitical context which could differ in various instances, their developmental course offers important lessons for Ethiopia's potential accession to the EAC. The relevance of these cases can be summarized as follows:

A. The three cases represent contrasting models of regional integration:

- Poland reflects the European Union's highly integrated model, requiring extensive legal harmonization and strong supranational institutions.
- Vietnam illustrates ASEAN's flexible and sector-based integration model, which prioritizes national autonomy.
- Somalia represents the EAC's incremental and transitional approach to integration as well as provide regional context.

B. Economic Transition: Both Poland and Vietnam transitioned from centrally planned economies to market-oriented systems. This experiences provides an important insight for Ethiopia, as it is currently undergoing a similar shift towards market liberalization and integration.

Based on this framework for comparative analysis, the research will compare issues of legal harmonization, judicial sovereignty and dispute resolution element, and trade mitigation and safeguard mechanisms undertaken by Poland and Vietnam during accession period.

3.1.1 Legal Harmonization

Legal harmonization is often consider among the most demanding component of accession as it depends heavily on the process of aligning national laws with the standards of a regional block to ensure a functional integration of economy and market integration.[93] The level of alignment varies significantly across regional organizations, ranging from comprehensive legal transposition to selective sectoral convergence.[94] In this regard Poland, Vietnam, and Somalia illustrate three distinct harmonization models corresponding to the EU, ASEAN, and EAC respectively.

The European Union represents the most thorough harmonization model through the Acquis Communautaire, defined as the total body of binding EU law applicable to Member States.[95] Countries seeking EU membership are required to fully adopt and implement the acquis prior to accession.[96] Poland's accession necessitated the adoption of EU legislation covering competition law, consumer protection, environmental regulation, intellectual property, and customs administration.[97] Poland's pre-accession legal framework was regarded as incompatible with EU market standards as it relied with an economic system characterized as command economy with intervention of government in the economy, requiring comprehensive legislative overhaul and institutional reform.[98] Therefore, to fill these alignment gaps Poland pursued a broad initiative of legislative reforms.

To achieve compliance of EU legal and operational standards, Poland enacted major competition and consumer protection legislation such the Act of 16 April 1993 on Combating Unfair Competition, The Act of 27 July 2002 on State Aid and Customs Code of 1997, restructured customs and antitrust authorities, and established new coordinating institutions such as the Office of the Committee for European Integration.[99] Furthermore, institutional capacity building was

[93] Stephen Weatherill, *Cases and Materials on EU Law* (13th edn, OUP 2023) 3–5.
[94] Laurence R Helfer, 'Regime Shifting in the International Intellectual Property System' (2004) 7 *Perspectives on Politics* 39.
[95] Paul Craig and Gráinne de Búrca, *EU Law: Text, Cases, and Materials* (7th edn, OUP 2020) 88.
[96] Consolidated Version of the Treaty on European Union [2016] OJ C202/13, art 49.
[97] European Commission, *Regular Report on Poland's Progress Towards Accession* (1998).
[98] Leszek Balcerowicz, *Socialism, Capitalism, Transformation* (CEU Press 1995) 212–215.
[99] Act of 16 April 1993 on Combating Unfair Competition (Poland); Act of 27 July 2002 on State Aid (Poland); Customs Code Act 1997 (Poland).

also treated as vital from legislative alignment, showing the EU's emphasis on enforceability rather than just formal adoption process alone.[100]

Vietnam's accession to ASEAN followed fundamentally different harmonization model showing ASEAN's stand and preference for regulatory flexibility over uniformity. ASEAN is an organization which does not require major comprehensive legal uniformity or supranational enforcement.[101] This organizational design shaped the scope and depth of Vietnam's national law reforms. Instead, Vietnam undertook selective sectoral reforms aligned with ASEAN economic integration instruments, particularly the ASEAN Free Trade Area (AFTA) and later the ASEAN Trade in Goods Agreement (ATIGA).[102] for Vietnam domestic legal reforms focused on trade liberalization in sectors such as banking, taxation, customs procedures, and investment protection, rather than wholesale legal convergence.[103] Vietnam amended its domestic legal framework to recognize private and foreign investment, introduced competition legislation, and modernized customs administration to meet ASEAN commitments.[104]

This sectoral liberalization model allowed Vietnam to retain broad regulatory autonomy while incrementally aligning key economic sectors with regional norms.[105] The absence of a binding supranational legal order meant that compliance relied heavily on domestic political will rather than judicial enforcement unlike the EU's requirement to require Poland align its national law to become identical to its neighbors so that a single market could be operational in the region.[106]

Somalia's entry into the EAC follows a similar path of legal coordination, although it uses a different model, for Somalia's EAC accession reflects transitional harmonization model centered on legal and institutional alignment with core EAC protocols rather than total legal overhaul.[107]

---

[100] European Commission, *White Paper on the Preparation of the Associated Countries of Central and Eastern Europe for Integration into the Internal Market of the Union* COM (95) 163 final.
[101] ASEAN Charter (entered into force 15 December 2008) arts 2 and 20.
[102] ASEAN Free Trade Area (AFTA) Agreement (1992); ASEAN Trade in Goods Agreement (ATIGA) (entered into force 2010).
[103] Michael Ewing-Chow and Junianto James Losari, 'Indonesia, Vietnam and the ASEAN Economic Community' (2015) 9 *Asian Journal of WTO and International Health Law and Policy* 1.
[104] Law on Investment 2005 (Vietnam); Law on Competition 2004 (Vietnam).
[105] Pasha L Hsieh, 'ASEAN's Evolving Approach to Economic Integration' (2017) 11 *Journal of International Economic Law* 729.
[106] Craig and de Búrca (n 3) 647–650.
[107] East African Community, *Report of the Council of Ministers on the Admission of the Federal Republic of Somalia into the EAC* (2023).

Somalia had to undertake and go through targeted reforms in areas of customs, trade facilitation, and investment law to align with the EAC Treaty, the Customs Union Protocol, and the Common Market Protocol.[108] However, EAC's model is different from EU model in a way that EU's acquis is a requirement pre-accession tool involving nonnegotiable commitments and high administrative capacity demands while EAC utilizes a post-accession roadmap model creating space for states to operate under multi speed integration[109] process allowing new members like Somalia to join first accepting or ratifying the foundational treaty and protocol legal frameworks and align their legal and institutional frameworks incrementally over a multi-year transitional period.

Because Ethiopia would be acceding to the same legal and institutional framework, the EAC experience particularly Somalia's offers the most directly relevant reference perspective.[110] This comparative analysis suggests that Ethiopia avoids the immediate burden of pre-accession legal transposition (the EU model), but faces a continuous obligation to align its state-led economic policies with regional market standards post-accession. This alignment would demand targeted reforms in areas such as customs law, investment climate, and competition policy.[111] the Somali experience demonstrates a flexible entry path; however, the effectiveness of this incremental alignment depends heavily on long-term domestic political will and administrative capacity.

3.1.2 Judicial Sovereignty and Dispute Resolution

Judicial sovereignty constitutes one of the most sensitive dimensions of regional integration. The extent to which national courts yield interpretive authority to regional judicial bodies fundamentally shapes the legal consequences of accession.[112]

Poland's EU membership subjected its judiciary to the jurisdiction of the European Court of Justice, whose rulings possess binding supremacy over national courts in matters of EU law.[113]

[108] Treaty for the Establishment of the East African Community (as amended 2007); Protocol on the Establishment of the East African Community Customs Union; Protocol on the Establishment of the East African Community Common Market.
[109] East African Community, EAC Accession Roadmap for New Partner States (EAC Secretariat).
[110] World Bank, *Regional Integration and Trade Facilitation in the Horn of Africa* (2022).
[111] Treaty for the Establishment of the East African Community (n **57**) arts 75, 76 and 78.
[112] Karen J Alter, *Establishing the Supremacy of European Law* (OUP 2001) 2–4.
[113] Case 6/64 *Costa v ENEL* [1964] ECR 585.

The preliminary reference procedure obliges domestic courts to seek authoritative interpretation from the ECJ, effectively integrating national judiciaries into a supranational judicial hierarchy.[114] While Polish courts retain jurisdiction over constitutional interpretation, EU law supremacy has occasionally generated constitutional tensions, particularly where national constitutional identity is perceived to be at stake.[115]

By contrast, ASEAN deliberately avoids supranational adjudication. The so-called ASEAN Way emphasizes consensus, diplomacy, and non-litigious dispute settlement.[116] ASEAN dispute resolution mechanisms prioritize consultation and political negotiation, with arbitration and adjudication remaining optional and rarely invoked.[117] Vietnam's accession therefore did not require surrender of judicial sovereignty or acceptance of binding regional judicial authority, preserving domestic courts' primacy of domestic courts.[118]

Somalia's accession to the EAC introduces a more pronounced judicial dimension than ASEAN but far less intrusive than the EU. The East African Court of Justice (EACJ) possesses jurisdiction to interpret the EAC Treaty and ensure compliance by Partner States.[119] EAC Partner States are required to recognize the EACJ's binding authority in matters of treaty interpretation, and national courts may engage with the EACJ through preliminary reference-type mechanisms.[120]

In the case of Somalia, the acceptance of EACJ authority acceptance of EACJ authority is framed as structurally consistent with Somalia's three-tier judiciary, though the practical supremacy of regional rulings remains a test for domestic sovereignty. Under Articles 108 and 109 of the Somali Provisional Constitution, judicial authority is centralized in a three-tier system where a Constitutional Court serves as the final authority on interpretation.[121] Because this follows a traditional judicial model, the 'pooling of sovereignty' with the EACJ also a judicial

[114] Consolidated Version of the Treaty on the Functioning of the European Union [2016] OJ C202/47, art 267.
[115] Trybunał Konstytucyjny (Polish Constitutional Tribunal), Case K 3/21, Judgment of 7 October 2021; Leonard Besselink, 'National and Constitutional Identity before and after Lisbon' (2010) 6 *Utrecht Law Review* 36.
[116] Amitav Acharya, *Constructing a Security Community in Southeast Asia* (2nd edn, Routledge 2009) 58–61.
[117] ASEAN Charter (entered into force 15 December 2008) arts 22–28.
[118] Pasha L Hsieh, 'ASEAN Dispute Settlement Mechanisms' (2012) 13 *Journal of World Trade* 747.
[119] Treaty for the Establishment of the East African Community (as amended 2007) art 23.
[120] East African Court of Justice, *Advisory Opinion Reference No 1 of 2008*; see also James Thuo Gathii, 'The Jurisprudence of the East African Court of Justice' (2016) 15 *Law and Development Review* 7.
[121] Provisional Constitution of the Federal Republic of Somalia (2012) arts 108–109.

body can be viewed as a vertical extension of the existing court structure.[122] This structural compatibility suggests that Somalia may integrate EACJ binding authority with fewer 'clashes of systems' than states with non-judicial interpretation mechanisms.[123]

For Ethiopia, this dimension is particularly noticeable. While the EAC judicial model is considerably less interfering than the EU's, accession would nonetheless it entail acceptance of external judicial interpretation of regional obligations.[124] This presents a notable shift for the Ethiopian legal system, which emphasizes strict state sovereignty and assigns constitutional interpretation to political rather than judicial bodies.[125] Upon potential accession to the EAC, Ethiopia's judiciary would be therefore required to develop institutional preparedness to engage with EAC law, apply regional norms, and potentially submit questions of interpretation to the EACJ.[126]

3.1.3 Mitigation Mechanisms: Trade Remedies and Safeguards

Trade remedies constitute an important mitigation mechanism within regional integration regimes, designed to assist states in managing direct or indirect adjustment pressures arising from increased openness and economic integration.[127] Anti-dumping measures, countervailing duties, and safeguards operate as legally recognized exceptions to trade liberalization, allowing states to respond to unfair competition or sudden import surges while remaining within the rules of the integration framework.[128] Poland, Vietnam, and Somalia show three distinct approaches corresponding to the EU, ASEAN, and EAC respectively.

The EU maintains a centralized and legally developed trade remedy regime among the three models. Beginning from this, upon accession Poland had to transfer exclusive competence over trade defense instruments to the EU, meaning that anti-dumping, anti-subsidy, and safeguard

[122] Frederick Cowell, 'Judicial Authority and Regional Integration in East Africa' (2018) 11 *Journal of African Law* 256.
[123] Gathii (n 120) 19–21.
[124] Treaty for the Establishment of the East African Community (n 57) art 9.
[125] Ethiopian Constitution (1995) art 62(1); see also Adem Kassie Abebe, 'Judicial Review and Constitutional Interpretation in Ethiopia' (2013) 7 *Mizan Law Review* 1.
[126] Treaty for the Establishment of the East African Community (n 57) arts 27 and 33.
[127] World Trade Organization, *World Trade Report 2019: The Future of Services Trade* (WTO 2019) 67–69.
[128] Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement); Agreement on Subsidies and Countervailing Measures; Agreement on Safeguards.

measures are investigated, imposed, and administered at the supranational level.[129] The European Commission conducts investigations under the EU Anti-Dumping Regulation and related instruments, while definitive measures are adopted through EU institutional decision-making procedures.[130]

Following accession, Poland's domestic authorities no longer possessed independent competence to initiate or apply trade remedies against third countries or within intra-EU trade, relying instead on EU-wide determinations of injury and assessments of "Union interest".[131] This system aims to ensure uniform application of trade defense rules across the single market by exchanging sovereign and unilateral decision making flexibility for the collective leverage of a unified bloc.[132]Consequently, mitigation of adverse trade effects is primarily embedded in collective EU mechanisms rather than unilateral national action, reflecting the EU's prioritization of market unity over policy autonomy.[133]

ASEAN adopts a markedly different and decentralized approach to trade remedies. The organization does not operate a common trade defense authority, nor does it restrict Member States from applying national trade remedies in conformity with WTO law.[8] Vietnam therefore retained crucial primary jurisdiction over anti-dumping, countervailing, and safeguard measures following its accession.[9]

ASEAN trade agreements, including AFTA and ATIGA, explicitly recognize Members' rights to apply trade remedies under the WTO framework, with only limited procedural coordination at the regional level.[134] Vietnam accordingly developed its domestic trade remedy regime incrementally, establishing investigative authorities and legislation to address unfair trade practices and import surges without supranational oversight.[11] while this model reflects ASEAN's broader emphasis on regulatory autonomy and political flexibility, it has been subject

[129] Consolidated Version of the Treaty on the Functioning of the European Union [2016] OJ C202/47, art 207.
[130] Regulation (EU) 2016/1036 on protection against dumped imports from countries not members of the European Union [2016] OJ L176/21.
[131] Regulation (EU) 2016/1036 (n 4) arts 3 and 21.
[132] Piet Eeckhout, *EU External Relations Law* (2nd edn, OUP 2011) 424–427.
[133] Alan Dashwood, 'The Relationship between the Member States and the European Union/European Community' (2004) 41 *Common Market Law Review* 355.
[134] ASEAN Trade in Goods Agreement (ATIGA) (entered into force 2010) art 8.

for creating unequal enforcement and regional inconsistency in the application of unified trade defense measures.[135]

Somalia's accession to the East African Community represents a hybrid mitigation model positioned between EU centralization and ASEAN autonomy. The EAC Customs Union Protocol and related instruments provide for the use of trade remedies, including safeguards and anti-dumping measures, while leaving implementation primarily at the national level, subject to regional coordination.[136]

EAC Partner States retain authority to initiate trade remedy investigations, but they are required to notify and consult EAC institutions to prevent measures that could undermine the Customs Union.[137]Unlike the EU, the EAC has not centralized trade defense competence; however, unlike ASEAN, it expresses an intention to progressively harmonize trade remedy rules to enhance predictability and reduce the risk of disguised protectionism.[138]Somalia has undertaken initial reforms to align its customs and trade legislation with EAC requirements, but its trade remedy capacity remains limited and institutionally developing, relying on technical assistance and transitional arrangements consistent with the EAC's variable geometry principle.[139]

This comparison suggests that Ethiopia's potential accession to the EAC would likely preserve national authority over trade remedies while embedding their use within a regional legal and consultative framework.[140] Based on the current EAC framework, Ethiopia potential accession would likely maintain national authority over trade remedies over trade remedies that is more extensive than the centralized EU model, yet more regulated than the unrestricted autonomy of ASEAN. Accession would require Ethiopia to balance its independent investigative powers with new regional notification and coordination obligations.. Instead, accession would create a legal

[135] Pham Quang Minh, 'Vietnam's Trade Remedy Regime in the Context of WTO and ASEAN Integration' (2018) 12 *Asian Journal of WTO and International Health Law and Policy* 211.

[136] Amitav Acharya, *The Making of Southeast Asia* (Cornell UP 2013) 141–143.

[137] Protocol on the Establishment of the East African Community Customs Union (2004) arts 24–26.

[138] Ibid

[139] James Thuo Gathii, 'African Regional Trade Agreements and Trade Remedies' (2015) 49 *Journal of World Trade* 573.

[140] East African Community (n 107**).**

requirement to develop domestic trade remedy institutions, aligning national law with EAC customs and competition disciplines, and complying with notification and coordination obligations.[141]

The Somali experience indicates that EAC mitigation mechanisms are legally operative and institutionally consequential, while allowing flexibility in managing adjustment pressures associated with regional integration.[142] This framework may therefore offer Ethiopia a formalized framework for coordination but, it requires Ethiopia to reconcile its national policy space with regional notification and alignment obligations.[143]

The overall lesson for Ethiopia is that EAC offers a flexible entry but requires a fixed destination for integration. While the Somali experience shows that Ethiopia can preserve its national institutions and delay total legal overhaul, the judicial and trade remedy frameworks ultimately require Ethiopia to yield its sovereignty first approach to a regional consultative order.

[141] Treaty for the Establishment of the East African Community (n 57) arts 75 and 76 (as amended 2007).

[142] World Bank, *Ethiopia Trade Policy and Regional Integration Diagnostic* (2021).

[143] Gathii (n 139) 590–93.

Chapter Four

Assessing Ethiopia's Legal Framework for EAC Accession: Challenges And Pathways To Alignment

4.2.1 Introduction

This chapter examines the compatibility of Ethiopia's current legal frameworks with the established laws and principles of the EAC, in the context of Ethiopia's potential accession to the regional bloc. It analyzes key areas of potential incompatibility between Ethiopia's laws and EAC standards, such as investment regulations, dispute resolution mechanisms and the movement of labor, highlighting potential misalignments and areas adjustment.

In undertaking this analysis, the chapter proceeds on the basis that compatibility under the EAC legal framework does not require uniformity of regulation or the immediate elimination of all national restrictions from Ethiopian side instead takes consideration of EAC legal regime which permits Partner States to maintain sectoral reservations, differentiated treatment, and phased liberalization commitments, subject to scheduling, justified transition periods, and institutional oversight. Accordingly, the assessment does not treat the mere existence of restrictive or differential measures in Ethiopian law as inherently incompatible with EAC law, but evaluates their consistency by reference to applicable Community principles and accession commitments.

Furthermore, this chapter will draw lessons from relevant case law, the British American Tobacco Uganda V. Attorney General of Uganda case, to describe and illustrate the operational values of legal and institutional frameworks of EAC.[144] The chapter concludes by explaining the potential challenges and opportunities of Ethiopia's potential membership to the EAC.

[144] British American Tobacco (U) Ltd v Attorney General of the Republic of Uganda Reference No 7 of 2017 (EACJ First Instance Division, 26 January 2019).

4.2.1 Capital Requirements and Sectoral Investment Restrictions

Ethiopian Investment Proclamation No. 1180/2020 lays down requirement of entry for foreigner investors serving as legal litmus to test compatibility of Ethiopian national laws and EAC legal frameworks.[145] Article 9 of the Proclamation requires a foreign investor to meet a minimum capital threshold of USD 200,000 to establish a business in Ethiopia.[146] This would have an impact on entry of foreign investors. This proclamation introduces differential treatment that may raise nondiscrimination concerns interpreted as a discriminatory measure as it introduces because domestic investors.[147] The Proclamation indicates a dual investment regime in which domestic investors may access the market without the USD 200,000 capital obligation, while foreign investors, including those originating from EAC Partner States, are subject to additional financial entry requirements.[148] If this is applied to nationals and companies of EAC Partner States, and there is no scheduled reservation upon accession or a justified transition period, such differential treatment may raise questions of compatibility with the EAC's objective of establishing a common market subject to negotiated commitments, particularly the principles of free movement of investment and non-discrimination.[149]

Similarly, Ethiopia has on its legal reforms refereed to doing business has introduced the Ethiopian Investment Board Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade Investments No. 1082/2025, which introduced a USD 2.5 million minimum capital requirement for foreign investors in retail trade.[150] This legal direction reflects a shift towards greater openness and serves as a significant step toward alignment with EAC standards, as it supports core principles such as the progressive liberalization of the right to establishment, which is consistent with the scheduling of phased commitments under the EAC Common Market Protocol and its annexes.[151] However, the dual treatment in capital requirements between Ethiopian nationals and foreign investors, without a

[145] Investment Proclamation No 1180/2020, *Federal Negarit Gazette*, 26th Year No 28, 2 April 2020.
[146] Ibid art 9.
[147] UNCTAD, *Investment Policy Review: Ethiopia* (UN 2020).
[148] Investment Proclamation No 1180/2020 (n 145) art 9.
[149] Protocol on the Establishment of the East African Community Common Market (n 64) art 13.
[150] Ethiopian Investment Board Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade Investments No 1082/2025.
[151] Investment Proclamation No 1180/2020 (n 145) art 6(1).

scheduled reservation or justified transition period, may continue to complicate the practical application of national treatment principles for EAC-based firms.[152]

On the other hand, Article 6 of the Investment Proclamation No. 1180/2020 maintains a general presumption of openness of business sectors by allowing all investors to engage in any area of investment.[153] However, this is qualified by restrictions on investment on grounds of law, morality, public health, or national security.[154] Moreover, Article 6(2) and subsequent provisions allow the reservation of certain sectors for the government, domestic investors, or joint ventures between foreign and domestic investors.[155] The Proclamation and its implementing Investment Regulation No. 474/2020 further authorize the government to specify and revise these reserved sectors.[156]

Specifically, the Insurance Business Proclamation No. 746/2012, as amended by Proclamation No. 1163/2019, excludes foreign nationals and foreign-owned entities from engaging in insurance business in Ethiopia.[157] As discussed in relation to capital requirement issues, such exclusions are not prohibited outright under the EAC Common Market framework; their compatibility depends on whether they are expressly scheduled as reservations during the accession process.[158] In addition, Investment Regulation No. 474/2020 identifies other sectors subject to full exclusion from foreign investment and others where participation is permitted only through joint ventures.[159]

Article 74 of the EAC Treaty underlines the commitment to trade liberalization and the development of an integrated trade regime.[160] This objective is operationalized through the EAC Common Market Protocol, notably Annex II on the Right of Establishment and Annex V on the Liberalization of Services, supported by Annex VI on the Free Movement of Capital, which

[152] Protocol on the Establishment of the East African Community Common Market (n 64) arts 13(6) and 16.
[153] Investment Proclamation No 1180/2020 (n 145) art 6(1).
[154] Ibid
[155] Ibid art 6(2).
[156] Investment Regulation No 474/2020, *Federal Negarit Gazette*, 26th Year No 71, 2020. *(Note: If referencing a 2024 update as per your text, cite as: Investment Regulation No 474/2024).*
[157] Insurance Business Proclamation No 746/2012, art 4, as amended by Insurance Business (Amendment) Proclamation No 1163/2019.
[158] Protocol on the Establishment of the East African Community Common Market (n 64) arts 13(6) and 16**.**
[159] Investment Regulation No 474/2020 (n 156) art 4.
[160] Treaty for the Establishment of the East African Community (n 57) art 74**.**

collectively seek the progressive removal of restrictions that impede market access and competitive participation by nationals and companies of Partner States.[161]

What is central to these potential legal misalignments of Ethiopian laws upon accession to the EAC is that the EAC legal framework allows Partner States to maintain sectoral reservations and phased liberalization commitments; however, Ethiopia's sectoral exclusions, if applied to EAC Partner State investors without being expressly scheduled as reservations, may be subject to formal review by EAC organs during accession negotiations.[1] Furthermore, such measures would fall within the scope of ongoing implementation monitoring by the EAC Council of Ministers to ensure alignment with the right of establishment and the liberalization of services under the Common Market regime.[162]

Accordingly, upon the potential entry of Ethiopia into the EAC, the nation's legislative framework governing capital requirements and sectoral investment restrictions reflects areas requiring alignment with EAC trade liberalization norms to the extent that such measures apply to EAC Partner State investors without permissible reservations or transition periods.[163] To the extent that such measures apply to EAC Partner State nationals in the absence of permissible reservations, these provisions highlight potential adjustment needs to ensure that regulatory gaps vis-à-vis Community principles are addressed through targeted legislative reform.

4.2.2 State Subsidies

A subsidy under the EAC legal framework refers to any measure or support conferred on a selective basis to an undertaking by the state.[164] Such measures may include the application of direct financial transfers, tax exemptions, guarantees, preferential access to credit, or other advantages granted through state resources that may have implications for competitive conditions without the approval of the community's oversight body, the East African Community Competition Authority.[165]

[161] Protocol on the Establishment of the East African Community Common Market (n 64) annexes II, V and VI.
[162] Treaty for the Establishment of the East African Community (n 57) arts 14(3) and 16.
[163] Protocol on the Establishment of the East African Community Common Market (n 64) arts 14(3) and 16.
[164] East African Community Competition Act 2006 (n 73) 14–15; Protocol on the Establishment of the East African Community Common Market (n 64) art 34.
[165] East African Community Competition Act 2006 (n 73).

In Ethiopia, state owned enterprises play a significant role in supporting key areas of the economy.[166] The Ethiopian government maintains a significant presence in the domestic economy through various state-owned enterprises (SOEs) managed by Ethiopian Investment Holdings (EIH). This portfolio includes several strategically important entities, such as Ethiopian Airlines, the Commercial Bank of Ethiopia, Ethio-telecom, and the Ethiopian Shipping and Logistics Services Enterprise, which collectively dominate the aviation, finance, telecommunications, and logistics sectors.[167] These industries are giants of moving important section of the ethiopian economy. These enterprises benefit directly or indirectly from various forms of state support and may enjoy preferential access to capital, markets, and other forms of direct and indirect government assistance.[168] This is relevant for consideration not because EAC legal framework outlaws state ownership of enterprise but the extent to which these advantages may affect competitive conditions and trade between Partner States.

In the context of Ethiopia's potential accession to the East African Community, these enterprises would operate within sectors where they may directly or indirectly compete with businesses from EAC Partner States.[169] In such circumstances, preferential treatment given to public enterprises may be relevant to considerations of competitive neutrality, particularly in relation to the EAC's objective of promoting and sustaining fair, open, and non-discriminatory trade within the Common Market.[170]

Preferential treatment of public enterprises may have the potential to affect competitive conditions, particularly where it has implications for trade between Partner States and is not linked to a recognized safeguard, public service obligation, or transitional arrangement under EAC law.[171] The EAC legal framework provides for the assessment of such measures where they may influence competition or market integration.[172]

---

[166] World Bank, *Ethiopia First Sustainable and Inclusive Growth Development Policy Operation* (Report No PGD481,2024) https://documents1.worldbank.org/curated/en/099082324122011841/pdf/P17162711b44bd01196c0179bfd3caf29c.pdf
[167] Ibid
[168] Ibid
[169] Protocol on the Establishment of the East African Community Common Market (n 64) art 3(2).
[170] Ibid art 34
[171] East African Community Competition Act 2006 (n 73).
[172] Protocol on the Establishment of the East African Community Common Market (n 64) art 34.

In this regard, Article 34 of the EAC Common Market Protocol addresses subsidies granted through state resources in any form which may distort or threaten to distort competition by favoring certain undertakings, insofar as such measures affect trade between the Partner States.[173] This provision reflects the EAC's intention to examine the compatibility of certain state support measures with Common Market objectives.[174]

In addition, the EAC Competition Act contains specific provisions on state subsidies which further elaborate the framework for assessing such measures.[175] Under this regime, Partner States retain the right to grant subsidies in pursuit of public interest objectives, subject to procedural and substantive constraints, including notification requirements and review by the EAC Competition Authority where such measures may affect competition within the Community.[176]

The Competition Act also distinguishes between subsidies that may distort competition and those that fall within recognized exemptions, such as support for social services, sectoral restructuring, regional development, research and development, or public sector financing.[177] These provisions suggest that the assessment of subsidies and preferential treatment accorded to public enterprises depends on their purpose, justification, and effects, as well as their compatibility with Community objectives and any applicable exemptions or transitional arrangements, rather than the mere existence of state support constituting a breach of the principle of national treatment.[178]

Within this context, the complaint made by Safaricom Ethiopia alleging unfair competition in the Ethiopian telecommunications market illustrates how subsidy-related and preferential treatment concerns may arise in a potential Ethiopia's entry to the Community.[179] Although the existence

[173] Protocol on the Establishment of the East African Community Common Market (n 64) art 34**.**
[174] East African Community Competition Act 2006 (n 73) pt V (ss 14–17).
[175] Ibid s 16
[176] Ibid s 17
[177] East African Community Competition Act 2006 (n 73) pt V (ss 14–17).
[178] 'M-PESA Calls Foul on Limited Access to New App' *The Reporter* (Addis Ababa, 6 December 2025) https://www.thereporterethiopia.com/48013/

[179] Ethio Telecom Accused of Predatory Practices' BirrMetrics https://birrmetrics.com/ethio-telecom-accused-of-predatory-practices-in-world-bank-study/

of such a complaint does not in itself suffice as breach, it highlights the importance of competitive neutrality considerations in sectors characterized by state participation.[180]

If comparable situations were to arise following Ethiopia's accession to the EAC, and if such arrangements were to have effects on businesses from EAC Partner States, they could be subject to review for legal alignment under the EAC competition framework.[181] Any such assessment would depend on the specific justification and effects of the measures concerned, as well as the applicable safeguards, schedules, and transitional provisions under the Common Market Protocol and its supplementary legislation.

4.2.3 Tariff and Customs Regimes

Ethiopia operates a sovereign legal regime for the administration of tariffs, governed primarily by the Customs Proclamation No. 859/2014, as amended by Proclamation No. 1160/2019, together with the Tariff Book and supplementary customs regulations.[182]

Under this national framework which consists of a broad range of tariffs that are applied to imports into Ethiopia range from 0% to 35%, depending on the classification of goods.[183] Imported goods such as machinery and raw materials intended to support domestic production are generally subject to lower tariff rates, while finished goods and luxury items are subject to higher tariff rates of up to 35%.[184] There are also customs duties such as para tariff taxes and internal taxes including excise tax, and surtax as well as VAT. [185] This framework reflects Ethiopia's higher degree of tariff autonomy, as the Customs Proclamation and Tariff Book empower the national authorities to determine tariff levels unilaterally, without reference to any external or regional tariff schedule.[186]

[180] Treaty for the Establishment of the East African Community (n 57) arts 14(3) and 16**.**
[181] Protocol on the Establishment of the East African Community Common Market (n 64) annex V; art 34**.**
[182] Customs Proclamation No 859/2014, *Federal Negarit Gazette*, 20th Year No 82, 9 December 2014, as amended by Customs (Amendment) Proclamation No 1160/2019, *Federal Negarit Gazette*, 25th Year No 88, 17 September 2019.
[183] Council of Ministers Regulation No 541/2024 (Customs Tariff) (Ethiopia).
[184] Customs Tariff Book (Ministry of Finance, Ethiopia), First and Second Schedules.
[185] Excise Tax Proclamation No 1186/2020; Value Added Tax Proclamation No 1341/2024; Surtax Import Regulation No 122/2006..
[186] Customs Proclamation No 859/2014 (n 182) arts 6 and 87–98.

Unlike the EAC Customs Union which holds and operates a shared tariff and customs framework, Ethiopia currently administers tariffs under a national customs regime. In this regard, the EAC's commitment to the reduction and elimination of tariff barriers is provided in Article 75 of the EAC Treaty and operationalized through the Protocol on the Establishment of the EAC Customs Union.[187] Additionally, Articles 2 and 10 of the Customs Union Protocol provide for the elimination of internal tariffs and charges having equivalent effect among Partner States.[188] These requirements apply specifically to goods that qualify as originating within the Community under the EAC Rules of Origin, as set out in the annex to the Customs Union Protocol.[189]

In a potential accession, Ethiopia's continued application of para-tariffs and internal taxes on imports would, in the context of EAC membership, would likely be legally constrained, where such charges are found to constitute "charges having equivalent effect" unless justified under approved safeguards, trade remedies, or transitional arrangements recognized under EAC law.[190]

In connection to tariff alignment, accession to the EAC would require Ethiopia to align its customs administration framework with the EAC Customs Management Act (EACCMA), which governs customs valuation, tariff classification, customs procedures, and the collection of customs duties across Partner States.[191] Alignment with the EACCMA would entail adjustments not only to tariff rates, but also to structural and administrative practices at the border.[192]

For instance, Ethiopia, maintains its own autonomous customs system at its own borders, however the EAC operates under Single Customs Territory, under which goods are cleared at the first point of entry into the community then after move freely, circulate without additional customs interventions. This transition would require Ethiopia to give effect to EAC legal standards ensuring consistency of national laws and EAC obligations.[193]

[187] Treaty for the Establishment of the East African Community (n 57) art 75; Protocol on the Establishment of the East African Community Customs Union (n 61) arts 2 and 10.
[188] Protocol on the Establishment of the East African Community Customs Union (n 61) arts 2 and 10.
[189] EAC Rules of Origin Annex III
[190] Protocol on the Establishment of the East African Community Customs Union (n 61) arts 1 and 10(4).
[191] East African Community Customs Management Act 2004.
[192] East African Community Customs Management Act 2004 (n 191) ss 122–130.
[193] Treaty for the Establishment of the East African Community (n 57) art 8(4).

The Rules of Origin for goods imported into the community which operates on "Regional Certificate of Origin" which a mutual recognition principle governed by the EAC Rules of Origin Annex, in contrast, Ethiopia applies nationally determined rules of origin, drawing on criteria such as substantial transformation, tariff shift, and value addition, administered exclusively by national customs authorities.[194] Therefore, entry to EAC would require Ethiopia to participate in the mutual recognition scheme for EAC certificate of origin.[195]

The EAC legal regime permits the application of trade remedies, including safeguard measures and anti-dumping duties, subject to prescribed procedures and conditions, which may provide a lawful basis for temporary deviations from tariff elimination commitments.[196] Accordingly, the imposition of tariffs on goods originating from EAC Partner States unless justified under approved safeguards, trade remedies, or transitional arrangements may raise questions of compatibility with the EAC Customs Union framework.[197]

Therefore, in a potential accession Ethiopia would be required to adopt the EAC Common External Tariff (CET) as well as the EAC Customs Management Act's Custom processing structure and administrative practices, which establishes a unified tariff structure for goods imported from outside the Community.[198] Adoption of the CET potentially subject to negotiated transition periods and exemptions would require Ethiopia to apply harmonized tariff rates to imports from non-EAC countries, representing adjustment from its existing national tariff schedule.[199]

4.2.4 Investment and Tax Dispute Resolution Mechanisms

Ethiopia's Investment Proclamation No. 1180/2020 establishes a framework for resolving disputes arising between investors and the government while disputes involving investors and private parties are governed by Ethiopia's general civil and commercial laws.[200] Articles 25 and

[194] Customs Proclamation No 859/2014 (n 182) arts 35–38.
[195] Protocol on the Establishment of the East African Community Customs Union (n 61) arts 17–19.
[196] Customs Proclamation No 859/2014 (n 194).
[197] Protocol on the Establishment of the East African Community Customs Union (n 195).
[198] Ibid art 11
[199] Protocol on the Establishment of the East African Community Customs Union (n 61) arts 11–12**.**
[200] Investment Proclamation No 1180/2020 (n 145)**;** Civil Code of the Empire of Ethiopia, Proclamation No 165/1960; Commercial Code of the Federal Democratic Republic of Ethiopia, Proclamation No 1243/2021.

subsequent provisions of Proclamation No. 1180/2020 introduce an administrative grievance mechanism providing for internal resolution of investment-related disputes before recourse to external forums.[201]

Under this framework, an investor aggrieved by the decision or action of an administrative body may lodge a complaint with the Ethiopian Investment Commission.[202] Where the matter remains unresolved or the investor is dissatisfied with the Commission's decision, an appeal may be submitted to the Investment Board, a high-level body responsible for overseeing investment policy and government–investor relations aiming to practically resolve grievances.[203] The decisions made by this Board are considered binding on government organs and, through the Proclamation, are expected to be implemented without delay.[204] This centralized administrative model places primary responsibility for the resolution of investment disputes within executive institutions prior to judicial or arbitral intervention. However, the final resolution of such disputes may be subject to review by the ordinary courts, including the Federal Supreme Court, through appellate procedures.

Another mechanism for resolving investment disputes is stipulated under the Proclamation through the recognition of alternative dispute resolution mechanisms, including negotiation, arbitration, and judicial proceedings.[205] Central to Ethiopia's investment dispute and grievance system is the prioritization of amicable settlement through consultation and negotiation, thereby seeking to minimize prolonged and costly litigation.[206] Where such efforts fail, investors may elect either arbitration or court proceedings.[1][207] Notably, the Proclamation adopts a mechanism whereby the investor's choice of forum is final and excludes subsequent recourse to an alternative domestic mechanism, without prejudice to the operation of Treaty-based remedies under applicable regional or international legal frameworks.

[201] Investment Proclamation No 1180/2020 (n 145) arts 25–27.
[202] Ibid art 25(1).
[203] Ibid art 26(1).
[204] Ibid art 26(3).
[205] Ibid art 28.
[206] Ibid
[207] Ibid art 28(2).

Similarly, tax-related disputes in Ethiopia are governed primarily by the Federal Tax Administration Proclamation No. 983/2016.[208] The law establishes a two-tier administrative review process administered by the tax authority, currently operating under the Ministry of Revenue.[209] Taxpayers who disagree with a tax assessment or decision must first lodge a written objection with the Authority within 21 days of notification.[210] The Authority's review department evaluates the objection and renders a decision.

If the objection is rejected, the taxpayer may appeal to the Tax Appeal Commission within 30 days.[211] The appeal must be submitted in the prescribed form and supported by a written statement of grounds.[212] A critical requirement for lodging an appeal is the payment of 50 percent of the disputed tax amount, excluding penalties and interest.[213] The Commission may affirm, vary, or set aside the Authority's decision, or remit the matter for reconsideration in accordance with its directions.[214] A taxpayer dissatisfied with the decision of the Tax Appeal Commission may appeal to the Federal High Court within 30 days, but only on questions of law.[215] Issues of fact are expressly excluded from judicial reconsideration.[216]

Within the EAC context which operates at supranational level, focusing on compliance with Treaty obligations rather than substituting national adjudicatory processes, investment and tax disputes are addressed through a multilayered framework comprising national laws, regional Treaty mechanisms, and international arbitration.[217] The primary legal foundation is the Treaty for the Establishment of the East African Community, which obliges Partner States to resolve disputes through peaceful means, including mediation and arbitration.[218] Furthermore, Article 8

[208] Federal Tax Administration Proclamation No 983/2016 (Ethiopia) *Federal Negarit Gazette* 22nd Year No 102.
[209] Ibid arts 3 and 54.
[210] Ibid art 55(1).
[211] Ibid art 56(1).
[212] Ibid art 56(2).
[213] Ibid art 56(4).
[214] Ibid art 57.
[215] Ibid art 59(1).
[216] Ibid art 59(2).
[217] Treaty for the Establishment of the East African Community (n 57).
[218] Ibid art 124(4).

mandates that Partner States align their domestic legislation with Community law in order to resolve inconsistencies.[219]

At the regional level, the East African Court of Justice (EACJ) is mandated to interpret and apply the Treaty and its Protocols.[220] However, its jurisdiction over investment matters is limited and does not function as a general investor–state dispute settlement forum.[221] Instead, it adjudicates disputes involving alleged violations of Treaty obligations by Partner States, including inter-state disputes and references raising questions of compliance with Community law.[222]It is important to note that direct contractual or regulatory disputes between a private investor and a Partner State fall outside its jurisdiction unless they implicate Treaty breaches.[223] Decisions of the EACJ are binding on Partner States and, under the Treaty framework, are intended to prevail over conflicting national laws, imposing an obligation of compliance and enforcement.[224]

Therefore, Ethiopia's potential accession to the EAC would establish an additional legal layer for the oversight of regional obligations, including those relating to investment and tax dispute resolution. In this context, Ethiopia's domestic investment and tax dispute resolution mechanisms, including their procedural features, are not, in themselves, incompatible with EAC law, but would be assessed by reference to their application and effects as they give rise to issues of Treaty compliance affecting Partner State investors.

4.3 Case Law Insight: British American Tobacco Uganda v. Attorney General of Uganda

In 2019, the East African Court of Justice (EACJ) rendered a judgment in the case of British American Tobacco Uganda V. Attorney General of Uganda.[225] The case related to the classification and taxation of goods within the EAC, in relation to whether Uganda's Excise

[219] Treaty for the Establishment of the East African Community (n 57) art 8(4).
[220] Ibid art 23.
[221] Ibid art 27.
[222] Ibid arts 28 and 30.
[223] Anyang' Nyong'o v Attorney General of Kenya (Reference No 1 of 2006) [2007] EACJ 1.
[224] Treaty for the Establishment of the East African Community (n 57) art 33.
[225] British American Tobacco (U) Ltd v Attorney General of the Republic of Uganda (n 144).

Duty (amendment) Act No. 11 of 2017 violated EAC laws by imposing higher taxes on cigarettes manufactured in Kenya and imported to Uganda.

The case came to the attention of the court by British American Tobacco Ltd (BAT Uganda) a company incorporated in Uganda, which imports cigarettes from its sister company in Kenya. However, in 2017, it had become evident that Uganda amended its excise duty law, introducing higher tax rates for imported cigarettes compared to those manufactured domestically. As a result, (BAT Uganda) was subject to higher tax, which eventually led to its claim over the legality of this amendment under EAC legal framework.

In its defense, the Ugandan government contested the claim by asserting that the law was enacted to achieve public health objective and argued that the differential excise duty rates on cigarettes aimed to reduce tobacco consumption aligning with Uganda's commitment under the World Health Organization Framework Convention on Tobacco Control. Furthermore, it argued that the imposition of excise duty on imported cigarettes constituted as part of Uganda's domestic tax laws and it did apply uniformly to all imported goods, regardless of their country of origin.

However, the court has ruled that Uganda's action to impose higher excise duties on cigarette imports from other Partner States, specifically Kenya in this case, violated several articles and protocols. The Court determined that Uganda's introduction of this excise duties were in violation of Articles 1 and 75(6) of the EAC Treaty, as well as Articles 1(1) and 15(1)(a) and (2) of the Customs Union Protocol, and Article 6(1) of the Common Market Protocol. This actions amounted to restriction of free movement of goods, undermined the principle of national treatment by subjecting cigarette from Partner States to less favorable condition than domestic goods.[226] Furthermore, it contravened the obligation to refrain from enacting legislation or applying administrative measures that directly or indirectly discriminate against similar products from other Partner States.

Therefore, the court decided that Uganda's misclassification of BAT Uganda's cigarettes contravened EAC laws. Consequently, it also outlawed the payment of tax assessment by Uganda's tax authority null and void. It also issued an order directing the Uganda Revenue Authority to withdraw the specific tax assessments issued against BAT Uganda and a further

[226] British American Tobacco (U) Ltd v Attorney General of the Republic of Uganda (n 144).

order for Uganda to align its interpretation and application of the Excise Duty (Amendment) Act with EAC legal frameworks.

British American Tobacco Uganda V. Attorney General of Uganda case offers valuable lessons for potential entrants to the organization such as Ethiopia. This case showed that all member states must adhere to EAC standards on fair trade, free movement of goods and equal treatment. If Ethiopia joins EAC, it will be required to make sure its national laws, aligns with EAC standards.

Uganda's law was challenged because it gave domestic products favor over imported goods form Kenya, which the EAC Court found unfair. This highlights the importance of harmonizing removing or reducing protectionist measures that go against regional agreements. As we have seen above, Ethiopia supports its local industries by implementing various mechanisms, thus to comply with EAC standards, it will need to strike a balance between national goals and EAC commitments.

Another key point to take from this case is the strength of the EAC Court to render binding decisions. Therefore, Ethiopia will need to accept the court's authority and be ready to resolve trade disputes with regards to the interpretation and application of EAC legal frameworks.

4.4 Recent Policy Position: Ethiopia Prioritizes AfCFTA Over Immediate EAC Membership

Although scholarly and policy debates have increasingly considered Ethiopia's potential accession to the East African Community (EAC), recent official statement suggest that such a step is not presently feasible. Officials from the Ministry of Trade and Regional Integration stated that the potential accession of Ethiopia to EAC is premature and could potential harm Ethiopia's economy at its current stage of development.[227]

Samuel Gizaw, Coordinator of the AfCFTA implementation at the Ministry, has stated the Ethiopia has not undertaken the proper research and institutional preparation to meet the advanced integration standards achieved by the EAC.[228] He cited that the bloc has established a

[227] Reporter, 'Ethiopia deems joining East African Community infeasible' (The Reporter Ethiopia, 19 July 2025) accessed 22 July 2025 https://www.thereporterethiopia.com/46095/
[228] Ibid.

customs union and duty-free, movement of goods and labors which would require Ethiopia to undertake legal, economic, and institutional reforms to ensure compliance. Gizaw warned that "joining the EAC now could harm Ethiopia's economy," noting that Ethiopia would be compelled to immediately adjust its tariff regime and potentially participate in revenue-sharing mechanisms that could reduce national fiscal autonomy in the short term.

From the official statement a key factor indicated is the trade volume between Ethiopia and the world which is estimated to be 17 billion dollars, underscoring the magnitude of the adjustment required for Ethiopia's EAC accession.[229] The government statement highlights its current proprieties involve strengthening the implementation of the African Continental Free Trade Area (AfCFTA) before pursuing deeper sub-regional integration.[230]

While Ethiopia has not definitively excluded the prospect of future EAC membership, accession is now framed as a long-term possibility which depends upon further economic development, institutional readiness, and political considerations. This stance stands in contrast to earlier expressions of interest from the EAC itself, which has repeatedly underscored Ethiopia's strategic significance on account of its large population, economic weight, and geographic location.[231] At present, however, Ethiopia's integration is firmly concentrated towards the AfCFTA rather than the EAC.

4.5 Opportunities and Challenges for Ethiopia's Accession to the EAC

4.5.1 Opportunities

Ethiopia's accession to the EAC presents a significant opportunity to reshape its economic course and strengthen its regional and global standing.[232] According to Dr. Lantera Nadew, Assistant Professor and researcher at Ethiopian Civil Service, the primary benefit of joining EAC lies in gaining access to large regional market.[233] He stated that EAC encompasses over 300 million people making it valuable market destination for raw and processed goods and services

[229] The Reporter (n 178).
[230] Ibid.
[231] Ibid
[232] Lantera Nadew (Dr.) (Assistant Professor, Ethiopian Civil Service University), expert opinion to author (Addis Ababa, 12 May 2025).
[233] Ibid

of Ethiopian markets.[234] By integrating into this market, Ethiopia can significantly increase its export potential, which is something that the current administration is aiming to achieve to boot as a driver of economic growth.[235]

Secondly, Dr. Lantera states that regional integration offers both mutual and cooperative advantage for Ethiopia and EAC, fostering mutual development.[236] For example he states, Ethiopia is currently exploring opportunities for sea access and integration to the EAC aligns with this objective because EAC promotes cross-border connectivity, through infrastructure and energy projects which facilitate the movement of goods, services, and people, eventually contributing to increased trade and economic growth for all member states, including Ethiopia's pursuit of direct and efficient maritime links.[237]

Furthermore, Dr. Lantera also emphasizes Ethiopia's need to align with the EAC's regulatory and institutional frameworks.[238] He asserts that these frameworks are more favorable, as they promote internationally recognized trade practices and standards designed to attract and facilitate investment.[239] Mr. Yalmesew Genetu, Expert at Institute of Foreign Affairs similarly notes, Ethiopia is required to align its domestic laws and policies with EAC standards, particularly in areas like customs procedures, competition law, investment policy, and trade facilitation.[240] Adopting these reforms in turn would have a positive impact by improving the ease of doing business, and strengthen public institutions as well as create a predictable and stable environment for investors the ease of doing business, strengthen public institutions, and create a more predictable, stable environment for investor's areas where Ethiopia has traditionally faced challenges in private sector development.[241]

The experts finally noted the complimentary nature of the EAC, AfCFTA and WTO frameworks. All three of them operate on shared principles of liberalized trade, fair competition, and

[234] Lantera Nadew (Dr.) (n 232)
[235] Ibid
[236] Lantera Nadew (Dr.) (n 232)
[237] Ibid
[238] Ibid
[239] Ibid
[240] Yalmsew Genetu (PhD CandidateExpert, Institute of Foreign Affairs), expert opinion to author (Addis Ababa, 15 May 2025).
[241] Ibid

economic integration.[242] These shared principles with the EAC's trade protocols include provisions on sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBT), and trade facilitation. Furthermore,

WTO or AfCFTA membership would reinforce EAC membership, and vice versa.[243] These experts also assert that the EAC's legal and regulatory frameworks are consistent with WTO and AfCFTA principles, including provisions on sanitary and phytosanitary (SPS) measures, technical barriers to trade (TBT), and trade facilitation. In addition, most EAC Partner States such as Kenya, Uganda, Tanzania, Democratic Republic of Congo, Burundi and Rwanda are already member to the WTO and have all ratified the AfCFTA agreement indicating the compatibility between EAC standards and global trade commitments.[244] Therefore, they conclude Ethiopia's efforts to harmonize its national laws and policies with EAC standards would simultaneously strengthen its integration within AfCFTA and ensure coherence with its ongoing WTO accession process.

4.5.2 Challenges

Despite the promising advantages, Ethiopia's accession into the EAC also presents several challenges that could make the integration undesirable.[245] As expressed by Dr. Lantera and Mr. Yalmsew, these concerns encompass various economic, political and legal and institutional compatibility issues.[246]

A major concern, highlighted by Dr. Lantera, is Ethiopia's existing commitment in other regional organization, i.e., the COMESA, its ongoing process of entry to the WTO and ratification of the AfCFTA.[247] Dr. Lantera here points out that EAC membership could lead to an overlap of trade rules and policies which would complicate government's effort to navigate to different trade policy regimes.[248] Mr. Yalmsew also shares this concern as EAC and COMESA or WTO have

[242] Yalemsew Genetu (n 240)
[243] Ibid
[244] World Trade Organization, 'Members and Observers' (World Trade Organization, n/d) https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm accessed 3 November 2025.
[245] Lantera Nadew (Dr.) (n 234);
[246] Ibid.
[247] Ibid.
[248] Ibid.

their own system in navigating tariff regimes, monetary union, trade facilitation measures and dispute settlement mechanisms.[249] Furthermore, Mr. Yalmsew also holds the position that the redundancy of organization committed to the similar objective does not add value.[250] The EU experience is a testament to this, as within the European region, the EU stands as the sole organization committed to similar objectives such as monetary union.[251] However, in the EAC and COMESA case both regional organizations have similar objective creating complication of various legal and institutional frameworks.[252]

For Mr. Yalmsew, another challenge that can hinder Ethiopia's integration to EAC is the economic aspect of the organization.[253] According to him, the persisting challenges within the EAC could be factors for Ethiopia to decide against accession to the bloc.[254] A notable concern he mentions is the low level of industrialization and their dependence on similar agricultural and raw material products for export.[255] This common economic arrangement makes it difficult for Ethiopia to achieve substantial trade benefit from EAC membership, as member states would not be offering each other goods and services they lack.[256]

Mr. Yalmsew states that the requirement of trade liberalization for EAC accession could be present as a deterring fact from Ethiopia's perspective, given that its domestic industries are considered in their developing stage.[257] Opening up Ethiopia's market might pose a significant challenge for its domestic industries and economy as there are efficient and established industries within the EAC that can hinder Ethiopia's domestic production growth.[258]

The final challenge indicated by both scholars is the legal and institutional harmonization.[259] Dr. Lantera explains that Ethiopia's long standing reliance on its sovereignty over its domestic laws presents a significant barrier as regional integration, particularly within a framework like the

[249] Lantera Nadew (Dr.) (n 234);
[250] Lantera Nadew (Dr.) (n 232)); Yalemsew Genetu (n 240)
[251] Lantera Nadew (Dr.) (n 232)
[252] Lantera Nadew (Dr.) (n 232)
[253] Yalemsew Genetu (n 232)
[254] Ibid
[255] Lantera Nadew (Dr.) (n 232)
[256] Ibid
[257] Ibid
[258] Ibid
[259] Ibid

EAC, which requires a degree of alignment or even ceding of national legal authority to supranational agreements and institutions.[260] Additionally, legal and institutional overhaul poses as significant challenge as it requires huge financial and administrative resources.[261] Mr. Yalmsew doubles down on this by emphasizing that harmonization of laws and policies, particularly the requirement for trade liberalization carries significant economic implications.[262] He notes that changing longstanding laws which have facilitated the growth, protection of domestic industries and provided substantial revenue for the government through tariffs would directly impact Ethiopia's economic structure.[263]

There are also other recurring political and trade tension among EAC Partner States which had direct implication which undermined the effective implementation of regional integration commitments. For example, the recurring trade and diplomatic skirmish between Kenya and Tanzania including disputes over non-tariff barriers, labor movement and transport regulation have periodically disrupted trade flows and weakened confidence over the EAC legal standards. With regards to this even within the year only within 2025 Kenya has taken issue with Tanzania's Labor Act (Amendment) 2025, Finance Act 2025 and changes to the Excise Act, which introduce new excise duties and an Industrial Development Levy of 10-15% which Kenya contends are fiscal policies discriminatory and contradict the EAC Customs Union Protocol.[264] Another tension raised as challenge for EAC is the existing political turmoil between Partner States notably the recent Uganda and DRC conflict have affected trade routes and regional cooperation within the bloc. A research conducted by Adama Bah and Jules-Armand Tapsona, posits that conflicts in Africa have negatively impacted business cycle synchronicity which is a measure of the co-movement of economic cycles and the ability of countries to coordinate their macroeconomic policies.[265] Additionally, they found that both current and past conflicts as main culprits for decreased intra-regional trade intensities among African nations.[266] For Ethiopia,

[260] Lantera Nadew (Dr.) (n 232) (n 240)
[261] Yalemsew Genetu (n 240)
[262] Yalemsew Genetu (n 240)
[263] Yalemsew Genetu (n 240)
[264] Obura, Fred, 'Tanzania's Trader Ban Triggers Regional Tensions as EAC Presses for Policy Reversal' Kenyan Wall Street (01 August 2025) https://kenyanwallstreet.com/tanzanias-trader-ban-triggers-regional-tensions-as-eac-presses accessed 28 October 2025.
[265] Adama Bah and S Jules-Armand Tapsoba, 'Civil Conflicts and Regional Integration Outcomes in Africa' (DIW Berlin Discussion Paper No. 1290, 2013).
[266] Ibid.

successful entry into the Community will demand more than merely aligning its domestic laws and institutions; it must also adeptly manage a regional political landscape where the quality of political relations directly shapes both market access and the effectiveness of economic cooperation.

Therefore, Ethiopia's potential accession to the EAC presents both opportunities and challenges. The advantages of integration could yield Ethiopia the benefits of market access, improved connectivity, enhanced regulatory frameworks, and complements Ethiopia's potential WTO membership and possibly offer economic growth and stability. Adversely, there are also challenges associated with Ethiopia's EAC potential membership such as overlapping regional commitments, internal EAC governance issues, economic risks to domestic industries, and the demanding process of legal and institutional harmonization necessitate careful consideration.[267] Hence, we can gather from the expert's opinion that Ethiopia must weigh these factors to determine if the strategic benefits of EAC integration sufficiently outweigh the challenges and potential risks.

[267] Adama Bah and S Jules-Armand Tapsoba (n 265).

Chapter Five

Conclusion and Recommendations

5.1Conclusion

This research examined the implications of Ethiopia's potential accession to the East African Community (EAC), focusing on the legal, institutional, and strategic adjustments required for effective integration. By analyzing key EAC legal instruments, assessing Ethiopia's current investment and customs-related frameworks, and drawing comparative lessons from Somalia's EAC accession, Poland's EU accession, and Vietnam's ASEAN integration, the study addressed how Ethiopia's state-led investment and customs systems could be aligned with EAC supranational standards.

The findings of this research indicate that Ethiopia's current legal regime presents areas of misalignment with EAC obligations. In the investment framework, minimum capital thresholds and sectoral restrictions may create differential treatment that can conflict with the EAC Common Market principles of non-discrimination and progressive liberalization of establishment and services, on the other hand the state's economic role, the role of Ethiopia's state-owned enterprises and state support measures raises potential competitive neutrality concerns where such advantages affect trade and competition among Partner States under the EAC competition and subsidy framework unless such measures are lawfully managed through scheduled reservations and justified transition periods.

In customs and tariff administration, Ethiopia's autonomous tariff schedule, layered import charges, and national customs processes diverge from the EAC Customs Union model, which requires elimination of internal tariffs and charges having equivalent effect, adoption of the Common External Tariff (CET), and alignment with EAC customs law and operational arrangements, including the Single Customs Territory and mutual recognition of rules of origin. On labor mobility, Ethiopia's approach—prioritizing domestic labor protection through work-permit restrictions and substitution requirements—differs from the EAC Common Market

commitment to facilitate free movement of workers, subject to the Protocol's implementation framework.

The research also shows accession would also require strengthened capacity in customs administration, competition oversight, and trade remedies, as well as preparedness to recognize and comply with EAC organ decisions, including the interpretive authority of the EACJ. The British American Tobacco Uganda v. Attorney General of Uganda case illustrates that EAC rules on non-discrimination and free movement of goods are judicially enforceable. Overall, the research concludes that Ethiopia's accession is legally feasible offers opportunity to the nation and potential adverse impacts of the integration be managed through using trade remedies outlined under the EAC legal frameworks such as phased, negotiated, and institutionally support.

5.2 Recommendations

Based on the findings of this study, the following recommendations are proposed to support a practical legal roadmap for Ethiopia's potential EAC accession:

Ethiopia should align domestic laws with the EAC Treaty, the Common Market Protocol, and the Customs Union Protocol, focusing on investment entry rules, sectoral restrictions, labor mobility provisions, tariff/para-tariff measures, and competition-related rules here it is to be understood for EAC consistency is vital for integration where immediate change is not feasible, Ethiopia should use internationally recognized and lawful reservations and justified transition periods during accession for smooth integration.

Ethiopia should progressively revise minimum capital thresholds and sector-based exclusions that create differential treatment for Partner State investors. Remaining restrictions should be explicitly scheduled, time-bound, and reviewed regularly to ensure gradual compliance with the right of establishment and services liberalization under the Common Market. This implies that opening up the economy could be a staged process and do not have to be too fast paced to maintain the economic balance.

Ethiopia should prepare a staged plan to eliminate internal tariffs and charges having equivalent effect on qualifying EAC-origin goods, adopt the EAC Common External Tariff (CET) for third

countries, and align customs administration with EAC customs law and systems, including the Single Customs Territory and EAC rules of origin.

Ethiopia should establish transparent rules to assess and manage state support to SOEs and other undertakings where it may affect EAC trade and competition. This includes building competition oversight capacity and adopting procedures for review, justification, and adjustment of state support measures consistent with EAC obligations. Ethiopia should strengthen institutional capacity in customs, trade remedies, and regulatory enforcement, and develop mechanisms to engage EAC law and comply with EACJ-related obligations.

References

Primary Sources

Treaties, Protocols & International Instruments

- *Convention on the Settlement of Investment Disputes between States and Nationals of Other States* (ICSID Convention, 1965).
- *Protocol on the Establishment of the East African Community Common Market* (adopted 20 November 2009, entered into force 1 July 2010).
- *Protocol on the Establishment of the East African Community Customs Union* (adopted 2 March 2004, entered into force 1 January 2005).
- *Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA)* (1993).
- *Treaty for the Establishment of the East African Community* (adopted 30 November 1999, entered into force 7 July 2000).
- United Nations Commission on International Trade Law (UNCITRAL), *Arbitration Rules* (2013).
- *Vienna Convention on the Law of Treaties* (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331.

Legislation (Ethiopia & EAC)

- *Capital Market Proclamation* No 1248/2021 (Ethiopia).
- *Communications Service Proclamation* No 1148/2019 (Ethiopia).
- *Customs Proclamation* No 859/2014, as amended by *Proclamation* No 1160/2019 (Ethiopia).
- *East African Community Competition Act* 2006.
- *Economic Zone Proclamation* No 1322/2024 (Ethiopia).
- *Excise Tax Proclamation* No 1186/2020 (Ethiopia).
- *Federal Court Proclamation* No 1234/2021 (Ethiopia).
- *Federal Tax Administration Proclamation* No 983/2016 (Ethiopia).
- *Insurance Business (Amendment) Proclamation* No 1163/2019 (Ethiopia).

- *Insurance Business Proclamation* No 746/2012 (Ethiopia).
- *Investment Proclamation* No 1180/2020 (Ethiopia).
- National Bank of Ethiopia, *Foreign Exchange Directive* No FXD/01/2024.
- Ethiopian Investment Board, *Directive No 1001/2024*.
- Ethiopian Investment Board, *Directive No 1082/2025*.
- *Privatization of Public Enterprises Proclamation* No 1206/2020 (Ethiopia).
- *Sur Tax Proclamation on Imported Goods Regulation* No 133/2007 (Ethiopia).
- *VAT Proclamation* No 1341/2024 (Ethiopia).
- *Banking Business Proclamation* No 1360/2025 (Ethiopia).

Cases

- *British American Tobacco (U) Ltd v Attorney General of the Republic of Uganda*, Reference No 7 of 2017 (EACJ First Instance Division, 26 January 2019) [2019] EACJ.

Secondary Sources

Books & Monographs

- Apuuli KP, 'The Mediation Support Unit of the Intergovernmental Authority on Development: Prospects and Challenges' in *Mediating Peace in Africa: A Study on the Role of Mediation Support Units* (ACCORD 2023).
- Caporaso JA and Keeler JTS, 'The European Community and Regional Integration Theory' (paper presented at the Third Biennial International Conference of the European Community Studies Association, Washington DC, 27–29 May 1993).
- de Wilde J, *Saved from Oblivion: Interdependence Theory in the First Half of the Twentieth Century: A Study on the Causality between War and Complex Interdependence* (Dartmouth/Aldershot 1991).
- Duxbury A, *The Participation of States in International Organisations: The Role of Human Rights and Democracy* (Cambridge University Press 2011).
- Haas EB, *The Uniting of Europe: Political, Social, and Economic Forces, 1950–1957* (2nd edn, University of Notre Dame Press 2004; original ed Princeton University Press 1958).

- Hettne B, Inotai A and Sunkel O (eds), *Globalism and the New Regionalism* (Palgrave Macmillan 1999).
- Macedo JB de and Kabbaj O, 'Preface' in *Regional Integration in Africa* (Development Centre of the Organisation for Economic Co-operation and Development and African Development Bank 2002).
- Mitrany D, *A Working Peace System* (Oxford University Press 1943).
- Niemann A, 'Theoretical Framework and Research Design' in *Explaining Decisions in the European Union* (Cambridge University Press 2006).
- Rosamond B, *Theories of European Integration* (Palgrave Macmillan 2000).
- Ugirashebuja E, Ruhangisa JE, Ottervanger T and Cuyvers A (eds), *East African Community Law: Institutional, Substantive and Comparative EU Aspects* (Brill Nijhoff 2017).

Chapters in Edited Volumes

- Gastorn K and Masinde W, 'The EAC Common Market' in Ugirashebuja E and others (eds), *East African Community Law: Institutional, Substantive and Comparative EU Aspects* (Brill 2017).
- Kaahwa WTK, 'The Institutional Framework of the EAC' in Ugirashebuja E and others (eds), *East African Community Law: Institutional, Substantive and Comparative EU Aspects* (Brill 2017).
- Karanja Ng'ang'a J, 'EAC Competition Law' in Ugirashebuja E and others (eds), *East African Community Law: Institutional, Substantive and Comparative EU Aspects* (Brill 2017).
- Malamud A and Schmitter PC, 'The Experience of European Integration and the Potential for Integration in South America' in Warleigh-Lack A, Robinson N and Rosamond B (eds), *New Regionalism and the European Union: Dialogues, Comparisons and New Research Directions* (Taylor & Francis 2011).
- Masinde W and Omolo CO, 'The Road to East African Integration' in Ugirashebuja E and others (eds), *East African Community Law: Institutional, Substantive and Comparative EU Aspects* (Brill 2017).

- Tharani A, 'Harmonization in the EAC' in Ugirashebuja E and others (eds), *East African Community Law: Institutional, Substantive and Comparative EU Aspects* (Brill 2017).

Journal Articles

- Breslin H and Higgott R, 'Studying Regions: Learning from the Old, Constructing the New' (2000) 5(3) *New Political Economy* 347.
- Dal S, 'Regional Integration in Africa: EAC and ECOWAS' (2023) *Afrika'da Bölgesel Entegrasyon* https://dergipark.org.tr/en/pub/afrikastudies/issue/78787/1278232
- Danso K, 'The African Economic Community: Problems and Prospects' (1995) 42(4) *Africa Today* 31.
- Eken S, 'Breakup of the East African Community: Problems of Regional Integration' (1979) *Finance & Development* 1.
- Hettne B and Söderbaum F, 'Theorising the Rise of Regionness' (2000) 5(3) *New Political Economy* 3.
- Hoffmann S, 'Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe' (1966) 95(3) *Daedalus* 3.
- Mbila AM and Shikoli E, 'Jurisdictional Overlaps in Trade and Investment Disputes Settlement in the EAC: Reflections on the East African Court of Justice's "Constrained Jurisdiction"' (2023) 2(1) *African Journal of Commercial Law* 43.
- Meheret T, 'The Concept and Characteristics of Public Enterprises in Ethiopia: An Overview' (2014) 8(2) *Mizan Law Review* 333.
- Moravcsik A, 'Preferences, Power and Institutions in 21st-Century Europe' (2021) *Social Science Research Network* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3772589
- Moravcsik A, 'The European Constitutional Compromise and the Neofunctionalist Legacy' (2005) 12(2) *Journal of European Public Policy* 7.
- Pondi J-E, 'The OAU: From Political to Economic Pan-Africanism' (1987) 7(1) *SAIS Review* 199.
- Ravenhill J, 'Regional Integration and Development in Africa: Lessons from the East African Community' (1979) 17(3) *Journal of Commonwealth & Comparative Politics* 5.

Working Papers, Reports & Policy Papers

- Adama Bah and S Jules-Armand Tapsoba, *Civil Conflicts and Regional Integration Outcomes in Africa* (DIW Berlin Discussion Paper No 1290, 2013).
- Arthur Bainomugisha and Sabastiano Rwengabo, *The Promise and Efficacy of the East African Community* (ACODE Policy Briefing Paper No 41, Advocates Coalition for Development and Environment 2016).
-
- Common Market for Eastern and Southern Africa (COMESA), *COMESA Simplified Trade Regime Handbook* (COMESA Secretariat 2021).
- European Central Bank, *Annual Report: 2003* (ECB, Frankfurt 2003) https://www.ecb.europa.eu/pub/pdf/annrep/ar2003en.pdf accessed 28 February 2025.
- European Commission, *Agenda 2000 – Commission Opinion on Poland's Application for Membership of the European Union* (COM (97) 2002, 15 July 1997) https://aei.pitt.edu/43431/1/commission.opinion_Poland.pdf accessed 28 June 2025.
- European Community, *Ethiopia – European Community Country Strategy Paper and National Indicative Programme for the period 2008–2013* (2007).
- Maru MT, *Ethiopia's Regional Diplomacies: A Dominant Interpretation of the Horn of Africa* (SAIIA Occasional Paper No 198, October 2014).
- Nicolaides P, 'Negotiating Effectively for Accession to the European Union: Realistic Expectations, Feasible Targets, Credible Arguments' (1998) *Eipascope* 1.
- Staiger RW, 'Non-tariff Measures and the WTO' (Staff Working Paper ERSD-2012-01, World Trade Organization 2012) https://www.wto.org/english/res_e/reser_e/ersd201201_e.pdf.
- UNU-WIDER, *Research for Action: The New Regionalism* (UNU 2007).
- World Bank, *Economic Assessment of Somalia's Accession to the East African Community* (Report 2025) http://hdl.handle.net/10986/43538 accessed 3 November 2025.

Conference Papers

- Diez T and Wiener A, 'Introducing the Mosaic of Integration Theory: Its Past, Present and Future' (paper presented at the EUSA 8th Biennial International Conference, Nashville TN, 27–29 March 2003).
- Ssempebwa EF, 'The Role of the East African Court of Justice in Regional Integration: The Past Twenty Years' (paper presented at the EACJ 20th Anniversary Commemoration, Arusha, 4 November 2021).

Websites / Online Resources

- Alazar Kebede, 'Ethiopia and Regional Economic Integration: Challenges and Opportunities' (*Capital Ethiopia*, 30 April 2025) https://capitalethiopia.com/2025/04/07/ethiopia-and-regional-economic-integration-challenges-and-opportunities/
- AllAfrica.com, Mekuannet Tadele, 'East Africa: Why It Is the Time for Ethiopia to Join the Comesa Free Trade Area (Comesa FTA)' (17 October 2024) https://allafrica.com/stories/202410170572.html accessed 27 February 2025.
- Basillioh Rukanga, 'Tanzania's Ban on Foreigners Operating Small Businesses Sparks Kenyan Backlash' (*BBC News*, 30 July 2025) https://www.bbc.com/news/articles/cdxyvzjpxe2o accessed 30 October 2025.
- *BusinessDay Africa*, 'Ethiopia Set to Join the EAC, Pushing Bloc Population to 420 Million' (12 April 2024) https://businessdayafrica.org/ethiopia-to-join-eac-increasing-bloc-population-to-420-million/ accessed 27 July 2025.
- Capital Ethiopia, Alazar Kebede, *Ethiopia and Regional Economic Integration: Challenges and Opportunities* (30 April 2025) https://capitalethiopia.com/2025/04/07/ethiopia-and-regional-economic-integration-challenges-and-opportunities/
- COMESA, 'Overview of COMESA' https://www.comesa.int/overview-of-comesa/ accessed 27 July 2025.

- Digital Teachers, 'Account for the Collapse of the East African Community in 1977' (2 February 2022) https://digitalteachers.co.ug/account-for-the-collapse-of-the-east-african-community-in-1977/ accessed 27 July 2025.
- Directorate-General for Enlargement and Eastern Neighbourhood, 'Conditions for Membership – European Commission' (6 June 2012) https://tinyurl.com/ysuj2mt9
- East African Community (EAC), 'About EAC' https://www.eac.int/about-eac accessed 27 July 2025.
- East African Community (EAC), 'Common Market Flyer' https://www.eac.int/commonmarket/documentation/doc_view/49-common-marketflyer.raw?tmpl=com accessed 12 December 2024.
- East African Community (EAC), 'Customs Union' https://www.eac.int/customs-union accessed 27 July 2025.
- East African Community (EAC), 'Overview of EAC' (updated 2025) https://www.eac.int/overview-of-eac accessed 23 July 2025.
- East African Community (EAC), 'Regional Integration Progress' https://www.eac.int/sgforum/regional-integration-progress accessed 1 December 2024.
- East African Community (EAC), 'Review of the EAC Customs Management Act, 2004' https://www.eac.int/customs/eac-cma-2004-review accessed 12 December 2024.
- East African Community Competition Authority, 'About East African Community Competition Authority' https://www.eacompetition.org/about/about-east-african-community-competition-authority accessed 27 July 2025 / 12 December 2024.
- East African Community Competition Authority, 'Mandate and Functions' https://www.eacompetition.org/about/mandate-and-functions accessed 22 January 2025.
- Ethiopian Investment Holdings (EIH), 'Portfolio Companies' (2024) https://eih.et/ethiopian-investment-holdings-expands-its-portfolio/ [accessed date].
- Intergovernmental Authority on Development (IGAD), 'IGAD Support Platform: Ethiopia' https://igadsupportplatform.org/ethiopia/ accessed 27 July 2025.
- Macharia Munene, 'Ethiopia in East Africa Community: Potentials and Pitfalls' (*Mashariki RPC*, 7 May 2024) https://masharikirpc.org/ethiopia-in-east-africa-community-potentials-and-pitfalls/ accessed 24 July 2024.

- Mekdes Mezgebu and Mesfin Tafesse, 'Ethiopian New Investment Proclamation: Key Changes' (*MTA Law Office*, 1 February 2020) https://www.mtalawoffice.com/insights-news/entry/ethiopian-new-investment-proclamation-key-changes-1
- COMESA, 'Overview of COMESA' https://www.comesa.int/overview-of-comesa/ accessed 27 July 2025.
- Serra International, 'Safaricom Ethiopia Alleges Unfair Competition in Ethiopian Telecom Market' (15 July 2024) https://serrarigroup.com/safaricom-ethiopia-alleges-unfair-competition-in-ethiopian-telecom-market/ [accessed date].
- USAID, 'Intergovernmental Authority on Development (IGAD)' (2024) https://www.usaid.gov/east-africa-regional/fact-sheet/intergovernmental-authority-development [accessed date].
- Ethiopian Revenues and Customs Authority, *Tariff Book* https://www.lawethiopia.com/images/tariff%20books/Customs_English_vol_1.pdf
- European Commission/AEI, *Agenda 2000 – Commission Opinion on Poland's Application…* PDF https://aei.pitt.edu/43431/1/commission.opinion_Poland.pdf accessed 28 June 2025.
- European Central Bank, *Annual Report: 2003* PDF https://www.ecb.europa.eu/pub/pdf/annrep/ar2003en.pdf accessed 28 February 2025.
- UNECA, 'COMESA – Trade and Market Integration' https://archive.uneca.org/oria/pages/comesa-trade-and-market-integration accessed 27 July 2025.
-
- *The Reporter (Ethiopia)*, 'Ethiopia Deems Joining East African Community Infeasible' (19 July 2025) https://www.thereporterethiopia.com/ accessed 22 July 2025.
- *The Uniting of Europe* (1958) PDF (AEI) https://aei.pitt.edu/7252/1/002711_1.PDF
- Veronica M Nduva, 'Restrictions on the Freedoms and Rights under the EAC Common Market Protocol' (*East African Community*, 31 July 2025) https://www.eac.int/press-releases/3408-restrictions-on-the-freedoms-and-rights-under-the-eac-common-market-protocol accessed 30 October 2025.

- World Trade Organization, ‘Members and Observers’ (WTO, n.d.) https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm accessed 3 November 2025.