

REPUBLIC OF KENYA




*Approved
SNA
4/11/25*

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT- FOURTH SESSION

COMMITTEE ON REGIONAL INTEGRATION

REPORT ON THE CONSIDERATION FOR APPROVAL OF THE
RATIFICATION OF THE AMENDMENT TO ARTICLE 24(2) (a) OF THE
PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN
COMMUNITY CUSTOMS UNION

 THE NATIONAL ASSEMBLY PAPERS LAID	
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TABLED BY:	COMMISSIONER GENERAL ON REGIONAL INTEGRATION
CLERK-AT THE-TABLE:	WILLIS OBIERO

*The Directorate of Audit, Appropriations
& General Purpose Committees
The National Assembly
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ABBREVIATIONS/ACRONYMS

AWSC	African Women's Studies Centre
EAC	East African Community
KETRA	Kenya Trade Remedies Agency
MDAs	Ministries, Departments, and Agencies
TRC	Trade Remedies Committee

CHAIRPERSON'S FOREWORD

Pursuant to Article 2(6) of the Constitution of Kenya, which provides that treaties and conventions ratified by Kenya shall form part of the law of Kenya and, the Treaty Making and Ratification Act, *CAP 4D* which provides the procedure for the **making** and **ratification** of treaties, the Cabinet Secretary, Ministry of East African Community, the ASALs and Regional Development submitted to the National Assembly a memorandum on the Ratification of the Amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union "the Protocol". The Amendment Protocol and the accompanying Memorandum were tabled in the House on 14th February, 2017, and committed to the Committee pursuant to Standing Order 170A (1).

The Committee could not conclude the consideration of the Ratification of the Protocol as it was submitted towards the tail end of the 11th Parliament and therefore included the matter as pending business in its exit report pursuant to Standing Order 200A (1) (b).

The objective of the memorandum was to:

- 1) Inform the National Assembly of the approval by the Heads of State of the Partner States of the East African Community of the amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union ("the Protocol");
- 2) Inform the National Assembly that the Cabinet at its Sixth meeting held on 28th July, 2016, approved the ratification of the amendment to Article 24(2)(a) of the Protocol; and
- 3) Seek the approval of the National Assembly for the Republic of Kenya to ratify the amendment to Article 24(2)(a) of the Protocol.

The Protocol commenced on 1st January 2005, upon ratification by the three founding Partner States. This was before the accession of the Treaty by the Republics of Rwanda and Burundi, who later acceded to the Treaty and, by extension, the Protocol in the year 2007. Article 24(1) of the Protocol establishes the East African Community Trade Remedies Committee to, among others, handle matters pertaining to rules of Origin, anti-dumping measures, subsidies and countervailing, safeguard measures, dispute settlement, and any other matter referred to the Committee by the Council of Ministers established by Article 9 of the Treaty.

Article 24 (2) of the Protocol limits the membership of the Trade Remedies Committee (TRC) to nine, with each Partner State nominating three (3) members competent in matters of trade, customs, and law.

It is worth noting that at the time the EAC Protocol on Customs Union came into force in 2005, the EAC was composed of three Partner States (Kenya, Uganda, and Tanzania). Given that more Partner States have joined the Community since then, the capped membership under Article 24(2)(a) would not allow additional Partner States to nominate their members to the EAC Trade Remedies Committee.

To remedy this anomaly, the 10th Ordinary meeting of the Heads of State held on 29th April, 2009, approved the amendment of Article 24(2)(a) of the Protocol to read as: **"The Committee shall be composed of members, qualified and competent in matters of trade, customs and law."**

Article 118(1)(b) of the Constitution provides that, “Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees”. Further, Section 8(3) of the Treaty Making and Ratification Act, No. 18 of 2012 provides that, “the relevant Parliamentary Committee shall, during its consideration of the Treaty, ensure Public Participation in the ratification process in accordance with the laid down Parliamentary Procedures”

Pursuant to Article 118(1)(b) of the Constitution of Kenya and Section 8 of the Treaty Making, Ratification Act, CAP 4D, and Standing Order 170A (2), the Clerk of the National Assembly placed an advertisement in the print media on Wednesday, 8th October 2025, inviting the public to submit memoranda by Monday, 20th October 2025, at 5.00 p.m.

By the close of the submission deadline, the Committee had received one memorandum from the African Women’s Studies Centre (AWSC) of the University of Nairobi proposing the inclusion of a gender-balance requirement in the nomination of members to the East African Community Committee on Trade Remedies.

In addition, in recognition of the importance of broad stakeholder engagement and informed deliberation, the Committee proceeded to hold a consultative meeting with officials from the Ministry of East African Community, the ASALs and Regional Development, the Ministry of Foreign and Diaspora Affairs, and the Ministry of Investments, Trade and Industry. The purpose of the meeting was to deliberate on the Ratification of the Amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union. Having considered the Ratification of the amended article 24(2)(a) of the Protocol on the establishment of the East African Community Customs Union Protocol to provide for the establishment of the Trade Remedies Committee, the Committee recommends that, Pursuant to Section 8 of the Treaty Making and Ratification Act, Cap. 4D the House **approves the Ratification of the amended article 24(2)(a) of the Protocol on the establishment of the East African Community Customs Union.**

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Amendment to Article 24(2)(a) of the Protocol.

On behalf of the Committee, it is therefore my pleasant duty and privilege to present this report on the consideration for approval of the Ratification of the Amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union pursuant to Section 8(4) of the Treaty Making, Ratification Act, CAP 4D and Standing Order 170A of the National Assembly.

Signed.......... Date 4/11/2025.....
HON. (CS) IRENE MAYAKA, M.P.

CHAIRPERSON, COMMITTEE ON REGIONAL INTEGRATION

EXECUTIVE SUMMARY

This report contains the Committee's deliberations on its consideration of the memorandum on the Ratification of the Amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union.

Pursuant to Article 118(1)(b) of the Constitution of Kenya and Section 8 of Treaty Making, Ratification Act, *CAP 4D*, and Standing Order 170A (2), the Committee invited the public to submit memoranda on the Treaty on 8th October 2025. The Committee received one memorandum from the African Women's Studies Centre (AWSC) of the University of Nairobi proposing the inclusion of a gender-balance requirement in the nomination of members to the East African Community Committee on Trade Remedies.

The Treaty for the Establishment of the East African Community was signed on 30th November 1999 and entered into force on 7th July 2000 following its ratification by the three founding Partner States of the EAC (the Republic of Kenya, the Republic of Uganda, and the United Republic of Tanzania). The Republic of Rwanda and the Republic of Burundi joined the EAC in 2007 and acceded to the Treaty for the Establishment of the East African Community and, by Extension, the Protocol on the Establishment of the East African Community Customs Union.

Article 24(2)(a) of the Protocol currently limits the membership of the Trade Remedies Committee to nine (9) members, with each Partner State required to nominate three (3) representatives. This provision effectively bars any additional Partner States that subsequently join the Community from nominating members to the Committee. Consequently, there is a need to amend Article 24(2)(a) of the Protocol to allow new Partner States acceding to the Community to nominate their representatives to the Trade Remedies Committee.

The amendment was further necessitated by the provisions of Article 150 (6) of the Treaty for the establishment of EAC, which provides that *"Any amendment of the Treaty shall be adopted by the Summit and shall enter into force when ratified by all the Partner States"*. This is consistent with the expansion of the Community through the admission of new Partner States.

The ratification of the amendment is to allow for the operationalization of the Committee, which shall provide the EAC Partner States with a platform to handle matters pertaining to Rules of Origin, anti-dumping measures, subsidies and countervailing measures, and safeguard measures within the EAC Customs Union.

The Committee therefore recommends that, pursuant to Section 8 of the Treaty Making and Ratification Act of 2012, **the House approve the Ratification of the Amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union.**

1. PREFACE

1.1 Establishment and Mandate of the Committee

1. The Committee on Regional Integration is a select Committee of the House established under Standing Order 212 of the National Assembly's Standing Orders, which sets out the mandate of the Committee. The Committee was constituted in October 2023 and reconstituted on 5th March 2025, following the adoption of a motion on membership of committees by the House, and comprises twenty-one (21) members who will serve for the remainder of the term of the 13th Parliament.
2. The Committee is also mandated to –
 - 1) Examine the records of all the relevant debates and resolutions of the meetings of the East African Legislative Assembly;
 - 2) examine the Bills introduced in the East African Legislative Assembly and Acts of the East African Community;
 - 3) examine the records of all the relevant debates and resolutions of the meetings of the Pan African Parliament, the African, Caribbean and Pacific European Union Joint Parliamentary Assembly, and other regional integration bodies; and,
 - 4) Inquire into and examine any other matter relating to regional integration generally requiring action by the House.

1.2 Committee Membership

3. The Committee comprises the following twenty-one Members -

Chairperson

Hon. (CS) Irene Mayaka, M.P.
Nominated

Orange Democratic Party

Vice Chairperson

Hon. Farah Salah Yakub, M.P. Fafi Constituency
United Democratic Alliance

Members

Hon. David Ochieng, M.P.
Ugenya Constituency

Movement for Democracy and Growth

Hon. Danson Mwashako Mwakuwona, MP
Wundanyi Constituency

Wiper Democratic Movement

Hon. Naomi Jilo Waqo, M.P.
Marsabit (CWR)

United Democratic Alliance

Hon. Elizabeth Karambu Kailemia, MP
Meru (CWR)

United Democratic Alliance

Hon. Wanjiku Muhia, CBS, MP
Kipipiri Constituency

United Democratic Alliance

Hon. Julius Kipletting Rutto, MP
Kesses Constituency

United Democratic Alliance

Hon (Dr) Makali Mulu, MP
Kitui Central
Wiper Democratic Movement

Hon. Beatrice Chepng'eno Kemei, MP
Kericho (CWR)
United Democratic Alliance

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency
Orange Democratic Party

Hon. Fatuma Hamisi Masito, MP
Kwale (CWR)
Orange Democratic Party

Hon. Joseph Gachoki Gitari, MP
Kirinyaga Central Constituency
United Democratic Party

Hon. Irene Njoki Mrembo, MP
Bahati Constituency
Jubilee Party

Hon. Christopher Aseka Wangaya, MP
Khwisero Constituency
Orange Democratic Party

Hon. Richard Kipkemoi Yegon, MP
Bomet East Constituency
United Democratic Alliance

Hon. Andrew Adipo Okuome, MP
Karachuonyo Constituency
Orange Democratic Party

Hon. Japheth Nyakundi Mokaya, MP
Kitutu Chache North Constituency
United Democratic Alliance

Hon Didmus Wekesa Barasa Mutua, MP
Kimilili Constituency
United Democratic Alliance

Hon. Zaheer Jhanda, MP
Nyaribari Chache Constituency
United Democratic Alliance

Hon. Rael Chepkemai Kasiwai, MP
West Pokot (CWR)
Kenya Union Party

1.3 Committee Secretariat

4. The secretariat facilitating the Committee comprises: –

Mr. Mohamed Jimale	-	Clerk Assistant I (Team Leader)
Ms. Jane Gathoni Ouko	-	Clerk Assistant II
Mr. Dominic Kyallo	-	Legal Counsel II
Mr. James Muguna	-	Research Officer I
Mr. Edwin Machuki	-	Fiscal Analyst III
Ms. Mercy Mayende	-	Media Relations Officer III
Ms. Florence Wanja	-	Communication Officer III
Mr. Danton Kimutai	-	Hansard Audio Officer
Mr. John Nduashi	-	Sergeant at Arms

1.4 Compliance with the Procedure for Amendment of the Treaty Establishing the East African Community

The Treaty Establishing the East African Community

5. The Treaty for the establishment of the East African Community was signed on 30th November, 1999 and came in force on 7th July, 2020 following its ratification of the three founding Partner States of EAC(the Republic of Kenya the Republic of Uganda and the United Republic of Tanzania) the Republic of Rwanda and the Republic of Burundi joined the EAC in 2007 and acceded to the Treaty on the Establishment of East African Community and by extension the Protocol on the Establishment of East African Community Customs Union.
6. Article 151(4) of the Treaty provides that Annexes and Protocols to the Treaty form an integral Part of the Treaty. The procedure for amending the Treaty is provided for under Article 150(6), which provides that *any amendment to this Treaty shall be adopted by the Summit and shall enter into force when ratified by all Partner States.*

1.5 Compliance with the Procedure for Approval of a Treaty under the Treaty Making and Ratification Act, Cap 4D

7. The procedure for ratification of treaties is provided for under section 8 of the Treaty Making and Ratification Act, Cap. 4D. Section 8 of the Act provides that, *where the Cabinet approves the ratification of a treaty, the Cabinet Secretary shall submit the treaty and a memorandum on the treaty to the Speaker of the National Assembly.*
8. Further, subsection (3) provides that *the relevant parliamentary committee shall, during its consideration of the treaty, ensure public participation in the ratification process in accordance with laid-down parliamentary procedure.*

2. CONSIDERATION OF THE AMENDMENT TO ARTICLE 24(2)(a) OF THE PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY CUSTOMS UNION

2.1 Background to the Amendment

9. The Treaty for the Establishment of the East African Community was signed on 30th November 1999, and entered into force on 7th July 2000, following its ratification by the original three founding Partner States of the EAC (the Republic of Kenya, the Republic of Uganda, and the United Republic of Tanzania). The Republic of Rwanda and the Republic of Burundi joined the EAC, having acceded to the Treaty on 18th June 2007 and becoming full members effective 1st July 2017, while the Republic of South Sudan acceded to the Treaty on 15th April 2016 and became a full member effective 15th August 2016. The Democratic Republic of Congo (DRC) acceded in 2022 and Somalia in 2023, with the latter two becoming full members in 2024.
10. In joining the EAC, these countries acceded to the Treaty for the Establishment of the East African Community and, by Extension, the Protocol on the Establishment of the East African Community Customs Union.
11. The admission of these Partner States into the East African Community (EAC), therefore, necessitated the Amendment of Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union to allow them to nominate members to join the East African Community Trade Remedies Committee.

2.2 The East African Community Customs Union Protocol

12. The Protocol on the Establishment of the East African Community Customs Union was signed in December 2004 by the three founding Partner States of the EAC and came into force on 1st January 2005.
13. The Protocol was developed pursuant to the provisions of Article 75 of the Treaty establishing the East African Community and is a key pillar and the first stage of the EAC integration Process. The Protocol provides for, among others, Common External Tariffs, Elimination of Internal Tariffs Program, mechanisms for identifying and eliminating non-Tariff barriers, Trade Facilitation, Rules of Origin, National Treatment, Anti-Dumping measures, subsidies and countervailing measures, safeguard measures, Dispute settlement mechanism, and export Promotion schemes.

2.3 The Trade Remedies Committee

14. Article 24 of the Protocol provides for the establishment of the East African Community Committee on Trade Remedies to handle any matters pertaining to:
Rules of origin provided for under the East African Community Customs Union (Rules of Origin) Rules, specified in Annex III to this Protocol;
 - 1) anti-dumping measures provided for under the East African Community Customs Union (Anti-Dumping Measures) Regulations, specified in Annex IV to this Protocol;
 - 2) subsidies and countervailing measures provided for under the East African Community Customs Union (Subsidies and Countervailing Measures) Regulations, specified in Annex V to this Protocol;

- 3) safeguard measures provided for under the East African Community Customs Union (Safeguard Measures) Regulations, specified in Annex VI to this Protocol;
 - 4) dispute settlement provided for under the East African Community Customs Union (Dispute Settlement Mechanism) Regulations, specified in Annex IX to this Protocol; and
 - 5) any other matter referred to the Committee by the Council.
15. Article 24(2)(a) of the Customs Union Protocol provides for the Membership of the trade Remedies Committee as follows: -
- “The Committee shall be composed of nine members, qualified and competent in matters of trade, customs, and law”.*
16. Article 24(b) provides that each partner state shall nominate three members to the Committee.

2.4 Amendment of Article 24 (2)(a) of the Protocol

17. The 10th Ordinary meeting of the EAC Summit of Heads of State held on 10th April 2009, approved the amendment of Article 24(2)(a) of the Protocol for the Establishment of the EAC Customs Union, by deleting the word “nine” appearing in Paragraph (2) (a) of that Article.
- The Article, as amended, provides that: -
- “The Committee shall be composed of members, qualified and competent in matters of trade, customs, and law”.*
18. The EAC Secretary General wrote to the Partner States on 10th November 2014, communicating the decision of the Sectoral Council on Legal and Judicial Affairs from its meeting held from 27th October to 4th November, 2014, directing Partner States to expedite the ratification process and deposit the instruments of ratification by 28th February, 2015 to enable the operationalization of the Trade Remedies Committee, and transmitted the approved amended Article 24(2)(a) of the Protocol on the Establishment of the EAC Customs Union.
19. The 30th Meeting of the Council held on 28th November 2014 directed Partner States to deposit with the EAC Secretary General instruments of Ratification of the amendment of Article 24(2)(a) of the Customs Union Protocol by 15th August, 2015.
20. None of the Partner States met the deadline. In addition, the meeting of the Sectoral Council on Trade, Industry, Finance, and Investment (SCTIFI) held in February 2016 directed the Partner States to deposit with the Secretary General the Instruments of ratification of the amendments to Article 24(2) by 15th August 2016. None of the Partner States has complied with this directive except the Republic of Burundi.

2.5 Justification of the Amendment

21. The Protocol provides that the Trade and Remedies Committee shall be composed of nine (9) members, qualified and competent in matters of trade, customs, and law. Each partner state is supposed to nominate three members to the committee.
22. Taking into account the defined total membership of the Committee, the Countries that later acceded to the Treaty are unable to nominate members to the Committee.

23. The amendment, therefore, allows all partner states to nominate members to the Trade Remedies Committee to operationalize it.

3. SUBMISSIONS FROM STAKEHOLDERS

3.1 Submissions from the Ministry of East African Community, the ASALs, and Regional Development

24. Dr. Alice Yalla, Integration Secretary, State Department for East African Community, appeared before the Committee on Thursday, 2nd October 2025 and submitted that: -

- 1) The Protocol on the Establishment of the East African Community Customs Union, which came into force on 1st January 2005 upon ratification by the three original Partner States of Kenya, Tanzania, and Uganda, before the Republic of Burundi and the Republic of Rwanda joined the Community. The two Partner States acceded to the Treaty for the establishment of the East African Community and, by extension, to the Protocol in July 2007;
- 2) Article 24 (2) establishes the East African Trade Remedies Committee. The Committee is charged with the tasks to handle matters pertaining to: rules of origin; anti-dumping measures; subsidies and countervailing measures; safeguard measures; dispute settlement; and any other matter referred to the Committee by the Council.
- 3) In addition, Article 24(4) of the Customs Union Protocol also provides for the functions of the Trade Remedies Committee as follows:
 - a) Initiate, through the investigating authorities of the Partner States, an investigation into disputes under the regulations in Paragraph 1 of this Article;
 - b) Make affirmative or negative determinations on investigation;
 - c) Recommend provisional measures to prevent injury to a domestic industry where a preliminary affirmative determination has been made;
 - d) Undertake consultation with Partner States in relation and other countries on matters before it;
 - e) Report to the Council on all determinations in relation to matters submitted to it and decisions made by it;
 - f) Provide advisory opinion to the Partner States on matters under Paragraph 1 of this Article;
 - g) Review annually the implementation and operations of the matters in Paragraph 1 of this Article;
 - h) Issue public notices under matters in Paragraph 1 of this Article;
 - i) Facilitate consultations by Partner States and parties to the dispute before it to ensure timely fulfillment of all requirements by the parties to the dispute and provide advice as appropriate;
 - j) Administer and manage the dispute settlement mechanism; and
 - k) Undertake any functions assigned to it by any regulation under the Protocol or by the Council.
- 4) The Protocol, under Article 24 (2), provides that the Committee shall be composed of nine (9) members qualified and competent in matters of trade, customs, and law. Each Partner State is required, under Article 24 (2) (b), to nominate three (3) members to the Committee. However, considering the specified numbers to be nominated by each

- Partner State, the Republic of Burundi, the Republic of Rwanda, and other Partner States that later accede to the EAC Treaty find it legally impracticable to nominate additional members to the Committee, which was initially designed to be comprised of members nominated by the original three Partner States.
- 5) As a result, the 10th Ordinary Summit of the EAC Heads of State held on 29th April 2009 in Arusha, Tanzania, approved the amendment of Article 24(2) of the Protocol to cure the anomaly and accommodate the prevailing number of EAC Partner States.
 - 6) Due to the slow ratification of the amendment of Article 24 (2), the 30th Ordinary Meeting of the Council held on 28th November 2014 directed Partner States to deposit with the Secretary General Instruments of Ratification of the amendment of Article 24 (2) of the Protocol with regard to members of the Trade Remedies Committee by 15th August 2015.
 - 7) None of the Partner States met the deadline. In addition, the meeting of the Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI) held in February 2016 directed the Partner States to deposit with the Secretary General the Instruments of ratification of the amendments to Article 24 (2) by 15th August 2016. Again, this did not happen, and none of the Partner States has ratified the amendment of Article 24 (2) except the Republic of Burundi.

Analysis of the Problem

- 1) Article 24 (2) in its current form not only excludes the Republic of Burundi and the Republic of Rwanda but also the Democratic Republic of the Congo, the Federal Republic of Somalia, and the Republic of South Sudan. The amendment approved by the Summit provides as follows: “*The Committee shall be composed of members, qualified and competent in matters of trade, customs, and law.*” This is the formulation intended to cure the anomaly and to allow all Partner States to appoint members to the Trade Remedies Committee.
- 2) The amendment was further to the provisions of Article 150 (6) of the Treaty for the establishment of the East African Community, which provides that “*Any amendment of the Treaty shall be adopted by the Summit and shall enter into force when ratified by all the Partner States*”. It is also consistent with the expansion of the Community through the admission of new members.
- 3) The operationalization of the Trade Remedies Committee will: enable the Republic of Burundi, Republic of Rwanda, Democratic Republic of the Congo, the Federal Republic of Somalia and the Republic of South Sudan to be members of the Trade Remedies Committee; ensure adherence to application of EAC Rules of Origin; guide subsidies and countervailing measures; regulate safeguard measures; and provide safeguard mechanisms.
- 4) It is also important to note that the amendment of the Article will **not** have any implications on the Constitution of Kenya.

3.2 Implications of the delay in ratification of the amended Article 24(2)(a) of the EAC Customs Union Protocol by the EAC Partner States

- 1) The delay in ratification of the amendment and, in effect lack of operationalization of this Committee means that the EAC Partner States have no avenue to handle matters pertaining to Rules of Origin, anti-dumping measures, subsidies and countervailing measures, and safeguard measures within the EAC Customs Union.
- 2) There has been a proliferation of Non-Tariff Barriers to trade (NTBs) within the EAC. Section 12(2), (3), and (4) of the EAC Elimination of Non-Tariff Barriers Act, 2017, allows the Council of Ministers to refer matters on the elimination of NTBs to the EAC Committee on Trade Remedies. In the prevailing circumstances, the only mechanism for an aggrieved party within the EAC on NTBs is to institute proceedings at the East African Court of Justice, which is not only costly but also time-consuming for traders.
- 3) The delay in ratification denies the business community a dedicated Committee to handle matters related to rules of origin, trade remedies, and non-tariff barriers, which are the key substratum of any trade and business.

Status of Ratification of the Amendment at the National Level

- 1) The State Department prepared a Cabinet Memorandum on the Ratification of Article 24 (2) of the Protocol on the Establishment of the East African Community Customs Union in seeking cabinet approval of the amendment of Article 24 (2) of the Protocol. The Cabinet approved the amendment in July 2016, and the Ministry of Foreign Affairs has submitted the approved Cabinet Memo to the National Assembly to facilitate deliberations and ratification of the amendments to Article 24 (2).
- 2) Further to the approval by the Cabinet, the Cabinet Secretary for Foreign Affairs, in February 2017, submitted a Memorandum to the Speaker of the National Assembly on the ratification of an amendment to Article 24 (2) of the Protocol on the establishment of the East African Community Customs Union.
- 3) The objective of the Memorandum was to:
 - a) Inform the National Assembly of the approval by the Heads of State of the Partner States of the East African Community of the amendment to Article 24 (2) of the Protocol on the establishment of the East African Community Customs Union Protocol;
 - b) Inform the National Assembly that the Cabinet at its Sixth Meeting held on 28th July, 2016, approved the ratification of the amendment to Article 24 (2) of the Protocol;
 - c) Seek the approval of the National Assembly for the Republic of Kenya to ratify the amendment of Article 24 (2) of the Protocol.

Status of the ratification

- 1) The Republic of Kenya, just like the other EAC Partner States, has not completed the ratification process of the amended Article 24(2) (a) of the EAC Customs Union Protocol. The Ministry of East African Community and Regional Development, being the lead agency on matters of the East African Community, initiated the ratification

process pursuant to the provisions of the Treaty Making and Ratifications Act of Kenya. Pursuant to the Treaty-Making and Ratifications Act, ratification of such amendments must be approved by the Cabinet and the National Assembly.

- 2) In light of this, the Ministry recommends that the Ministry of East African Community and Regional Development fast-track the ratification process to avert further inconveniences to the Kenyan business community.
- 3) The need for the urgent conclusion of the ratification of the amendment to Article 24(2)(a) of the EAC Customs Union Protocol will, in effect, pave the way for the operationalization of the critical Committee on Trade Remedies.

The Way Forward

- 1) Article 150 (6) of the Treaty for the establishment of the East African Community, which provides that "*Any amendment of the Treaty shall be adopted by the Summit and shall enter into force when ratified by all the Partner States*". On the other hand, Article 151 of the Treaty states that the Annexes and the Protocol to the Treaty shall form an integral part of the Treaty.
 - 2) Since the Summit adopted the amendment of the Protocol and the amendment is consistent with the above-mentioned Treaty provisions, it is recommended that Kenya ratifies the amendment for it to enter into force to pave the way for Partner States that accede to the Treaty to nominate members to the EAC Trade Remedies Committee.
25. The Ministry submitted that Kenya will contribute towards funding of the activities of the Trade Remedies Committee as part of its overall contributions to the EAC budget and that the amendment of the Article will not have any implications on the Constitution of Kenya.
26. The Ministry requested the Committee to: -
- 1) With the proliferation of complaints by the Kenyan traders on increased dumping of some goods such as maize and eggs from some EAC countries that have an impact on the domestic market, the need to strengthen the Kenya Trade Remedies Agency (KETRA) established under Section 3(1) of the Kenya Trade Remedies Act, 2017 cannot be gainsaid. The lack of a forum for Kenyan traders to lodge complaints on trade remedies matters under the EAC Customs Union provides an opportunity for KETRA to bridge this gap.
 - 2) Further Article 24(4) (a) of the EAC Customs Union mandates the EAC Committee on Trade Remedies to initiate investigations through the investigating authorities of the Partner States. Apart from Kenya, none of the other Partner States has established an investigating body. Section 5 of the Kenya Trade Remedies Act mandates KETRA to investigate allegations of dumping and subsidization of imported products in Kenya. Moreover, any disputes related to trade remedies (anti-dumping, subsidies, and safeguard measures) cannot be instituted before an investigation by a competent investigating body is completed. It is thus critical that KETRA is fully supported to ensure that it undertakes this mandate to alleviate injury to our domestic market.

- 3) Take note of the approval by the EAC summit of the amendment to Article 24(2)(a) of the Customs Union Protocol.
- 4) Take note of the approval by the Cabinet at its 6th meeting of 28th July, 2016, which approved the ratification of the amendment to Article 24(2)(a) of the Protocol; and,
- 5) Request the National Assembly to consider and ratify the amendment to Article 24(2)(a) of the Protocol.

3.2 Submission by the African Women's Studies Centre (AWSC) of the University of Nairobi

Introduction

27. The Committee received submissions from the African Women's Studies Centre (AWSC) of the University of Nairobi proposing the inclusion of a gender-balance requirement in the nomination of members to the East African Community Committee on Trade Remedies. AWSC highlighted that its research over the past five years had identified both progress and gaps in women's economic empowerment.

Summary of the submission by AWSC

28. The submission advocates for gender representation and inclusivity in the nomination of members to the **East African Community (EAC) Committee on Trade Remedies**. AWSC stated that, currently, partner states are silent on ensuring gender balance in nominations, leading to male-dominated representation.
29. They further noted that the exclusion perpetuates the marginalisation of women and other underrepresented groups in regional decision-making, contrary to the express provision of Article 121 of the EAC Treaty, which promotes women's participation and affirmative action at all political levels.
30. The submissions proposed an amendment to Article 24 (2a) of the EAC Treaty: by addition of - "**24(2)(a) Each partner state should ensure that at least one-third (1/3) of nominees are of the opposite sex**"
31. To justify this amendment, AWSC stated that the amendment will align with the **EAC Gender Policy (Objective 4.5(c))** by making gender balance mandatory and promoting inclusivity in political and decision-making bodies within the EAC framework.

4. COMMITTEE OBSERVATIONS

32. The Committee, having considered the proposed Amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union Protocol, observed as follows **THAT: -**


- 1) Article 24(2)(a) of the Customs Union Protocol capped the Membership of the Trade Remedies Committee to nine (9), which excluded any future member of the EAC from nominating members to the Trade Remedies Committee.
- 2) The amendment was done in line with the provisions of Article 150 (6) of the Treaty for the establishment of EAC, which provides that "Any amendment of the Treaty shall be adopted by the Summit and shall enter into force when ratified by all the Partner States". It is also consistent with the expansion of the Community through the admission of new Partner States.

- 3) The amendment is necessary as it expands the membership of the Trade Remedies Committee following the admission of new Partner States and further accommodates more representation in case more countries join the EAC.
- 4) The 30th Meeting of the Council held on 28th November 2014 directed Partner States to deposit with the EAC Secretary General instruments of Ratification of the amendment of Article 24(2)(a) by 15th August, 2015. The amendment shall come into force once ratified by all partner States. So far, Partner States are yet to ratify the amendment.
- 5) The ratification of the amendment will allow for the operationalization of the Trade Remedies Committee that shall provide the EAC Partner States with a platform to handle matters pertaining to Rules of Origin, anti-dumping measures, subsidies and countervailing measures, and safeguard measures within the EAC Customs Union.
- 6) The Council of EAC Ministers should urge Partner States to fast-track the approval of the Ratification of the Amendment to the Protocol.
- 7) In the meantime, the Committee notes that with the proliferation of complaints by the Kenyan traders on increased dumping of some goods such as maize and eggs from some EAC countries, Kenya has established The Kenya Trade Remedies Agency (KETRA under Section 3(1) of the Kenya Trade Remedies Act, 2017 which provides a mechanism for Kenyan traders to lodge complaints on trade remedies matters. There is therefore a need for the government to strengthen this Agency.
- 8) The Committee further notes -
 - a) that while the current amendment under consideration does not include this provision as proposed by the African Women's Studies Centre (AWSC), the proposal is consistent with Kenya's national commitments to gender equity and the principles of inclusivity under Articles 27 and 100 of the Constitution of Kenya (2010).
 - b) The Ministry of East African Community (EAC), ASALs, and Regional Development, in consultation with the Ministry of Foreign and Diaspora Affairs, formally submits this proposal to the EAC Council of Ministers as Kenya's official position for consideration as a future amendment to the EAC Treaty under Article 150 of the Treaty;
 - c) The Ministry East African Community (EAC), ASALs, and Regional Development, shall report to Parliament within six (6) months on progress made regarding this proposal at the regional level.

5.0 COMMITTEE RECOMMENDATIONS

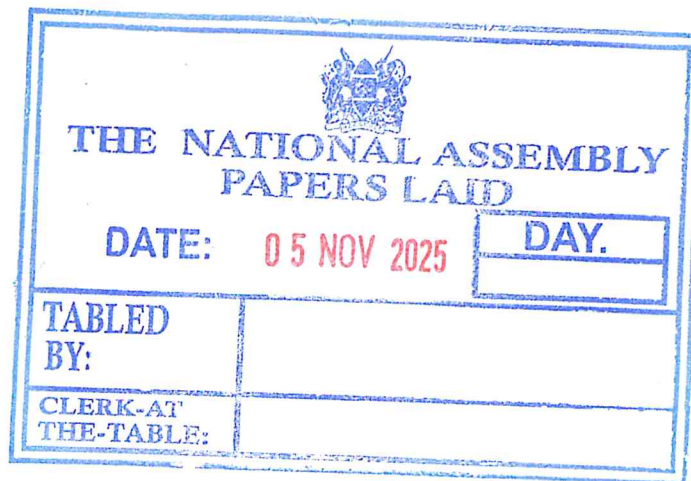
33. Having considered the Ratification of the amended article 24(2)(a) of the Protocol on the establishment of the East African Community Customs Union Protocol to provide for the establishment of the Trade Remedies Committee, the Committee recommends that: -

Pursuant to Section 8 of the Treaty Making and Ratification Act, Cap. 4D the House APPROVES the Ratification of the amended article 24(2)(a) of the Protocol on the establishment of the East African Community Customs Union.

Signed.......... Date.....*4/11/25*.....

HON. IRENE MAYAKA, M.P., CBS

CHAIRPERSON, COMMITTEE ON REGIONAL INTEGRATION



ANNEXURES

1. Adoption list
2. Minutes

MINUTES OF THE 26TH SITTING OF THE COMMITTEE ON REGIONAL INTEGRATION HELD ON TUESDAY, 4TH NOVEMBER 2025, IN COMMITTEE ROOM 25, 3RD FLOOR BUNGE TOWER, AT 12.00 NOON.

PRESENT

1. Hon. CS Mayaka Irene Nyakerario, MP - Chairperson
2. Hon. Farah Salah, MP - Vice Chairperson
3. Hon. Naomi Waqo, CBS, MP
4. Hon. Wanjiku Muhia, CBS, MP
5. Hon. (Dr.) Makali Mulu, CBS, MP
6. Hon. Andrew Adipo Okuome, MP
7. Hon. Danson Mwashako, MP
8. Hon. Christopher Aseka Wangaya, MP
9. Hon. Beatrice Chepng'eno Kemei, MP
10. Hon. Richard Kipkemoi Yegon, MP
11. Hon. Fatuma Hamisi Masito, MP

APOLOGIES

1. Hon. David Ochieng', CBS, MP
2. Hon. Geoffrey Makokha Odanga, MP
3. Hon. Joseph Gitari, MP
4. Hon. Didmus Barasa Mutua, MP
5. Hon. Rael Chepkemioi Kasiwai, MP
6. Hon. Irene Njoki Mrembo, MP
7. Hon. Elizabeth Karambu Kailemia, MP
8. Hon. CPA Julius Kipletting Rutto, MP
9. Hon. Japheth Nyakundi Mokaya, MP
10. Hon. Zaheer Jhanda, MP

IN ATTENDANCE

Committee Secretariat

1. Mr. Jimale Mohamed - Clerk Assistant I
2. Ms. Jane G. Ouko - Clerk Assistant II
3. Mr. Danton Kimtai - Hansard officer
4. Ms. Mercy Mayende - Media Relations Officer III
5. Mr. Joahn Nduashi - Sergeant-at-arms

MIN. NA/ DAA&GPC/ RIC/2025/167 PRELIMINARIES

The Chairperson called the meeting to order at 12:26 p.m. by welcoming the Members present, after which she prayed.

MIN. NA/ DAA&GPC/ RIC/2025/168 ADOPTION OF THE AGENDA

The agenda was unanimously adopted on the proposal of Hon. Farah Salah, MP, and seconded by Hon. Fatuma Hamisi Masito, MP.

MIN.NA/ DAA&GPC/ RIC/2025/169 CONFIRMATION OF PREVIOUS MINUTES

Minutes of the 25th sitting were confirmed as a true record of the previous meeting as proposed by Hon. Fatuma Masito, CBS, MP, and seconded by Hon. Farah Salah, MP.

MIN. NA/ DAA&GPC/ RIC/2025/170 CONSIDERATION OF THE SUBMISSIONS OF MEMORANDA BY THE STAKEHOLDERS ON THE RATIFICATION OF THE AMENDMENT TO ARTICLE 24(2)(A) OF THE PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY CUSTOMS UNION

The Legal counsel took members through the submission of the Memorandum by the African Women's Studies Centre (AWSC) of the University, they observed as follows -

- 1) the inclusion of a gender-balance requirement in the nomination of members to the East African Community Committee on Trade Remedies. AWSC highlighted that its research over the past five years had identified both progress and gaps in women's economic empowerment;
- 2) The submission advocates for gender representation and inclusivity in the nomination of members to the East African Community (EAC) Committee on Trade Remedies;
- 3) currently, the Partner States are not enforcing the gender balance as required in the EAC Treaty;
- 4) the exclusion perpetuates the marginalisation of women and other underrepresented groups in regional decision-making, contrary to the express provision of Article 121 of the EAC Treaty, which promotes women's participation and affirmative action at all political levels.

He further noted that the submissions proposed an amendment to Article 24 (2a) of the EAC Treaty: by addition of - **“24(2)(a) Each partner state should ensure that at least one-third (1/3) of nominees are of the opposite sex”**

Justification - African Women's Studies Centre (AWSC) of the University stated that the amendment will align with the **EAC Gender Policy (Objective 4.5(c))** by making gender balance mandatory and promoting inclusivity in political and decision-making bodies within the EAC framework.

MIN. NA/ DAA&GPC/ RIC/2025/170 CONSIDERATION AND ADOPTION OF THE REPORT ON THE APPROVAL OF THE RATIFICATION OF THE AMENDMENT TO ARTICLE 24(2) (A) OF THE PROTOCOL ON THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY CUSTOMS UNION;

The committee considered the Report the approval of the Ratification of the Amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union and made the following **observations and recommendations, THAT: -**

- 1) Article 24(2)(a) of the Customs Union Protocol capped the Membership of the Trade Remedies Committee to nine (9), which excluded any future member of the EAC from nominating members to the Trade Remedies Committee.
- 2) The amendment was done in line with the provisions of Article 150 (6) of the Treaty for the establishment of EAC, which provides that "Any amendment of the Treaty shall be adopted by the Summit and shall enter into force when ratified by all the Partner States". It is also consistent with the expansion of the Community through the admission of new Partner States.
- 3) The amendment is necessary as it expands the membership of the Trade Remedies Committee following the admission of new Partner States and further accommodates more representation in case more countries join the EAC.
- 4) The 30th Meeting of the Council held on 28th November 2014 directed Partner States to deposit with the EAC Secretary General instruments of Ratification of the amendment of Article 24(2)(a) by 15th August, 2015. The amendment shall come into force once ratified by all partner States. So far, Partner States are yet to ratify the amendment.
- 5) The ratification of the amendment will allow for the operationalization of the Trade Remedies Committee that shall provide the EAC Partner States with a platform to handle matters pertaining to Rules of Origin, anti-dumping measures, subsidies and countervailing measures, and safeguard measures within the EAC Customs Union.
- 6) The Council of EAC Ministers should urge Partner States to fast-track the approval of the Ratification of the Amendment to the Protocol.
- 7) In the meantime, the Committee notes that with the proliferation of complaints by the Kenyan traders on increased dumping of some goods such as maize and eggs from some EAC countries, Kenya has established The Kenya Trade Remedies Agency (KETRA under Section 3(1) of the Kenya Trade Remedies Act, 2017 which provides a mechanism for Kenyan traders to lodge complaints on trade remedies matters. There is therefore a need for the government to strengthen this Agency.
- 8) The Committee further notes -
 - a) that while the current amendment under consideration does not include this provision as proposed by the African Women's Studies Centre (AWSC), the proposal is consistent with Kenya's national commitments to gender equity and the principles of inclusivity under Articles 27 and 100 of the Constitution of Kenya (2010).
 - b) The Ministry of East African Community (EAC), ASALs, and Regional Development, in consultation with the Ministry of Foreign and Diaspora Affairs, formally submits this proposal to the EAC Council of Ministers as Kenya's official position for consideration as a future amendment to the EAC Treaty under Article 150 of the Treaty;
 - c) The Ministry East African Community (EAC), ASALs, and Regional Development, shall report to Parliament within six (6) months on progress made regarding this proposal at the regional level;

Recommendations

Having considered the Ratification on its consideration of the Report on the approval of the Ratification of the Amendment to Article 24(2)(a) of the Protocol on the Establishment of the East African Community Customs Union, the Committee adopted the Report, pursuant to Section 8 of the Treaty Making and Ratification Act, Cap. 4D as having being proposed by Hon. Wanjiku Muhia, CBS, MP and seconded by Hon. (Dr.) Makali Mulu, CBS, MP.

**MIN. NA/ DAA&GPC/ RIC/2025/171 ADOPTION OF THE REPORT ON
INSPECTION VISIT TO THE EAST
AFRICAN SCIENCE AND TECHNOLOGY
COMMISSION, KIGALI,RWANDA, AND
THE EAST AFRICAN HEALTH
RESEARCH COMMISSION, BUJUMBURA,
BURUNDI:**

The Committee adopted the Report on the consideration of the Inspection Visit to the East African Science and Technology Commission, Kigali,Rwanda, and the East African Health Research Commission, Bujumbura, Burundi as having being proposed by Hon. Richard Yegon, MP and seconded by Hon. Fatuma Masito, MP.


MIN. NA/ DAA&GPC/ RIC/2025/172 ANY OTHER BUSINESS

The Committee was informed that Kenya Association of Manufacturers has written to the Clerk requesting for a nomination of representatives from trade-related Committees including Committee on Regional Integration to participate in the Kenya- Nigeria Trade and Investment Mission to Lagos, Nigeria from 27th to 29th November, 2025. KAM noted that the mission would bring together senior government officials, policymakers, private sector leaders and investors from both nations to explore opportunities from collaborations and strengthen trade and investment ties. The Committee therefore, nominated Hon. (Dr.) Makali Mulu, CBS, MP to represent the Committee on Regional Integration in the said event.

MIN. NA/ DAA&GPC/ RIC/2025/173 ADJOURNMENT

There being no other business, the meeting was adjourned at 1311hrs. The next meeting will be called on notice.

Signed:



Date:

4/11/25

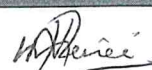
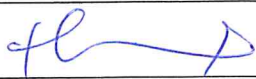

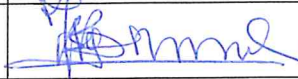


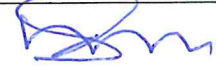
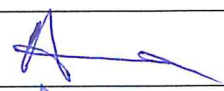

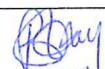


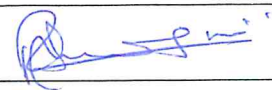
Hon. (CS) Irene Mayaka, MP – Chairperson

COMMITTEE ON REGIONAL INTEGRATION

ADOPTION LIST

Adoption of Report on the Consideration for Approval of The Ratification of The Amendment to Article 24(2) (A) of The Protocol on the Establishment of the East African Community Customs Union

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

No.	HON. MEMBER	SIGNATURE
1.	Hon. CS Mayaka Irene Nyakerario, MP- Chairperson	
2.	Hon. Farah Salah, MP – Vice Chairperson	
3.	Hon. David Ochieng', CBS, MP	
4.	Hon. Naomi Waqo, CBS, MP	
5.	Hon. (Dr.) Makali Mulu, CBS, MP	
6.	Hon. Wanjiku Muhia, CBS, MP	
7.	Hon. Geoffrey Makokha Odanga, MP	
8.	Hon. Joseph Gitari, MP	
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14.	Hon. Elizabeth Karambu Kailemia, MP	
15.	Hon. Beatrice Chepng'eno Kemei, MP	
16.	Hon. Fatuma Hamisi Masito, MP	
17.	Hon. Irene Njoki Mrembo, MP	
18.	Hon. CPA Julius Kipletting Rutto, MP	
19.	Hon. Richard Kipkemoi Yegon, MP	
20.	Hon. Japheth Nyakundi Mokaya, MP	
21.	Hon. Zaheer Jhanda, MP	

