



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY

**REPORT OF THE EALA COMMITTEE ON REGIONAL AFFAIRS AND
CONFLICT RESOLUTION ON: THE PUBLIC HEARING ON THE
PASTORAL COMMUNITIES OF LONGIDO IN TANZANIA AND
KAJIADO IN KENYA ON THE IMPLEMENTATION OF THE EAC
COMMON MARKET PROTOCOL PROJECTS**

February 19th – 22nd, 2017

**Clerk's Chambers
3rd Floor, EALA Wing
EAC Headquarters
Arusha, TANZANIA**

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INTRODUCTION

1. Pastoralism¹ is a viable livelihood for a considerable population of East Africans, for over a century now. However, pastoralists have suffered prejudicial treatment reinforced by discriminatory laws and state policies. Developmental interventions in pastoral areas have been characterized by ignorance about pastoralists and the pastoral system. Many developmental projects have failed in pastoral areas because of stereotypical views held by those in authority (development agencies, NGOs and CSOs). The above history explains why pastoral areas today are characterized by poverty, lack of economic opportunities, conflicts, low education and poor infrastructure.
2. The Committee on Regional Affairs and Conflict Resolution (RACR) is mandated according to Rule 81, Annex 5 (E) of the EALA Rules of Procedure (2015), among others, to review legislation and oversee Chapter 17 of the Treaty for the Establishment of the East African Community (EAC) with regard to the implementation of regional programmes on movement of persons, labour, services and rights of establishment and residence.

JUSTIFICATION

3. It is on the above strength that the East African Legislative Assembly's (EALA's) Committee on Regional Affairs and Conflict resolution (RACR) undertook from February 19th to 22nd, 2017 Public Hearings on the Pastoral Communities of Longido in Tanzania and Kajiado in Kenya in the context of the Common Market Protocol which was ratified by the Heads of the EAC Partner States in November 30, 2009 and entered into force in July 1, 2010. The assessment was a follow up of the fact-finding mission earlier conducted by the Committee on Pastoral Communities of Kapenguria and Kacheliba in Kenya and Nakapiripirit in North Eastern Uganda, in May 2012.

OBJECTIVES

4. In line with the Common Market Protocol (CMP), the Committee: -
 - (i) Examined the free movement of persons in the pastoral communities;
 - (ii) Sought to understand the level of Security among pastoral communities;
 - (iii) Identified the challenges faced by pastoralists in the context of the Common Market Protocol; and
 - (iv) Sought to address the problems of pastoralists from a regional perspective.

¹ Pastoralism in its definition has an element of mobility which has to do with movement of herds of domestic animals in search of fresh pasture and water. It is vital to note that pastoralism is a successful strategy to support a population on less productive land and adapts well to environment. One of the survival tactics pastoralists use is gathering the animals when the rain water is plenty and pasture is rich and then scattering them during the dry season. From the above explanation, it is very clear that there is freedom of movement among pastoralists. However, the fact that they agree where to graze at what time clearly indicates that there are rules which govern the movements.

EXPECTED OUTPUTS

5. The expected outputs of this exercise were as follows:
 - (i) Extent of free movement of persons in pastoral communities assessed;
 - (ii) Pastoralism as viable livelihood understood and the EALA Members lobbied to appreciate pastoral issues with a view of enacting laws that are sensitive to pastoral needs;
 - (iii) Challenges facing pastoralists understood and mechanisms to address them sought; and
 - (iv) Report produced and submitted to the House for consideration and approval.

METHODOLOGY

6. In carrying out its mandate, the Committee employed various methods, which included the following:
 - (a) Review of literature on the Common Market Protocol;
 - (b) Review of media reports including radio, print and electronic as well as written memoranda;
 - (c) meetings and interactions with various stakeholders at the two pastoral boarder communities of Longido, Tanzania and Kajiado, Kenya; and
 - (d) field visits to the two Partner States' selected pastoral border communities.

Findings at the Pastoral Border Communities visited:

7. During the two-day public hearings, the Committee observed the following general and specific challenges, concerns, fears and or emerging issues with regard to extent of the provisions on free movements of labour, persons, goods and services as well as on the provisions on the right of establishment and residence. It must be noted that these provisions, though they are separate, are all inter-connected and they form the overarching framework of the legal provisions that affect the implementation of the Common Market Protocol:

General Findings:

8. The Committee noted on both pastoral border communities overwhelming support of the integration process but call for their concerns to be addressed;
9. The two cross border pastoral communities of Longido, Tanzania and Kajiado, Kenya are interrelated by blood and inter-marriages between the Masaai communities of the two EAC Partner States;
10. The Maasai speaking peoples that transcends the Tanzania and Kenya borders share a cosmology and history that predates colonial experience. One of the negative impact of imperative of the Berlin Conference was to interfere and interrupt the family and cultural ties of the Maasai that occupy the Longido and Kajiado plains. This is the historical context under which the Committee on Regional Affairs and Conflict Resolution made an oversight visit to the Maasai communities living at both sides of the Namanga boarder between the United Republic of Tanzania and the Republic of Kenya;
11. Historical land claims arising from this history has continued to colour the relation of the communities on both side of the border with neighboring communities as well as with governments' and government agencies in both Tanzania and Kenya;
12. It was apparent that the majority of the people didn't have adequate knowledge on the operations of the EAC Common Market Protocol. Their main concern was the non-removal of barriers (tariff and non-tariff) at customs and along the borders;
13. Majority of stakeholders' discussions centred largely around challenges in cross border livestock marketing and trade, market information, disease control policies and strategies, marketing infrastructure, livestock movement and stock routes, and requirements for delivering slaughter stock to both Tanzania and Kenya Market Centres;
14. Stakeholders identified key issues that constitute impediments to cross border livestock marketing. They include: illegal cross border livestock movement, whether for trade, grazing or translocation; cumbersome and costly procedures for obtaining livestock import and movement permits; lack of harmonization of export / import regulations and other protocols; inadequate linking of both Tanzania and Kenya Market Centres and other markets to producers and traders; insufficient policy and legislation support; poor enforcement of disease control regulations; inadequate and poor marketing infrastructure and limited market information access;

15. Concerns were raised about differences in the land tenure systems between Tanzania and Kenya and loss of land due to free movement and right of establishment within the two countries. The fear of loss of land arises out of varied population densities between Tanzania and Kenya which continue to disadvantage some sections of the population. Similarly, the two Partner States have different land policies and laws, and land management systems, modeled against the traditional and colonial systems at independence. The land tenure systems, range from customary law, statutory land law offering various forms of ownership such as communal, freehold and fixed term leasehold or right of occupancy;
16. Stakeholders from both pastoral border communities were concerned about the increased rate of school drop outs in Longido, Tanzanian side who are engaged in child labour activities in Kajiado, the Kenyan side at the expense of their education;
17. The Committee noted that most of the challenges pastoral border communities raised are not anchored in the Partner States policies;
18. The shared environment and ecosystem covering part of the Arusha Region and the Kajiado County which is home of the Community under review have various challenges including complications arising from environmental degradation, tensions arising from different policies on land, environment, tourism, pastoralism, agriculture, different production systems including support systems such as extension services and so on;
19. Given that this geographical region also covers several game parks and other wild animal sanctuaries concerns were raised on poaching, illegal trade in wild animals' products as well as human and wildlife conflict.

Specific Findings at Longido, Tanzania Pastoral Border Community, *Monday February 20th, 2017:*

20. Poor communication between Longido and the Ministry of Foreign Affairs and East African Community Cooperation in Dar es Salaam was noted as Longido received a letter from the Ministry to notify them of the Committee Member's visit on Monday morning February 20th, 2017;
21. It was obvious that the majority of stakeholders on the Tanzania side lacked sufficient knowledge on the operations of the EAC Common Market. Most of them thought of an existence of a big market under one roof where people meet for trading purposes;
22. Stakeholders at Longido in the Tanzanian side expressed concern about the issue of special passage fee charged per head of cattle transiting on private parcels of land and or boreholes while taking them to market at the Kajiado County on the Kenyan side;

23. It was observed that the majority of the pastoral border community lacked sufficient knowledge on the laws and regulations guiding the EAC Common Market Protocol. They think it's a free zone and their main concern is non-removal of barriers (tariff and non-tariff) at customs borders contrary to what they thought the Common Market sought to eliminate;
24. It was reported that many school going children drop out of school to go to the Kenyan side where there are more employment opportunities than the Tanzania side;
25. Stakeholders appreciated the Government of the United Republic of Tanzania for opening an Immigration Office at Longido for issuance of temporary travel documents hence easing free movement at the border;

Specific Findings at Kajiado, Kenya Pastoral Border Community, *Tuesday February 21st, 2017*

26. Stakeholders expressed with concern increased cases of donkey theft since the introduction of two slaughterhouses in the Rift Valley last year. Stakeholders are thinking of closing the private abattoirs, saying their continued existence will wipe out donkeys. In Kajiado County alone, hundreds of donkeys have been stolen in the past year, leaving owners to wallow in poverty as they rely on their animals for a living. What shocks stakeholders most is that the thieves are not interested with the meat, they are after the skin, liver and genitalia parts of the animal only;
27. Stakeholders on the Kenyan side expressed concern about the issue of fees and levies charged by allegedly the local authorities for pasture and water on the Tanzania side;
28. Stakeholders and pastoral communities on the Kenyan side lamented about the challenges encountered, including high population growth rates, encroachment of crop farming on grazing lands, restricted mobility due to sedentarisation of settlements, privatization of rangelands and resultant land grabbing, insecure land tenure, and environmental degradation. Other challenges include conflicts (violent/arms), climate change and variability, unsound development and trade policies biased in favour of crops, and cheap cows and or beef from Tanzania leading to distortion of prices, ineffectiveness of pastoral traditional risk management strategies, increased food insecurity and poverty levels among pastoralists;
29. Stakeholders on the Kenyan side expressed concern about the barriers they encounter when transiting their livestock and goods to Tanzania including being subjected to unofficial multiple fees and levies.

RECOMMENDATIONS

30. There is need to conduct as many joint meetings among pastoral border communities as possible to sensitize and enhance their understanding about the EAC integration;
31. There is need for EAC to work closely with cross border pastoral communities to ensure proactive measures are employed in responding to conflict such as providing rapid response, investigation and dispute resolution at community level;
32. Effective operationalization of One Stop Border Post (OSBP) will ease trade in both Namanga in Longido, Tanzania and Kajiado, Kenya borders. The Namanga OSBP did not make provisions for livestock trade and still restricts trade in livestock.
33. There is an urgent need for EAC Partner States to balance security of tenure on one hand and land as an asset/resource for economic development of the cross border pastoral communities;
34. There is need to rationalize/decentralize issuance of import/export permits so that they can be obtained locally in the district, region or County where the animals are originating from;
35. Need for creation of common border livestock markets and inspection points;
36. Call for empowerment of market players through capacity building, better market information access, formation of advocacy groups/associations and linking them to markets;
37. More education and awareness creation on the importance of observing disease control regulations on both sides of the pastoral border communities;
38. Improvement of marketing infrastructure such as stock routes, holding grounds, roads and communication;
39. Dialogue with policy makers and other relevant stakeholders should be pursued with a view to enhancing legal and policy support for cross border regional livestock marketing and trade;
40. There is a need for pastoral border communities to become more involved at the level of local governments and provide them with information and training about pastoralist livelihood systems in order for local government institutions to understand and value what pastoralists are doing. This includes documenting how the pastoral management system and practices, which have traditionally been able to cope with and adapt to changing climatic conditions are now threatened by the fragmentation of rangelands, which has reduced the mobility of pastoralists and their access to natural resources.

41. Rights of children particularly relating to education and child-labor will have to be addressed on both sides of the border. Child departments or agencies in both Tanzania and Kenya may need to develop harmonized and coordinated approaches to safeguard the rights of children and ensure children amongst pastoralist communities at this border and neighboring regions attend school and their rights are respected. Special attention need to be directed to addressing the problem of children crossing the border as “hired herders”. The Committee received concerns on both sides of the border that children from Tanzania are especially vulnerable to this illegal and exploitative phenomenal;

ACKNOWLEDGEMENTS:

42. Finally, the Committee would like to thank the following personalities and institutions for having facilitated the on spot assessment to all EAC Partner States:
 - (a) The Rt. Hon. Speaker EALA for facilitating and making sure that the Committee got the funding on time to enable it carry out its oversight functions effectively in all the five EAC Partner States;
 - (b) The Ministries of the EAC Affairs in all the Partner States for the coordination, warm reception, hospitality and courtesies extended to the Committee throughout the exercise, in all the selected border posts;
 - (c) Various stakeholders in the border posts visited for turning up in large numbers to share with the Committee the challenges in implementing the Common Market Protocol on the ground; and
 - (d) The Office of the Clerk for ensuring that all logistics were in order prior to the on spot assessments to the respective EAC Member States.

LIST OF REGIONAL AFFAIRS AND CONFLICT RESOLUTION COMMITTEE MEMBERS:

Public hearings of Pastoral Border Communities of Longido, Tanzania and Kaijado, Kenya on the implementation of the Common Market Protocol: 19th – 22nd February 2017.

	NAME		SIGNATURE
1)	Hon. Abdullah Mwinyi	-	-----
2)	Hon. Abubakar Ogle	-	-----
3)	Hon. Abubakar Zein	-	-----
4)	Hon. Adam Kimbisa	-	-----
5)	Hon. Francois Xavier Kalinda	-	-----
6)	Hon. Chris Opoka-Okumu	-	-----
7)	Hon. Dora Byamukama	-	-----
8)	Hon. Dr. Martin Nduwimana	-	-----
9)	Hon. Emmanuel Nengo	-	-----
10)	Hon. Jean Marie Muhirwa	-	-----
11)	Hon. Martin Ngoga	-	-----
12)	Hon. Mike K. Sebalu	-	-----
13)	Hon. Pierre-Celestin Rwigema	-	-----
14)	Hon. Sara T. Bonaya	-	-----
15)	Hon. Twaha Issa Taslima	-	-----