

Policy Perspectives on Competition and Inclusive Growth within East Africa Community

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Abstract

This paper looked at three issues. Regulatory and institutional convergence on East Africa Community (EAC) member states on procurement, competition, standards, mergers and acquisitions; competitiveness of each member countries and assess possible inclusive shared of competition and integration benefits. The study found that there are great disparity on regulations, competitiveness between member states which might lead to non-inclusive share of integration and competition benefits amongst member states.

The study recommends that all laws and institutions that deal with the competition policies need to be immediately harmonized between the member states. There is a need to establish inter-sectoral and institutional linkages between member states to act as a pressure group for member states to adopt best practices. Competitiveness of all member states is good for long term sustainability of the community. Complementary policies like privatization, industrial policies, and liberalization need to be instituted at all member states level if the EAC competition law is to succeed and for inclusive growth amongst member states.

This study found that there are greater disparities between member states of laws, the institution and competitiveness abilities of each member state. This can have a profound effect on success of competition law and for inclusive growth in the EAC. There is need to address these issues at an early stage if EAC to sustainable and inclusive.

Key words: EAC, Competition, Policies and Integration.

I. Introduction

Globalization and regional integration are key concepts on which most economies are built-on. South Sudan, the youngest nation applied for East Africa Community membership immediately after its independence in 2011 and was admitted into the community in 2016 (Karuri, 2016). Studies have shown that integration of economies with different capabilities between firms and individuals cannot compete fairly in a market place and by extension, the gains of the integration cannot be shared equally among these member states with different economic capabilities (Guetechin, 1996).

These differences in capabilities between states, firms and individuals can also be reflected in institutions between these countries. It is hypothesized that countries with strong economic capabilities have strong institutions while those with weak economies, have weak institutions. Integration of economies like in the East Africa Community creates laws and organizations that supersede the member states laws and institutions. However, with differences between countries in terms of capabilities, laws and organizations, member states might have differences in the existence of laws or institutions that might help the community agencies to discharge its mandate.

With integrated economies - best practices have been to create competition law and competition authority that enforces competition measures within the member states in the markets as the case now with the East Africa Community. However, for this authority to be effective, each member state must have institutions and laws at the national level that will complement and support the community's authority at a national level.

This paper addressed three issues. First, assess levels of competition capacities in law and policies in East African countries. Second, assess the market competitiveness of each member states, and establish how capacity in a market might impair inclusive sharing of the integration's benefits. Third, recommends a policy framework on how to operationalize EAC Competition Authority with an inbuilt safeguard for differences in capacities in amongst member states to ensure inclusive growth for all the member states.

This study contributed to the policy debate on economic integration and competition policy by ascertaining competition policies and institutions for EAC member state by analysing markets' competitive of each member state, recommended policies on convergence of policies and

institutions on competition at member state levels and suggested safeguards for inclusive growth for all member states..

II. Theoretical Framework

Available literature on economic integration have largely studied the benefits of integration (Guetechin, 1996). Most common benefits of integration cited in these studies are technological innovations, reductions in prices, cross-border flows of trade and investments. It seems there is a consensus that integration of economies lead to an overall efficiencies and economic growth. Studies done in the introduction of the European Union as a single market found that the introduction of a single market led to competition - which was associated with increased production and innovations (Rodrik, 1997).

Some of the reasons cited for why monopolistic tendencies do not disappear completely are due to research and development cost, advertisement effects, imperfect market and loyalty that big firms enjoy. Despite the fact that integration leads to an overall increase in economic growth, no studies have looked at differences in market capacities and relative competitiveness of each member state. If member states have differences in market capabilities in labor, product and financial markets, it mean member states cannot compete favorably in an integrated market. If member states have different capabilities, each member benefit is earned in accordance with each member market's capability which might lead to non-inclusive economic growth.

This paper attempted to fill gaps in literature and policy discourse by analysing capabilities of the East African countries in the labor, financial and products markets by looking at the capabilities of each member states and how these capabilities affect how integration benefits are shared between member states. An attempt is made to recommend policies that can be used by policy-makers to ensure inclusive growth among the member states.

Another aspect that can impact on inclusive growth are policies and institutions for anti-competitive actions. Within an economy, the role of anti-competitive policies and institutions are to prevent firms or individuals from collusive agreements on price fixing, market sharing, output restrictions, bidding rigging; abuse of monopoly power; and review mergers and acquisitions to prevent growth anti-competitive tendencies within the economy (EAC Act, 2006).

To achieve the objectives of anti-competitive measures, member states create an authority that is embedded within a government institutions' effort. The overall objective of competition authority is to achieve national anti-competitive policy which delivers optimal benefits to the country. However, within an economic block like the EAC, each member state has different legal and institutional capabilities to enforce the anti-competitive laws. At times, each member state pursues its own economic objective. This can impair the ability of competition authority to discharge its objectives within the community.

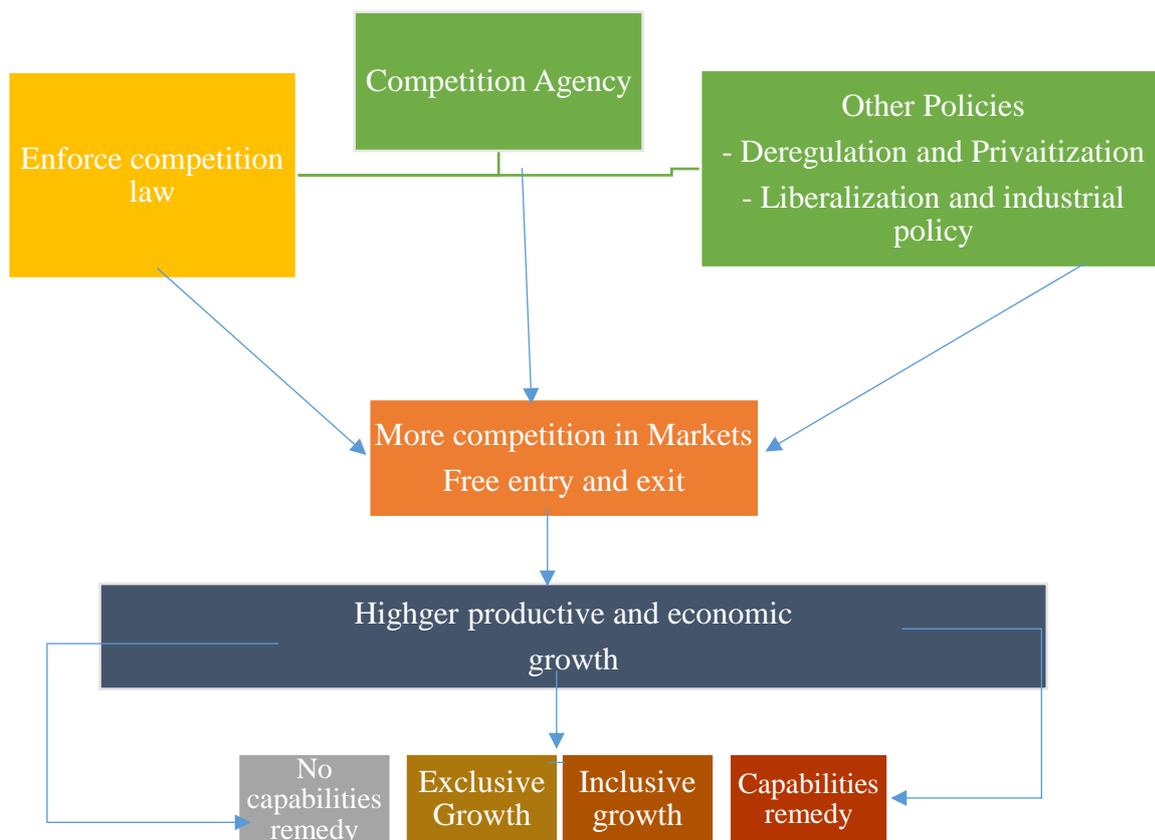


Figure1: Analysis framework for competition policy and inclusive growth

This paper hypothesized that if integration benefits are to be shared equally between member states and if anti-competitive regulations were to be successful, three conditions need to be met. First, there is a need to analyze and pursue regulatory and institutional convergence between member states on anti-competitive practices and associated regulations. Second, there is need for member states to pursue complementary policies like on liberalization, trade policies, industrial policies, privatization, and enabling business environment and thirdly,

benefits of integration and competitive markets need to be shared inclusively between member states.

This paper argued that if regulatory and complementary policies on anti-competitive laws are not converged, the competition regulations and institutions might not be effective as there will be weak institutions and processes in the member states to support the authority's mandate. If members have different capabilities, the gains from integration may not be shared in an inclusive manner between the member states. The study argued that states that don't benefit favorably might be hesitant on implementation of the authority's mandate and this might impair the cooperation and success of the community in the long run.

Figure 1 shows a model that can be used for analysis of competition and inclusive growth amongst member states. This model, modified a model presented by Frederick Jenny by including a question on how to share the gains from integrations and competition policies (Jenny, 2014). The model argued that if competition laws are to succeed, necessary laws and institutions need to be instituted at the member state level. In case there are differences between member states in terms of capabilities, policies of inclusive growth for all members need to be implemented, otherwise, the sustainability of the community in the long-run might be impaired.

III. Methodology and Data

This paper adopted an analytical approach using secondary data, reviews of legislations and literature. This is done in three ways. First, institutional capacities for EAC member states on competition authorities and associated regulations and institutions are analyzed. This to establish if there are sufficient capacities to support enforcement of EAC competition authority's mandates. Second, the paper proceeded to analyze the capabilities of each member state using the global competitiveness data for 2015/2016 available on World Economic Forum.

Once institutional and legal capabilities and competitiveness of each member states were ascertained, the paper proceeded to compare trade as a percentage of Gross Domestic Product (GDP) and ease of doing business ranking. This was to establish links between institutions, legal capabilities and competitiveness. The assumption is that member states with strong regulations, institutions and strong competitive benefits more from anti-competitive practices and economic integration. It is argued that this is the link between competition, economic integration and inclusive or exclusive growth.

IV. Findings

As shown in table 1, Rwanda, Burundi, South Sudan and Uganda do not have competition laws and competition authorities. However, for Uganda and Rwanda, legislations and operationalization are at the final stage (Mbaraga, 2017). There are no sufficient laws on mergers and acquisitions, procurement professionals' regulations and on standards which are vital for successful implementation of anti-competitive practices in most states. These analyses showed that Burundi and South Sudan lagged behind on vital institutions and policies that can support EAC to implement anti-competitive practices.

These divergences in laws and institutions might impede on the ability of the EAC Competition authority to discharge its mandates. Absence of convergence in laws and institutions within the community can lead to differences in reporting standards, lack of unification of standards and professional ethics. The EAC procurement conference that was held in Kigali (Seth, 2014) called for the establishment of the EAC Procurement Secretariat. This is a realization of a need to harmonize laws and institutions within the community.

World Economic Forum collects and analyse competitiveness data for the following indicators: institutions, infrastructure, macroeconomics stability, health and primary education, higher education and trainings. Goods market efficiency. Labour market efficiency, financial market efficiency, technological readiness, market size, business sophistication and innovations.

Using the data for 2015/2016 global competitiveness report as shown in figure 2, and 3, the graphs showed that Rwanda, Kenya, Uganda, Tanzania and Burundi scored high in that order. Out of the 144 countries that were ranked in the report. The ranking reflects the scores were Rwanda, Kenya, Uganda, Tanzania and Burundi were ranked in the same order. There were no data available for South Sudan.

The analysis for ease of doing business in 2017 as shown in figure 4 is consistent with global competitiveness results shown in figure 1 and 2. This seems also the same as regulatory and institutional capacity as in table 1.

An analysis of trade as a percentage of GDP still showed that Rwanda, Kenya and Uganda performed well compared to the other member countries. South Sudan higher GDP is treated as an outlier as comes from oil export which made-up 95% of South Sudan's revenue during

the period under review. This study found that Rwanda and Kenya have better regulations, they also lead in trade as a percentage of GDP, ease of doing business, competitiveness indicators and scores when compared with other member states within the in East Africa Community.

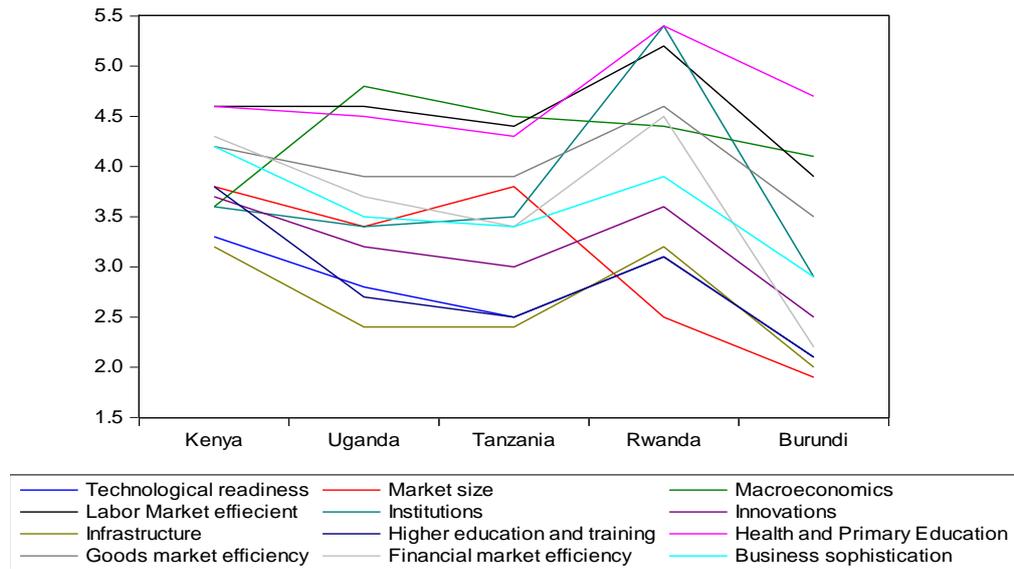
These findings are consistent with this paper's hypotheses – that if anti-competitive laws are implemented within in an economic block without converging laws, and institutions, this paper argued this might not be successful for two reasons. First, there will be no sufficient capacities of some member states to support anti-competitive policies. Second, as member states enjoy different competitiveness capabilities, if no efforts are made to close these gaps, distrust is likely to crop -up and this might cause non-cooperation from some member states and possibly a break up in the long-run as recently witnessed in Britain.

	Procurement Law	Procurement Oversight	Procurement Professional Body	Competition Law	Competition Authority	Standard's body	Laws on M&A
Kenya	Yes	PPOA	KISM	Yes	Yes	KEBS	Guidelines by PPOA
Uganda	Yes	PPDA	IPPU	Progress	Progress	UNBS	No
Rwanda	Yes	RPPRA	OPP	Progress	Progress	RNSB	No
South Sudan	Yes	No	No	No	No	No	No
Burundi	Yes	RPPA	No	No	No	BBS	No
Tanzania	Yes	PPRA	PSPTB	Yes	Yes	TBS	Provided within the competition law

<p>Institute of Procurement Professionals of Uganda</p> <p>Kenya Institute of Supplies Management</p> <p>Public Procurement and Disposal of Public Assets Authority</p> <p>Procurement Oversight Authority</p> <p>Institute of Procurement and Supplies Professionals and Technicians Board</p> <p>Rwanda Public Procurement Regulatory Authority</p> <p>Competition Authority of Kenya</p> <p>Kenya Bureau of Standards</p> <p>Uganda National Bureau of Standards</p> <p>Tanzania Bureau of Standards</p> <p>Fair Competition Authority</p> <p>National Competition and Consumer Protection Policy</p> <p>Order of Procurement Professionals</p> <p>Rwanda National Standards Bureau</p> <p>Burundi Bureau of Standard</p> <p>Regulatory Public Procurements Authority</p>
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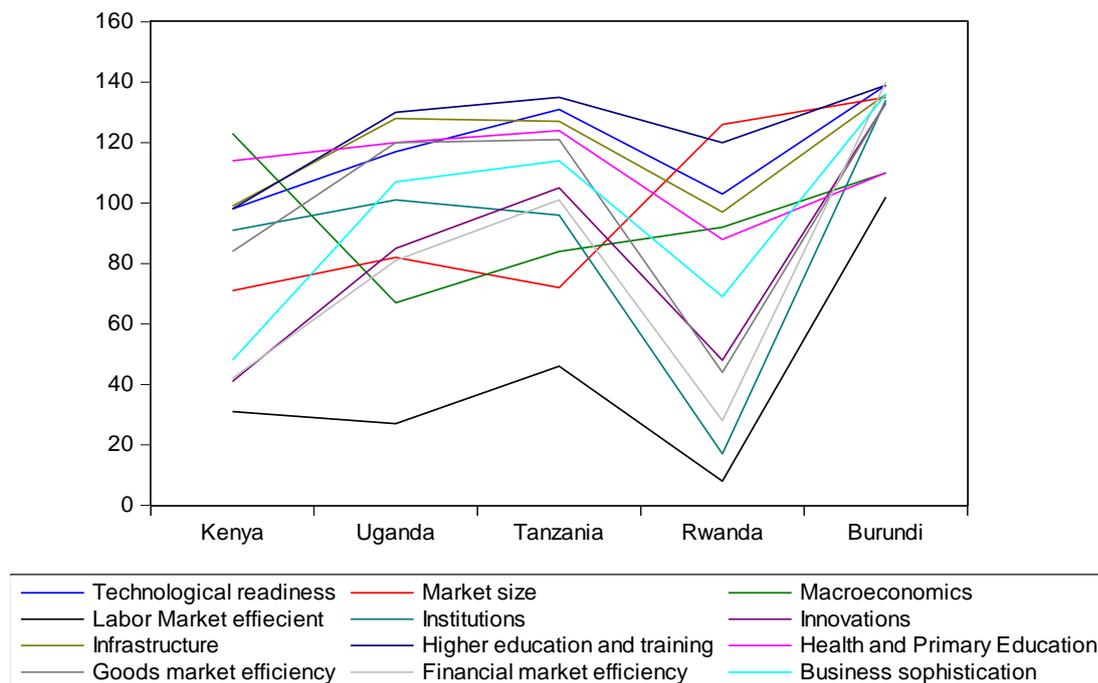
Table 1: Summary of regulations and institutions that handle competition in EAC countries

Figure 2: 2015/2016 EAC countries detailed competitiveness scores



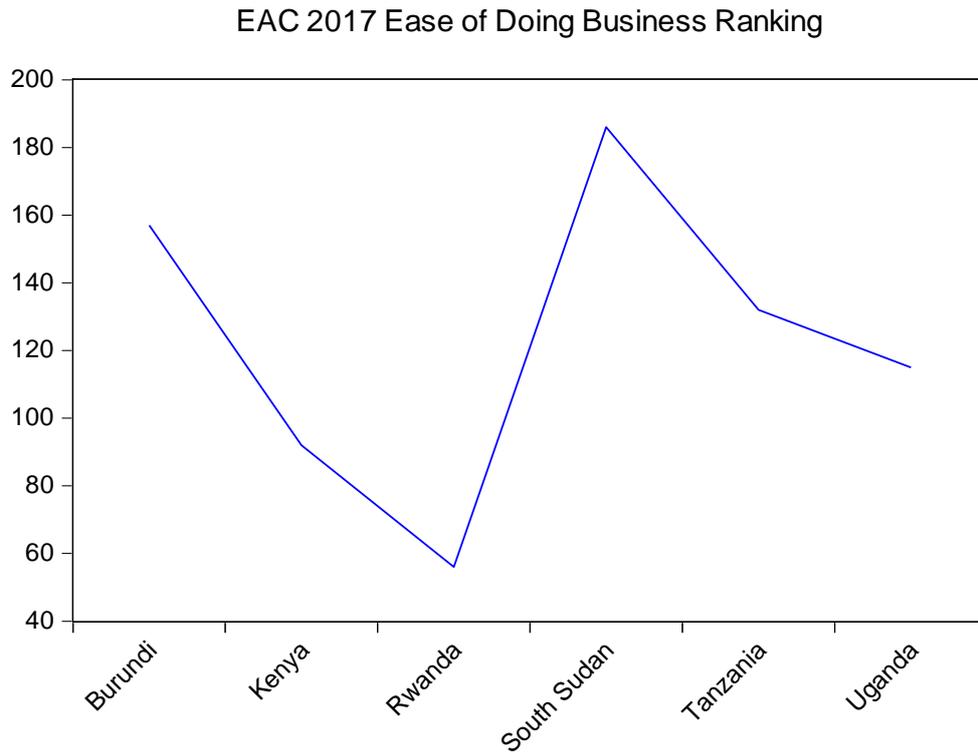
Source: World Economic Forum

Figure 3: 2015/2016 EAC countries detailed competitiveness indicators



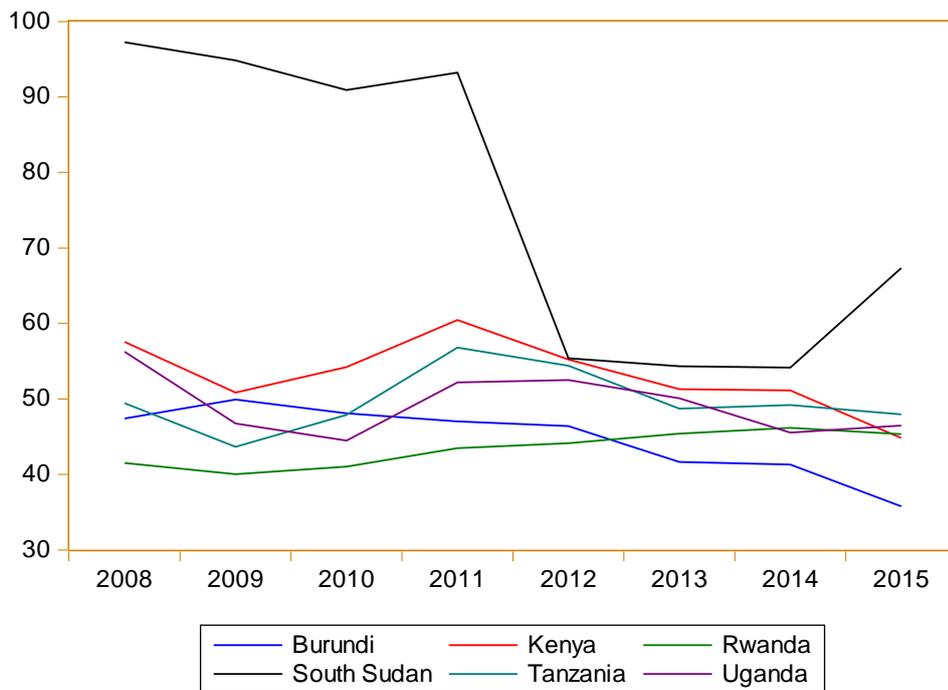
Source: World Economic Forum

Figure 4: EAC countries' ease of doing business ranking for 2017



Source: World Bank Database.

Figure 5: Trade as percentage of GDP for EAC countries



Source: World Bank Database

V. Conclusions and Recommendations

This study found three critical issues that need to be addressed if anti-competitive laws are to be successful; and if benefits from integration and competition are to be shared between member states in an inclusive manner.

- As this study has shown there are various legal and institutional gaps on procurement, standards, mergers and acquisitions. Even where laws or institutions exist, there could be differences in reporting standards, procedures and capacities. This study recommends that all laws and institutions that deal with the competition practices need to be immediately harmonized amongst the member states.
- As found on ease of doing business, global competitiveness and trade as a percentage of GDP, member states have different capabilities with strong economies likely to gain more from competition and integration. If these differences across member states are not addressed, this might create distrust and discontent within the community.
- The paper recommends that inter-sectoral and institutional linkages are created amongst member states to act as a pressure group for member states to adopt best practices. This study argued that competitiveness of all member states is good for long-term sustainability of the community.
- If competition law is passed and competition authority established at the EAC level without strengthening capacities of relevant institutions by pushing for necessary legislations at member states, it will be difficult to implement EAC competition law as there will be no link with the member states. Relevant laws on privatization, industrial policies, and liberalization a need to be instituted and harmonized at member state level.

In conclusion, this paper, found that there are greater disparities between member states in terms of laws, institutions and competitiveness abilities of each member state. This can have a profound effect on the success of the competition law and inclusive growth within the community. This need to be addressed at an early stage of the EAC formation to ensure sustainability of the community.

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