Implementation of the Principle of Variable Geometry as a Tool for Socio-economic Transformation in the East African Community

Edrine Wanyama
Makerere University
Uganda

Introduction

This paper looks at the principle of variable geometry and its impact on the integration of economic communities. Specific focus is put on the East African Community. The paper briefly outlines justifications for application of variable geometry. It further highlights the experiences of East Africa in implementing the principle including in trade and industry, mobility of labour and capital, non-tariff barriers, promotion of the tourism sector, improving the transport system, promoting accountability and monitoring the union among others.

The East African Community (henceforth, EAC) is made up of six Member States, that include Burundi, Kenya, Rwanda, South Sudan, Uganda and Tanzania. Kenya, Tanzania and Uganda have a common history and were the first members of the EAC. They signed and ratified the Treaty for the Establishment of the EAC (henceforth, EAC Treaty). Burundi, Rwanda and South Sudan recently acceded to the Treaty. By acceding to the treaty, they became full members of the EAC. It is important to note that members of the EAC have membership obligations which include *inter alia*, financial contributions, social political commitments and trade and industry. The EAC is, therefore, expected to develop socially, economically and politically in a progressive manner.

Despite the common need for progressive development, some of the Member States were considered as delimiting the progressive development of the EAC. Therefore, the principle of variable geometry also known as "the coalition of the willing" which is also part of the operational principles of the EAC comes into play.

The principle of variable geometry is defined in article 7 (1) (e) and article 1 of the EAC Treaty as; meaning the principle of flexibility which allows for progression in co-operation among a sub-group of members in a larger integration scheme in a variety of areas and at different speeds. This definition has been confirmed in *the Matter of a Request by the Council of Ministers of the East African Community for an Advisory Opinion Application No. 1 of 2008* before the East African Court of Justice (henceforth, the EACJ).1 In this matter, was vrough by the Council of Ministers of the EAC in which they sought the opinion of the EACJ on the Application of the Principle of variable geometry as provided in the EAC Treaty and the application of the principle of variable geometry vis-à-vis the requirement for consensus in decision making.2

Why Variable Geometry

Variable geometry refers to the different/various processes of economic integration, proceeding at different speeds among groups of Members States within the same economic bloc. The value of this principle is usually the need for decision-making where consensus of the majority may delay the process. The principle is important for inclusivity, particularly in light of many stakeholders, participation of all parties in decision-making, cooperation amongst the participants for amicable solutions, equal opportunities for input to the participating members and finding quick solutions to common problems without unnecessary delay.

Otherwise, where variable geometry does not exist, consensus becomes a great challenge thereby affecting decision making. It also presents cases of rigidity in determining consensus thereby leading to frustration and disruption of proposed strategies by majority States where they are not in support of them. In the absence of the variable geometry principle, there is usually a loss of usefulness of consensus building in economic communities, especially where Member States are very many and may as well lead to imposed courses of action by the majority on the other Member States.

The East African Community Experience

Following the decision in *Request by the Council of Ministers of the EAC for an Advisory Opinion* (as already named above), the EACJ was of the opinion, "…that the principle of variable geometry can comfortably apply, and was intended, to guide the integration process and we find no reason or possibility for it to conflict with the requirement for consensus in decision-making."[3] This opinion qualifies the justification for the application of the principle variable geometry and also presents certainty for implementation as there no opportunity for veto power by any given member State.[4]

Following the decision, there have been undertakings of social economic initiatives through the customs union, common market, monetary union and political federation that have the potential of transforming the lives of East Africans. For instance, Kenya, Rwanda and Uganda have made strides including the customs union, regional investments, pro-active implementation of the common market, social infrastructural development and the removal of non-tariff barriers.[5] The time spent at ports doing clearance alongside reduction in costs of clearance have been reduced in Kenya meaning that trade moves faster between Kenya and Uganda and Kenya and Rwanda. These initiatives have not been inclusive of Tanzania and Burundi and South Sudan (South Sudan is the youngest member of the EAC) (Source?).

It is now common knowledge that a citizen from Kenya, Rwanda and Uganda can move to any of these countries without the requirement of a passport as long as he/she has a national identity card from any of the stated countries. He/she can stay in any of the countries for up to six months. This is not the case with the other three countries. All they need is a certificate of identity or interstate passes, which are issued by local immigration authorities at immigration control points.[7] Likewise unlike the recent developments, one did not need a yellow card vaccination certificate to enter Kenya, Uganda, and Rwanda if they were East African.

To promote free movement of labour as well as provide equal opportunities to East Africans in the labour capital, an East African may not require a work permit while in the countries of Rwanda, Kenya and Uganda.[7] This also comes with opportunities to acquire land in the region and as well realise the right to establishment.

The tourism sector which brings a good deal of foreign exchange currency into the region will boom. This is because the arrangement between Kenya, Rwanda and Uganda makes it possible for a tourist to get a 90 days' tourist visa from any of the three countries and have access to any of the three countries without having to pay extra money. This means more jobs, more opportunities in the tourism sector and an increase in the number of tourists into the region.

The agreement on security in the region also creates an opportunity for easier and better identification, in addition to tracking and arresting potential criminals in trans-border crimes like human trafficking, terrorism and drug trafficking. The result is minimisation of social security threats, encouragement of businesses growth as well as prevention and control of money laundering and corruption within the region.

The principle also creates room for trading with other neighbouring States such as the Democratic Republic of Congo (henceforth, DRC). Kenya, can ably access DRC through Uganda or Rwanda. This creates good neighbourli-ness as well as partnership relations in trade and industry while at the same time widens the tax base for the countries within the region.

The coalition further creates wider room for accountability of the Member States for the decisions they make. Decision-making must be done with extra caution as a diverse population stands to be affected. A decision by one country potentially affects another, hence the need to weigh options as between costs and benefits. This in turn improves on service delivery in the region.

Uganda is a landlocked country and therefore spends excessive amounts of monies on import taxes.[8] Implementation of the principle will greatly reduce the tax burden that is borne by Uganda on an annual basis.[9] Hence, monies meant for import taxes in the EAC will be invested in social economic infrastructure for the betterment of the standards of living of Ugandans.

The coalition promotes labour mobility, capital mobility, establishes and harmonises fiscal policies and creates room for friendly business dealings and infra-structural development. This in turn promotes the monetary union which is purely dependent on the aforementioned factors. Consequently, with a successful monetary Union, there will be reduced costs of production and a stronger economy.[10] Further, Exchange risks will be eliminated and prices of goods and services will also be harmonised across the region.[11] Development will head towards balancing the underdeveloped regions to pick up towards development.[12] Though there are risks associated with a monetary union such as loss of monetary sovereignty and loss of direct control of States over monetary instruments, the benefits are more visible.

Transport systems will blossom as seen by the effort of Kenya and Uganda in implementing the standard gauge railway that will improve labour and capital mobility as well as improve the livelihood of East Africans leading to socio-economic development and transformation.

Communication costs have also been reduced in the region. For instance, roaming charges have been removed from the three countries while at the same time, costs of making phone calls across borders in the three States have been reduced by 20 per cent. Text messages, voice calls and data services have also reduced in costs. The impact of this initiative is the promotion of Information and Communication Technology (ICT), which is also part of access to information promotion in the region.

Conclusion and Recommendations

Variable geometry is critical for socio-economic transformation and creates room for advancement while leaving the other Member States the option of joining later without any major hardships. Though associated with some pitfalls, variable geometry is important for integration processes, the absence of which frustrates development within economic communities. Regional economic blocs should, therefore, progressively apply variable geometry for progressive development. The application of this principle should be such that other members can easily key into the development processes.

Notes

1. The Advisory Opinion, Application No. 1 of 2008 is available at http://eacj.org/wp-content/uploads/2012/08/THE-ADVISORY-OPINION-NO-1.-1-OF-2008.pdf (accessed August 6, 2018).
2. Ibid.
3. Ibid.
4. Joshua M. Kivuva, East Africa's Dangerous Dance with the Past: Important Lessons the New East African Community has not Learned from the Defunct, Institute for Development Studies, University of Nairobi, Kenya European Scientific Journal December 2014 edition vol.10, No.34 ISSN: 1857 – 7881, available at http://eujournal.org/index.php/esj/article/viewFile/4843/4564
5. Gerald Ajumbo, "Is Variable Geometry Leading to the Fragmentation of Regional Integration in East Africa?", African Development Bank, available at https://www.afdb.org/en/blogs/integrating-africa/post/is-variable-geometry-leading-to-the-fragmentation-of-regional-integration-in-east-africa-12524/
6. The Citizen, "You don't need a passport to travel all over East Africa", available at http://www.thecitizen.co.tz/News/You-don-t-need-passport-to-travel-all-over-East-Africa/1840340-2215850-10m38g4/index.html
7. Trademark East Africa, "Uganda, Rwanda, Kenya: No more work permits necessary", available at https://www.trademarkea.com/news/uganda-rwanda-kenya-no-more-work-permits-necessary/
8. World Bank, "Landlocked Countries: Higher Transport Costs, Delays, Less Trade," June 16, 2008, available at http://www.worldbank.org/en/news/feature/2008/06/16/landlocked-countries-higher-transport-costs-delays-less-trade (accessed August 6, 2018).
9. Michael L. Faye, John W. McArthur, Jeffrey D. Sachs & Thomas Snow (2004) The Challenges Facing Landlocked Developing Countries, Journal of Human Development, 5:1, 31-68, DOI: .1080/1464988031000166020l; Kacana Sipangule, "Trade needs ports," Development and Cooperation, March 28, 2017, available at https://www.dandc.eu/en/article/landlocked-developing-countries-struggle-high-trade-costs-and-depend-transit-countries (accessed August 6, 2018).
10. Edmund, "Demystifying the East African Community (Part-III)", available at http://blegscope.com/blog/2014/04/demystifying-the-east-african-community-part-iii/
11. Ibid.
12. Ibid.