



East African Community Competition Authority

Strategic Plan, 2019/20 – 2023/24

October 2018

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Acronyms

CAK	-	Competition Authority of Kenya
CCRED	-	Centre for Competition, Regulation and Economic Development
CCC	-	COMESA Competition Commission
COMESA	-	Common Market for Eastern and Southern Africa
EAC	-	East African Community
EACA	-	East African Community Competition Authority
EACJ	-	East African Court of Justice
FCC	-	Fair Competition Commission
GDP	-	Gross Domestic Product
MoU	-	Memorandum of Understanding
SACU	-	Southern African Customs Union
SMART	-	Specific, Measurable, Achievable, Relevant, Time-bound
SWOT	-	Strengths, Weaknesses, Opportunities and Threats
UNECA	-	United Nations Economic Commission for Africa
US	-	United States

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Special thanks also to the EAC Competition Authority (EACA) Commissioners and technical experts from Partner Countries who participated in the strategic planning workshops interrogated and refined the strategic priorities, and in so doing ensured that the plan reflects how the mandate of the EACA is to be operationalised in the next five years. Without their contributions, this strategic plan would not have captured the ambitions for competition enforcement in the region.

The staff of the EACA diligently guided and steered the strategy development process in a way that ensured that the views of Partner States found expression in the priorities expressed in this plan. Special appreciation is due to staff members for the professional manner in which the planning process was directed. The strategic plan was developed with assistance from the Centre for Competition, Regulation and Economic Development (CCRED), based at the University of Johannesburg.

Finally, the efforts to support and operationalise the EACA by the Customs and Trade, Planning, Finance, and Human Resource and Administration directorates are also acknowledged. The growth and development of the EACA would not be possible without the practical support provided by these directorates.

Executive Summary

Over the last decade, the EAC has been one of the fastest growing regions in the world. This improved growth has raised aspirations in the region and subsequently resulted in the formulation of the EAC *Vision 2050*. One of the key concerns outlined in Vision 2050 is the low levels of industrialisation and lack of competitiveness in the region. The EAC is tackling this through policies for industrialisation, targeting structural transformation of the agricultural and manufacturing sectors for value addition and product diversification.

Competition enforcement is regarded as a central plank in the processes of promoting regional integration and competitiveness, with the EAC Competition Act, 2006 (hereinafter the EAC Competition Act) setting out the rules for promoting and protecting fair competition in the Community. Competition enforcement has a critical role to play along with other policies in ensuring the development of fair regional markets, which are not undermined by anti-competitive arrangements. For this reason, the operationalisation of the East African Community Competition Authority (EACA) has been welcomed as it has a central contribution to make in regard to promoting competition in the region. To this extent, the *5th EAC Development Strategy, 2016/17 – 2020/21*, has prioritised the development of a strategic plan and implementation framework for the EACA to guide the process of building capacity to implement its mandate, and mobilising financial resources to ensure sustainability.

This plan charts the strategic direction for the EACA over the period 2019/20 - 2023/24. The direction provided in this plan is expected to put in place the required capacity to progressively implement and enforce the provisions of the EAC Competition Act. The development of the plan benefitted extensively from the inputs made by Partner States in identification of priorities that should be actioned by the EACA.

An in-depth situational analysis of the EACA's external and internal operational environment, its stakeholders and potential risks enabled the identification of specific opportunities and threats, and also existing strengths and weaknesses. The analysis highlights the increase in trade and integration of economies in the region and the increase in cross-border activity as a significant opportunity to promote fair competition as an integral part of this process. Furthermore, the EACA can learn from the experiences of regional and national competition authorities in building its own enforcement record.

In addition, there are positive moves in the process initiated to update and amend the EAC Competition Act, regulations and the development of guidelines. However, the lack of wider awareness of the role of competition policy and law is one of the main threats that has the potential to undermine competition enforcement. The EACA also has to contend with limited resources, experience and expertise in this start-up phase in the development of the institution. This is a key area addressed in the strategy.

Given some of the opportunities, threats, strengths and weaknesses highlighted above, the strategic approach underpinning this strategy consists of three interrelated courses of action, as follows:

- (1) prioritising the implementation of different enforcement and regulatory activities;

- (2) establishing the EACA as a functionally independent institution of the EAC; and
- (3) mobilising the resources to implement its mandate.

This strategic plan approach is framed by the following:

The Vision

Competitive markets that enable inclusive economic integration for shared prosperity and consumer welfare in the East African Community.

The Mission

To promote fair competition and protect consumers in support of regional economic integration in the EAC, through:

- *Regulating market structure and conduct by participants; and*
- *Building awareness and capacity in support of compliance with the EAC Competition Act*

Core Values

- i. Integrity
- ii. Transparency
- iii. Fairness
- iv. Responsiveness
- v. Quality
- vi. Confidentiality

The EACA has adopted three strategic goals for the strategic plan, each with a set of measurable objectives.

First, the EACA aims to establish a competition enforcement record through prioritised implementation of the EAC Competition Act. With the limited resources at its disposal in this start-up phase it will initially start with the build-up of effective merger review, then expand to market studies and enforcement, while putting in place the building blocks for consumer protection.

Second, the EACA seeks to build functional independence in practice through establishing of a fully-functional Office of the Registrar, building institutional capacity, developing an independent corporate identity, and putting in place independent organisational and administrative procedures and systems for effective enforcement.

Third, the EACA has to mobilise resources to sustain the prioritised implementation of the EAC Competition Act by securing core funding from the EAC, procuring donor resources and to leverage strategic partnerships for financial resources.

The EACA will build teams to lead the implementation process with teams focusing on mergers; research, advocacy and awareness raising, market studies and enforcement; consumer protection; and, legal and corporate services in addition to the Office of the Registrar. The key performance indicators provided in the strategy implementation matrix provides a framework for monitoring the performance and evaluating the success of the strategy over the next five years.

Critical milestones need to be achieved over the next five years. A key success factor is the process of creating regulatory certainty through the revision of the EAC Competition Act, updating of regulations and publication of guidelines. Furthermore, cooperation agreements must be entered into with Partner States and the COMESA Competition Commission to set out jurisdictional boundaries and referral procedures.

Effective merger review will be established during this period, including the internal methods, procedures and systems required. The development of a prioritisation framework by the EACA will assist in concentrating the limited resources of the authority in areas likely to make the highest impact. The conduct of four market studies is furthermore expected to provide insights on competition issues in selected markets and to build a knowledge base in this regard. The development of a Corporate Leniency Programme during this period will further bolster the enforcement efforts by the EACA. At the same time, consumer protection functions must be operationalised.

It will be difficult to achieve the above milestones without the establishment of a capable team and the implementation of a focused capacity building programme, including training for new staff, exchanges and secondment, and mobilization of technical assistance. Capacity building efforts will also be aimed at strengthening competition enforcement capacity in Partner States.

1. Introduction

This plan charts the strategic direction for the East African Community Competition Authority (EACA) over the period 2019/20 - 2023/24. The direction provided in this plan is expected to put in place the required capacity to progressively implement and enforce the provisions of the East African Community Competition Act (hereinafter the EAC Competition Act).

The development of the plan benefitted extensively from the inputs made by Partner States, EACA Staff, Secretariat staff and the EACA Commissioners in identification of priorities that should be actioned by the EACA. The strategic approach adopted in this strategy is in response to the key issues that emerged from the in-depth situational analysis that informed the strategy. It seeks to take advantage of the opportunities presented, build on the strengths identified, avoid the threats posed and address the weaknesses.

The strategy sets out the analysis undertaken with reference to the external and internal operating environment of the EACA, stakeholders and risks. It captures the strategic focus in terms of the vision, mission and values of the EACA. It describes the rationale for the strategic approach and priorities identified. The strategy provides an overview of the organisation design and the capacity that needs to be established over the next five years to effectively implement its enforcement mandate. It concludes with the framework for monitoring and evaluation, and identifies the financial resource requirements.

1.1. Background

Globalisation of economic activity and cross-border flows of trade, investment and finance are key drivers of development of competition regimes at the regional level. To this extent, the *Treaty for the Establishment of the East African Community* recognises the importance of promoting competition in the region and makes explicit the need to promote a competitive industrial sector in Article 79.¹ The *Protocol on the Establishment of the East African Customs Union* confirms the important role of competition in regional integration. Article 21 provides for the prohibition of practices that prevent, restrict and distort competition in line with the EAC competition policy and law. The *Protocol on the Establishment of the East African Common Market* further asserts the importance of competition in several articles. Article 5 mandates cooperation to ensure fair competition and consumer welfare as part of facilitating a Common Market, while Articles 33 – 37 prohibits agreements, subsidies and discriminatory public procurement practices that prevent, restrict and distort competition.

In light of the above obligations, the EACA as an institution of the EAC, was established by Article 9(2) of the Treaty for the Establishment of the East African Community and Section 37 of the EAC Competition Act, and regulated within the framework of Article 21 of the Protocol on the Establishment of the EAC Customs Union and Article 33 of the Protocol on the Establishment of the EAC Common Market Protocol. The EACA is mandated to enforce the EAC Competition Act by promoting and protecting fair trade and providing for consumer welfare in the Community. The EACA has the objectives in line with Section 3 of the EAC Competition Act:

¹ The Treaty for the Establishment of the East African Community, 1999.

- (a) enhance the welfare of the people in the Community by protecting all market participants' freedom to compete by prohibiting anti-competitive practices by:
- i. protecting the opening of Partner States' markets against the creation of barriers
 - ii. interstate trade and economic transactions by market participants;
 - iii. guaranteeing equal opportunities in the Community to all market participants in the Community, and especially to small and medium-sized enterprises;
 - iv. guaranteeing a level playing field for all market participants in the Community by eliminating any discrimination by Partner States on the basis of nationality or residence;
 - v. providing consumers access to products and services within the Community at competitive prices and better quality;
 - vi. providing incentives to producers within the Community for the improvement of production and products through technical and organisational innovation;
 - vii. promoting economic integration and development in the Community;
- (b) enhance the competitiveness of Community enterprises in world markets by exposing them to competition within the Community;
- (c) create an environment which is conducive to investment in the Community;
- (d) bring the Community's competition policy and practice in line with international best practices; and
- (e) strengthen the Partner States' role in relevant international organisations.

The main functions of the EACA are set out in Section 42 of the EAC Competition Act and can be summarised as:

- regulation of market structure
- regulation of market conduct
- protecting consumer welfare
- competition enforcement; and
- advocacy and capacity building.

The EACA is in the early stages of establishment, and has commenced initial operations. The *5th EAC Development Strategy, 2016/17 – 2020/21*, sees the role of the EACA as critical and prioritises the development of a strategic plan and implementation framework, building of adequate capacity to implement its mandate, and mobilisation of financial resources to ensure sustainability of the EACA. In view of this, the EACA initiated the development of its strategic plan in June 2018. The strategic plan sets out key priorities for effective realisation of the

objectives of the EAC Competition Act, and to align this with the broader strategies and policies of the East African Community (EAC) as a whole.

1.2. Strategic planning process

The underlying approach to the development of the strategic plan is based on the logic model approach (see Annexure 3). This model is premised on a vertical hierarchy in which inputs produce activities, activities deliver outputs and in turn lead to outcomes and development impact.

A two-phased approach was adopted in the planning process. The first phase focused on an assessment of the internal and external environments in order to identify the key issues and trends that are likely to influence or impact the organisation over the next several years. Stakeholder consultation in Partner Countries was an important part of this phase. The second phase consisted of the strategy formulation phase, in which a strategic planning session with key stakeholders decided on the range of options and priorities for implementation in the next five years.

A series of analytical tools supported the assessment of the context, as part of the situational analysis. An analysis of relevant documentation was undertaken to identify key themes related to the main factors influencing competition enforcement; consider the key challenges faced and experienced in competition enforcement in the region; and, focus on the options and priorities available to the EACA for effective enforcement. Furthermore, a stakeholder analysis was conducted in which the major stakeholders were identified, their expectations assessed and the level of influence they have over enforcement outcomes considered.

The assessment enabled the team to develop a SWOT analysis in which the key opportunities and constraints were defined. The results of the SWOT analysis framed the identification and selection of the options and priorities for competition enforcement in the EAC.

Once strategic priorities were identified and workshopped in the strategic planning session with key stakeholders, a SMART approach was adopted defining concrete actions linked to achievement of goals and objectives. The development of the implementation plan further assessed the resources requirements, both human and financial. The use of SMART objectives established the basis for the development of a monitoring and evaluation framework setting out the mechanisms by which to measure and monitor performance over time.

2. Situational Analysis

A set of key developments and trends informing and potentially influencing competition enforcement in the EAC was identified and captured in the inception report. These issues and trends were the subject of consultations in which the views of stakeholders in Partner States were canvassed. This led to the prioritisation of the key issues that inform the strategic context of the EACA, and shaped the choices and options available for strategic action.

2.1. External environment

The following trends, issues and developments are considered as the most significant for the EACA's planning process. These are issues which are external to the EACA itself and include developments in the EAC and its Partner States, such as the development of national competition authorities and growth in regional mergers, as well as global developments.

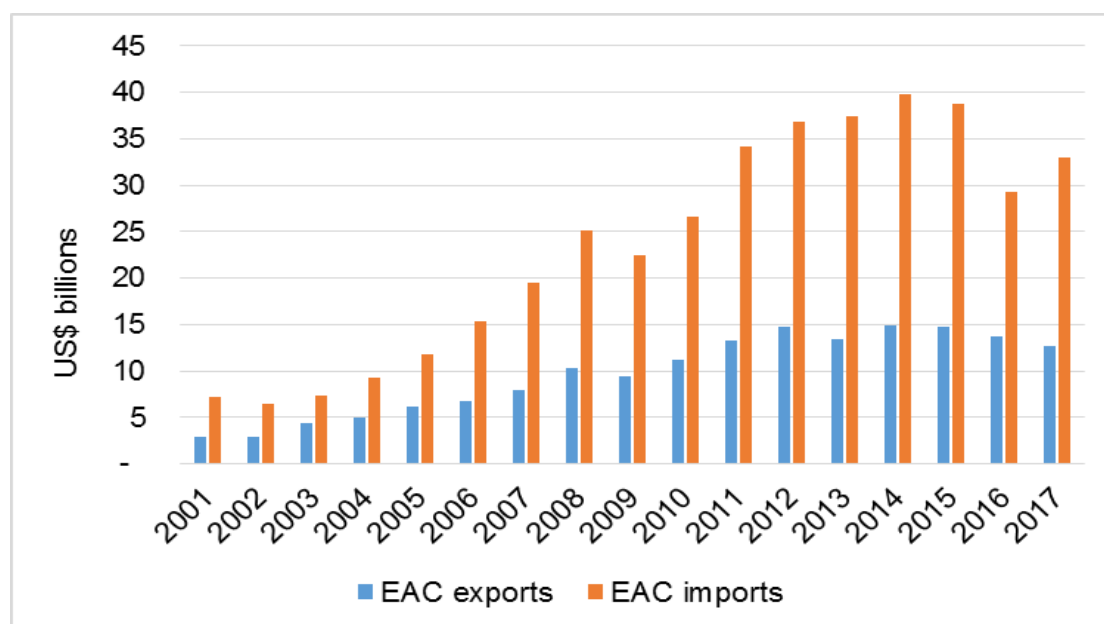
2.1.1. Globalisation, regional integration and cross-border business activity

A number of cross-cutting and mutually reinforcing factors will continue to influence economic outcomes in the EAC and Partner States, and in turn the activities of the EACA. The EACA is being operationalised at a time when the external environment is being shaped on an ongoing basis by globalisation and trends in international trade and investment (including from emerging economies), increased (and unbalanced) trade and patterns of growth and development in Partner States, and the impact of strategies and policies to enhance regional integration in the EAC and Africa as a whole.

Trends in growth and trade, and regional integration

The EAC economy as a whole has been growing rapidly over the past decade and more, with national economies at different times recording some of the highest growth rates in the world. This has been consistent with strong growth in trade flows by the EAC (Figure 1). However, there has been a growing trade deficit alongside stronger growth of trade with the world than intra-EAC trade, albeit with indications of a turnaround in the patterns in recent years. The overall picture reflects a key challenge of the EAC which is to invest in diversified industrial capabilities, including in agro-processing which will be supported by a bigger and more integrated regional market and intra-regional trade flows.

Figure 1: EAC imports and exports with all international partners

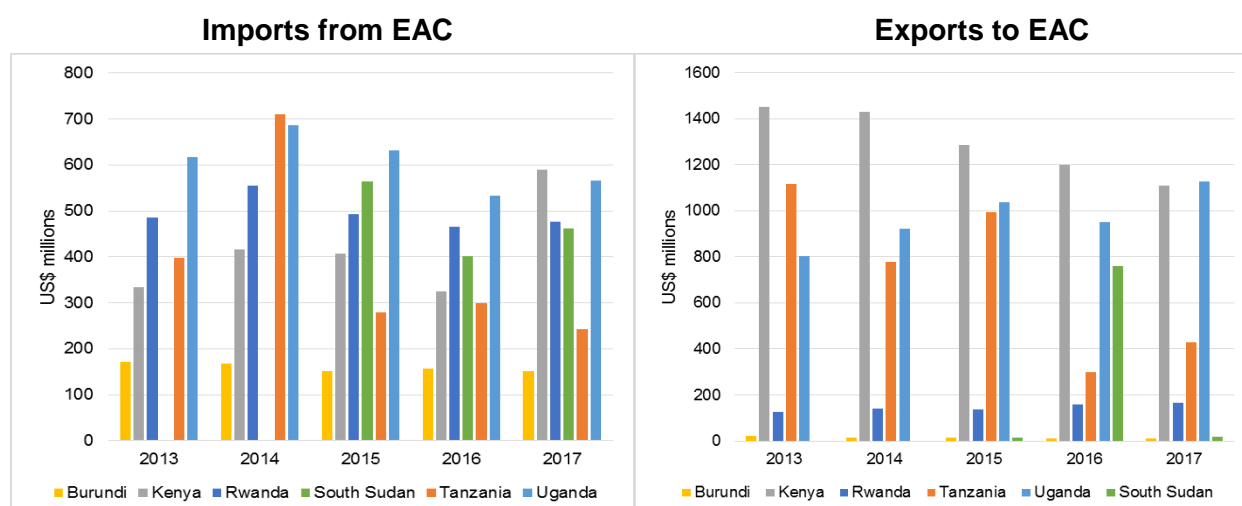


Source: Trade Map (UN Comtrade data)

The economies of the region have liberalized and are more exposed to shifts in global demand and growth patterns, as well as patterns in global investment and trade, including inward FDI and activity in mergers and acquisitions. Trends in terms of global mergers (such as those in agro-chemicals and pharmaceuticals in the past five years) are directly affecting the nature of trade and competition in regional markets, and present a threat in terms of the ability of domestic firms to compete with global giants.

Within the EAC, the trade flows vary, associated with the sizes of the economies and the differences in economic structure and patterns of comparative advantage (Figure 2). This is natural, however, it also means that tensions will arise if integration does not underpin an overall shared growth. Competition enforcement has a critical role to play along with other policies in ensuring the development of fair regional markets which are not undermined by anti-competitive arrangements. It is concerning that from 2013 to 2017 intra-EAC trade flows declined and this points to the need to advance an agenda for deepening regional integration through stronger regional institutions.

Figure 2: Intra-EAC Imports and Exports



Source: EAC Trade and Investment Report 2017

Note: Data from South Sudan stated from 2015 to 2017 in EAC Trade and Investment Report 2017.

Within the EAC, Kenya is a more significant exporter, while other countries have been larger importers. However, 2017 illustrates the potential for beneficial changes from integration. As Kenya's economy grew so did imports from its EAC neighbours. Notably, these imports have been mainly in terms of various agricultural and related products, namely: residual and waste from food production including animal feed and oil cake; edible vegetables and roots; dairy products; and cereals. These products accounted for more than 50% of Kenya's 2017 EAC imports.

Growing incomes in urban areas mean rising demand for food products. It is crucial for food production *within* the EAC to become more competitive, rather than this need being met by deep sea imports from the rest of the world. The 2017 developments are positive in this regard, and point to the potential for mutually beneficial growth in agro-processing in the EAC as a

whole, linked with greater intra-EAC trade in these products. Competition challenges in agriculture value chains are perhaps the most important priority for the EACA. The recent developments point to the significant existing potential for trade and integration of economies in the region and potential areas for further investments across borders in the EAC as local trade is linked with growth across partner states.

The regional growth is also reflected in a greater level of cross-border mergers and business activity. These involve international and regional companies. Indeed, businesses are rapidly internationalizing to the extent that it may be difficult to ascribe a national identity to a particular company and they are, in fact, truly transnational. The internationalization of business is a key rationale for a regional competition authority if merger evaluation is to be effective. The links between the EACA and national authorities (including the EACA supporting countries who are in the process of developing national authorities) is an important area for the EACA's strategic attention. There is also an opportunity in this regard to the extent that expertise and enforcement experience can be 'shared' by more experienced national competition authorities (such as those in Kenya and Tanzania) with those in the other Partner States. There is therefore an opportunity to develop frameworks which enable this level of collaboration between countries, which was emphasised in the stakeholder consultations.

Vision 2050 and regional industrialisation

The ambition of the EAC as stipulated in Vision 2050 is *to become a globally competitive middle-income region with high quality of life for its population based on the principles of inclusiveness and accountability*. This is to be achieved through widening and deepening economic, political, social and cultural integration of the Community, as per the mission set out in Vision 2050. The outcomes aspired to by the EAC are:

- access to affordable and efficient transport, energy, and communication for increased regional competition
- enhanced agricultural productivity for food security and a transformed rural economy;
- structural transformation of industrial and manufacturing sector;
- effective and sustainable use of natural resources;
- leveraged tourism and services value chains; and
- well-educated and healthy human resources.

Over the last decade, the EAC has been one of the fastest growing regions in the world. This improved growth has raised aspirations in the region and subsequently resulted in the formulation of the EAC Vision 2050.² One of the core concerns outlined in Vision 2050 is the low levels of industrialisation and lack of competitiveness in the region. The EAC aims to address this issue by establishing policies that induce industrialisation built on structural transformation of the agricultural and manufacturing sector through high value addition and product diversification based on the comparative and competitive advantages of the region.

² EAC Secretariat. (2016). *Vision 2050: Regional Vision for Socio-Economic Transformation and Development*.

The key industries identified and prioritised for industrialisation are:

1. *Manufacturing* – Contributed an average of 8.2% to EAC's GDP in 2015. Manufacturing also links to multiple industries and is a significant source of employment because some sectors are labour intensive along their value chains. The EAC has recognized that the region has comparative advantage in iron-ore and other mineral processing; fertilizers and agro-chemical production; pharmaceuticals, petro-chemicals and gas processing, agro-processing and energy and bio fuels.
2. *Agro-processing* – this set of activities, linking agriculture and manufacturing has the most growth potential. It is also the biggest direct employer and has the highest employment potential across all manufacturing sectors in the region. The priority sub-sectors identified are leather and leather products, cotton (textile manufacturing), dairy, meat and maize.
3. *Extractive Industries (Mining)* – A significant contributor to GDP in all EAC Partner States, but the contribution is not equivalent to the value of products resultant from the industry and employment in the industry has not been significant. Therefore, this is an area in which the region has identified potential to develop value chains and linkages.
4. *Construction* – A key challenge in the region is poor infrastructure, as such the Partner States allocated large portions of their annual budget to construction of housing, roads and civil works in 2009. The EAC will therefore make efforts to analyze the construction industry in detail, and thereafter attempt to harmonize policy and regulation in member states for regional integration.
5. *Pharmaceutical Industry* – The EAC region has high prevalence of disease and a huge population base, therefore the pharmaceutical industry is important for improving the overall health of Partner States. Although the majority of pharmaceuticals in the region are imported, the EAC has recognized the industry as crucial for structural transformation and diversification of the region's industrial base. The industry is said to require measures to ensure full capacity operation and effective Research and Development.

Vision 2050 notes the importance of enhancing the competitiveness of the region, particularly in the above industries. The areas identified are critical for growth in the region, leveraging existing capabilities and resource endowments. However, it is important to recognise that these are generally sectors in which there has been extensive abuse of dominance and cartel behaviour in other countries in Africa. Competition enforcement, therefore, has a crucial role to play in supporting the development of competitive markets and competitiveness of the region in line with Vision 2050. It emphasises the industrialisation of the region as a path to competitiveness.

The development of industrial capabilities under the framework of *The East African Community Industrialization Policy 2012-2032* is key in this regard. It outlines industrial policies and strategies to promote industrialization and the competitiveness of the region. The relevant aspects of the key policy targets and strategies are outlined in the table below:

Table 1: Key EAC Industrialisation Policy objectives and strategies, 2012 - 2032

Policy Objective	Policy Strategy
Promoting the Development of Strategic Regional Industries/Value Chains and Enhance Value Addition	<ul style="list-style-type: none"> • Institute a framework for public-private sector partnerships. • Formulate regional incentive schemes to stimulate investment in regional industries. • Facilitate the development and dissemination of market intelligence and trade information on opportunities available in each strategic regional industry. • Set up financial support vehicles or mechanisms for strategic regional industry project. • Facilitate the development of regional brands and packaging programs in regional industries identified.
Develop Supporting Infrastructure Along Selected Economic Trade Corridors	<ul style="list-style-type: none"> • Map potential growth areas where integrated industrial corridor programmes can be initiated. • Identify and develop opportunities along the identified economic corridors ideal for private sector participation and thereafter devise strategies to mobilize private sector investors. • Develop effective ways and thereafter regional frameworks to facilitate undertaking joint promotion and coordination of investment activities along key economic corridors.
Facilitating the Development of Micro, Small and Medium Enterprises (MSMEs)	<ul style="list-style-type: none"> • Facilitating the establishment of regional information portal to provide regular information on business potential, market opportunities and access to finance. • Facilitate the development of MSME clusters to enhance rural industrialization. • Strengthen national and regional level MSME associations. • Facilitate the coordination of Partner State policies and legislation on MSMEs.
Strengthening the Business and Regulatory Environment	<ul style="list-style-type: none"> • Remove administrative, fiscal and legal restrictions to intra-common market investment. • Create and maintain a predictable, transparent and secure investment climate. • Develop a regional competitiveness framework to facilitate benchmarking of industrial performance. • Harmonize taxation and incentive policies to create level playing field and avoid harmful competition amongst Partner States.

Source: EAC Industrialisation Policy, 2012 - 2032

Competition is regarded as central to regional integration and industrial development for a number of reasons. Firstly, regional integration is premised on the notion of fair competition across markets of Partner States. Secondly, competition in the regional market is important for international competitiveness of businesses and the development of industries. Thirdly, competition is part of supporting a more equitable distribution of benefits from regional integration between and amongst consumers and producers of Partner States. Given this context there is an important role for competition enforcement in ensuring that integrated markets function optimally and without distortion from restrictive practices with cross-border dimensions.

Regional authorities such as the EACA are well placed in that they have jurisdiction over multiple territories in which restrictive practices may be active and, if processes are optimised, are able to offer scale economies in enforcement which may be particularly beneficial to small or new authorities, as well as covering countries without national authorities.³

The 5th *EAC Development Strategy, 2016/17 – 2020/21*, sees the role of the EACA as critical and prioritises the development of a strategic plan and implementation framework, building of adequate capacity to implement its mandate, and mobilisation of financial resources to ensure sustainability of the Authority. In addition, the annexed Implementation Matrix calls on the EACA to:

- Regulate cross-border mergers, the grant of Partner State subsidies, anti-competitive practices, public procurement and practices that affect consumer welfare in the EAC region.
- Promote public awareness and sensitisation of the EACA mandate, functions and activities.
- Create and enhance visibility and image for EACA in the EAC region.
- Enhance enforcement of competition and consumer welfare through regional and international co-operation.
- Review of the EAC Competition Act, 2006 and EAC Competition Regulations, 2010.
- Develop subsidiary legislation to address gaps in the EAC and Partner States' competition laws.

Cross-border mergers and acquisitions

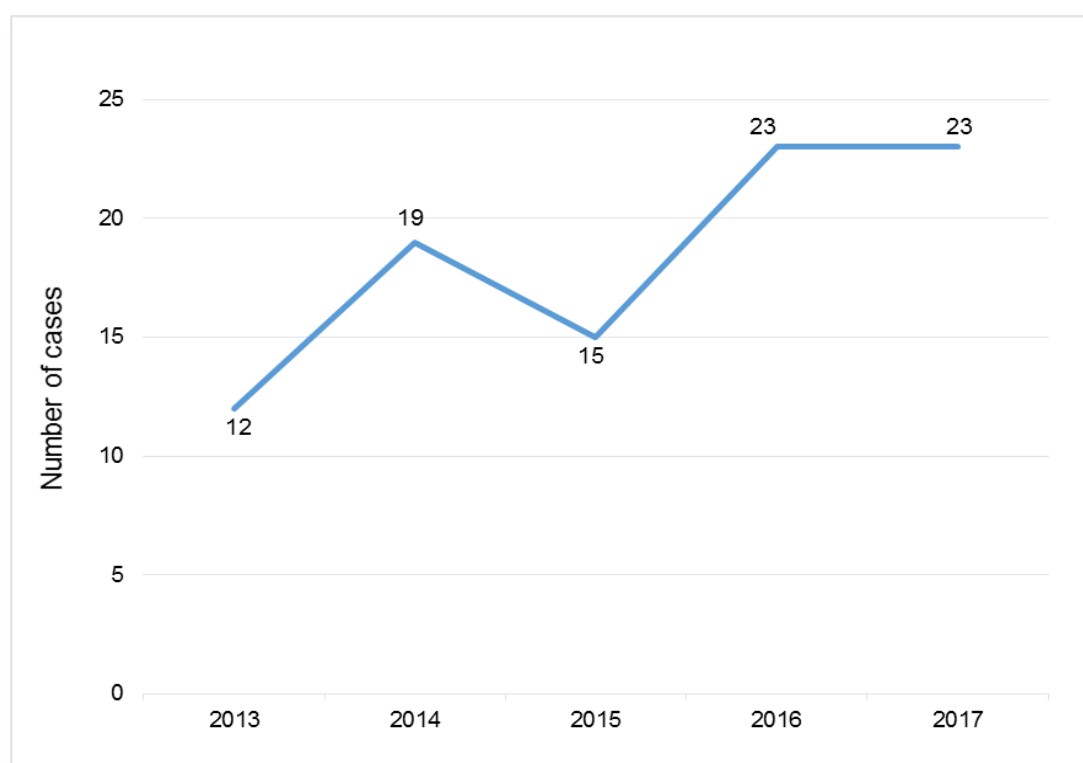
Within this context, the EACA will likely see ongoing increases in merger activity, with cross-border merger activity associated with increased regional integration, as well as the impact of inward acquisitions into the EAC by multinational companies. This means that markets are becoming increasingly concentrated at a regional level, driven by both exogenous and endogenous factors, and effective merger review on the part of the EACA is essential.

In this regard, the trends in cross-border merger cases considered by the COMESA Competition Commission (CCC) are illustrative. Of the more than 150 merger cases assessed by the CCC over 2013 to 2017, 92 mergers that had direct implications for countries in the EAC

³ OECD Policy Roundtable, Improving International Co-operation in Cartel Investigations, 2012, available [here](#)

territory were approved by the CCC.⁴ On an annual basis, the number of these mergers (based on decision dates) has increased significantly from 12 in 2013, to nearly double in 2016 and 2017 at 23 each year (Figure 3). Although not included in the figure, by July 2018 the CCC had received 19 merger notifications filed in 2018 (although many of the cases are still pending) – this suggests that the total number of cases for 2018 will likely be even higher than that in 2017. The implication from a planning perspective is that even from the outset, the EAC will face a large number of cross-border merger transactions, some of which will be complex mergers, to assess should the trend in terms of cross-border mergers continue.

Figure 3: Total COMESA mergers involving EAC countries, 2013 – 2017



Source: COMESA Competition Commission website

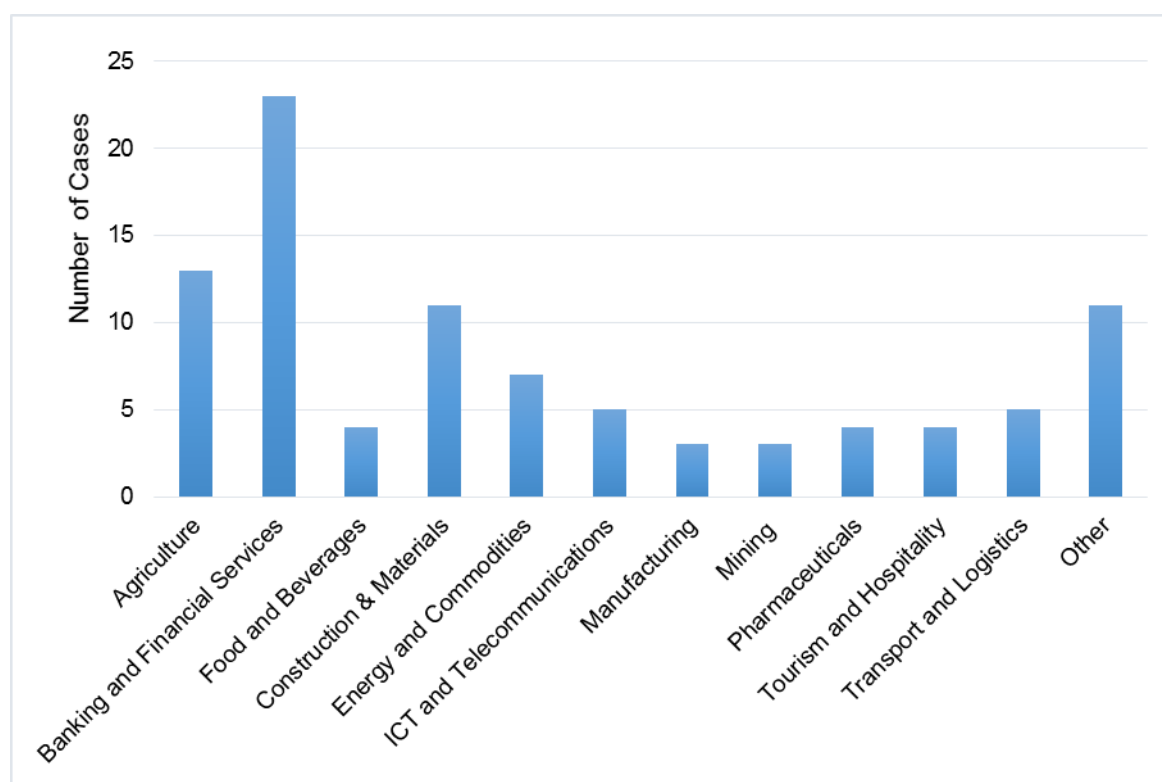
The sectors in which the CCC merger cases involving EAC countries have occurred is also relevant to note (Figure 4). A large proportion of the mergers (23, or around one quarter) have occurred in the Banking and Financial Services sector, including the insurance industry which accounts for 10 of these transactions. Furthermore, there has been a substantial number of CCC mergers in Agriculture (13); Construction and Construction Materials (11); Energy and Commodities (7); Information and Communication Technology (ICT) and Telecommunications (5); and, Transport and Logistics (5).

In terms of the mergers in agriculture, mergers of large agri-business and agro-chemical companies such as in fertilizer are included, which speaks to increased concentration in the provision of key inputs to agricultural production (in line with the global trend in this sector). Similarly, the EAC has in its development strategies identified comparative advantage in petrochemicals, energy and gas-processing. However, increased concentration in these industries

⁴ Based on an assessment of cases reported on the CCC website for the period 2013 to 2018.

over time means greater market power on the part of companies, which may lead to adverse outcomes in terms of investment and consumer welfare. That being said, there are of course important efficiencies which can arise from mergers, such as in terms of investments, economies of scale and innovation. However, the economic incentive of firms to employ effort and invest to realise these efficiencies still relies on the presence of independent, effective rivals to challenge firms with market power in the broader EAC territory.

Figure 4: COMESA total mergers involving EAC countries by sector, 2013 – 2017



Source: COMESA Competition Commission Merger Cases

The trends in cross-border merger activity, and reflection on the CCC's experience, raises important opportunities and threats for EACA. The previous and ongoing work of the CCC presents an opportunity to learn from the experiences of the CCC and adapt it to the EAC context, including operationally and in terms of the key sectors on which the EACA could focus its work in the next five years. The large number of transactions with some impact on EAC Partner States means there is an opportunity in the early period of operationalisation for the EACA to develop internal capacity and experience in assessing competition cases through the merger control regime. This is in line with the experience of many national jurisdictions in Africa.⁵ Furthermore, the number of transactions, and the possibility that this number may continue to grow over time, presents potential for a stream of revenue for the EACA which can be leveraged to build capacity and bring in technical skills in other areas of enforcement.

However, while there are these opportunities, it is also necessary to recognise the risk inherent in the EACA having to deal with a large number of merger cases, including the risk of delays and capacity constraints in effectively evaluating multiple transactions being notified right from the initial operationalisation of the EACA.

⁵ Burke, M., Paremoer, T., Vilakazi, T. and Zengeni, T. (2017), 'Cross-cutting competition issues in regional industrial development', Centre for Competition, Regulation and Economic Development (CCRED) Working Paper 20/2017.

2.1.2. Growth in competition regimes and state of competition enforcement in the EAC and Partner Countries

A study by the World Bank highlighted the rapid proliferation of competition laws and institutions since the turn of the century across Africa, noting that the number of jurisdictions with competition laws nearly tripled since the year 2000.⁶ This trend is also visible in Partner States of the EAC with Burundi, Kenya, Rwanda and Tanzania having enacted legislation to regulate competition, in addition to legislation adopted at the regional level by the EAC.

Table 2: Adoption of competition laws in the EAC

Jurisdictions	Competition Law Enacted	Year Operationalised	Total Staff	Approximate Revenue (US\$ million)
EACA	2006 ⁷	2016	2	1,0
Burundi	2010 ⁸	-	-	-
Kenya	2011	2011	60	6.8
Rwanda	2012 ⁹	-	-	-
South Sudan	-	-	-	-
Tanzania	2003	2007	58	3.1
Uganda	-	-	-	-

Source: Partner States and Annual Reports of Competition Authorities

The growth in competition regimes in national jurisdictions is part of a global trend aimed at promoting competitive markets and regulating market conduct by participants. Competition policies and laws are intended to protect competition as a key mechanism for allocating resources and structuring economic exchange.¹⁰ To date, competition laws have been adopted in Burundi, Kenya, Rwanda and Tanzania. A draft competition bill was published in 2004 but was never adopted in Uganda. It should be noted that it takes on average of four years from the time the law is promulgation to the start of its implementation, according to one study.¹¹

Although a competition law has been adopted by Burundi in 2010, limited resources and uncertainty about the independence of the competition authority have hampered the implementation of the law. The law is yet to be implemented and the competition authority is yet to be established. Rwanda adopted its competition law in 2012. Law N°36/2012 on Competition and Consumer Protection makes provision for the establishment of a Competition and Consumer Protection Regulatory Body. During stakeholder consultations it was revealed that

⁶ The World Bank Group. (2016). *Breaking Down Barriers: Unlocking Africa's Potential through Vigorous Competition Policy*. Washington, DC: World Bank Group.

⁷ EAC Competition Regulations were adopted in 2010 by Council of Ministers. The EAC Competition Act came into force on 1 December 2014.

⁸ Competition Act, Law N° 1/06 of 25 March 2010.

⁹ Law N°36/2012, Competition and Consumer Protection of 21 September 2012

¹⁰ Gerber, D. (2010). *Global Competition: Law, Markets and Globalisation*. Oxford: Oxford University Press.

¹¹ The World Bank Group. (2016).

the establishment of an independent regulatory body was imminent, although a timeframe was not provided. At present, the Ministry of Trade and Industry in Rwanda is vested with the responsibility for dealing with competition-related infringements. Partner State consultations in South Sudan emphasised the need for capacity building support to establish a competition regime in the country, as limited progress has been made in this regard. A National Competition and Consumer Protection Policy was adopted in Uganda in 2014.¹² This followed key insights drawn from a draft Competition Bill published in 2004, and international best practice. The Ministry of Trade, Industry and Cooperatives serves as the anchoring agency and focal point for competition-related matters in the country.

The Competition Authority of Kenya (CAK) has, since its establishment in 2011, made significant strides in the implementation of the country's competition law and regulations. In this period, the CAK has established a core team of skilled, knowledgeable and experienced staff; become visible and established credibility relative to competition matters; and established working networks with both local and regional stakeholders.¹³

In Tanzania, the Fair Competition Commission (FCC) is well-established with a credible and effective authority. The Fair Competition Act was adopted in 2003 and the FCC was set up in 2007 when the Act became operational.¹⁴ It has built up extensive experience in merger review and enforcement.

The EAC enacted a competition law in 2006 and came into force on 1 December 2014. The EACA has commenced initial operations and the swearing in of the Commissioners in November 2016 signalled an important step in this process. The EACA has been engaged in a number of activities since coming into operation, including reviewing and assessing its merger control framework and considering amendments to the EAC Competition Act.

The description above outlining the state of development of competition regimes in the EAC suggests that competition enforcement in the region is in its infancy, with the exception of jurisdictions such as Kenya and Tanzania. Uganda is yet to adopt a competition law, Burundi and Rwanda have adopted laws but still need to establish competition authorities to enforce the law. Countries with newly adopted competition regimes face a broad range of challenges, particularly in the period following the adoption of the law and start-up of a new authority.

The uneven development of competition regimes in Partner States and the regional level, and the limited capacity for competition enforcement are both a threat and an opportunity. Effective regional competition enforcement can benefit immensely from strong competition enforcement capacity in Partner States that can support the EACA in many different ways, including drawing on human capacity and experience in national authorities. The limited enforcement capacity in Partner States is, therefore, a threat to effective regional enforcement. At the same time, it provides an opportunity to prioritise capacity building for the EACA in ways that benefit Partner States. In practical terms, this could mean arranging capacity building workshops for the EACA in which staff from member countries could participate. This was a consistent theme that

¹² The Republic of Uganda. (2014). *National Competition and Consumer Policy: Building Competition for efficiency and Enhanced Consumer Welfare*. Ministry of Trade, Industry and Cooperatives. Kampala: Uganda.

¹³ Competition Authority of Kenya. (2017). Strategic Plan (2017/18 – 2020/21).

¹⁴ Fair Competition Commission. (2017). Annual Report and Audit Accounts for the Year Ended on 30th June 2016.

emerged during Partner State consultations. Furthermore, sharing of country experiences in this regard is especially important.

Peace, security and a stable EAC region provides not only the foundation for sustainable development of Partner States through investment and regional economic integration but is also necessary for the development of strong competition regimes in countries. The *5th EAC Development Strategy* notes the achievement of a number of milestones towards the political stability, including the institutionalisation of regional mechanisms and programs for early warning and disaster preparedness; Conflict Prevention, Management and Resolution (CPMR); refugee management; and combating illicit small arms and light weapons. Furthermore, the conclusion of the Protocols on Peace and Security (2013) and Co-operation in Defence Affairs (2012) have also assisted in this regard.

2.1.3. Divergent regulatory frameworks and multiple jurisdictions

The provisions of the EAC Competition Act are regional in scope and are applicable to economic activities having cross-border effect. There are nevertheless potential overlaps between the jurisdiction of the EACA and national authorities of Partner States. Where there are overlaps in jurisdiction, differences in regulatory frameworks, including definitions, economic tests used and procedures may be problematic. For example, there is some uncertainty about whether a national authority can prohibit a merger that has been approved by the EACA, if a national authority uses a different standard and arrives at a different conclusion.¹⁵

Moreover, Burundi, Kenya, Rwanda and Uganda are also members of COMESA and are subject to the COMESA competition regime. Therefore, an additional challenge with implementation of the EAC competition regime, in particular for Kenya which also has national competition law, is that no mechanism has yet been established to facilitate the interaction between the EAC competition law, their national competition laws and COMESA. As such, a merger transaction in Kenya, for example, may fall within the ambit of three separate regimes, and in theory may need to be notified to the EACA, the CAK and COMESA Competition Commission.

This multiplicity of notifications would result in increased transaction costs and possible delays in obtaining merger clearances, making these regions potentially less attractive to investments. This poses a threat to regulatory certainty insofar as competition enforcement in the region is concerned. This challenge points to the need for the EACA to initiate collaborative arrangements that set out how cooperation will be effected to provide stakeholders with greater certainty in terms of divergent regulations and overlapping jurisdictions.

2.1.4. Awareness of the role of competition policy and law in the EAC

The lack of awareness of the role of competition policy and law and the functioning of competition authorities was highlighted as a key constraint in Partner State consultations. The lack of experience countries have in implementing competition regimes was cited as one of the key reasons for the lack of awareness among the public and other key stakeholders at large.

¹⁵ World Bank Group. (2017). Review and assessment of the EAC merger control framework. Prepared for the EAC Competition Authority by Macmillan Keck.

The need to explain the benefits of a competitive environment and the harm that can be caused by high levels of market concentration and anti-competitive behaviour in plain language is crucial in this regard. Creating awareness of the importance of competition and competitive markets for regional development and integration, together with effective enforcement, are key building blocks for the development of a competition culture in the long term. This is especially important as developments such as e-commerce and the spread of supermarkets are rapidly impacting on markets across the region. The influence of supermarkets raises concerns of buyer power. At the same time, countries are intervening including through policies which promote local content and, while having constructive objectives, also run the risk of distorting regional markets.

The lack of awareness of competition policy and law among a wide range of stakeholders represents a significant threat to effective competition enforcement both at regional and at national level. The lack of awareness may undermine the ability of stakeholders to exercise their rights in terms of the EAC Competition Act, may hinder stakeholders from lodging complaints for infringements of the law, and may limit the extent to which competition policy can be used to support regional integration. This points to the need for a process of sensitization and awareness creation through a deliberate, structured and sustained communication and advocacy campaign.

2.2. Operating environment

The following issues, trends and developments are deemed most significant to the planning process of the EACA.

2.2.1. Nascent stage of development and strategic action

Newly established competition authorities face a broad range of challenges, particularly in the start-up phase. Importantly, an authority needs to establish the necessary credibility in its jurisdiction. This involves the development of transparent and predictable processes that provide stakeholders with a measure of certainty regarding the authority's mode of operation. It includes recruitment of good leadership and staff capacity, mobilisation of financial resources, and developing the organisational systems to support the enforcement activities of the authority. The authority needs to create awareness among stakeholders of its mandate and role. These challenges are starker in the face of regional competition regulation across borders in which uncertainty may exist in regard to issues of jurisdiction.

The limited awareness of the role of competition law and enforcement in regional integration, coupled with the need to establish credibility among stakeholders with limited human and financial resources poses a significant threat to operationalising competition enforcement in the region. Addressing these constraints will require making strategic choices about the approach to be adopted by the EACA.

Strategic action and prioritisation in this phase of development is critical. Strategy assumes making choices about the areas in which the authority will initially invest its resources and energies as the building blocks towards effective enforcement. These choices are essential as competition agencies all over the world, but especially in developing countries, simply do not

have the resources to match the scope of their mandates. There is therefore a need to direct an authority's limited resources towards high-impact areas. Prioritisation presents an important opportunity and mechanism for allocating limited resources to the most impactful areas, given the constrained resource environment of the EACA.

2.2.2. Independence and accountability

International best practice points to the need for competition authorities to be functionally and operationally independent in the exercise of their mandates.¹⁶ That is, the degree of independence shapes the ability of competition authorities to make decisions impartially outside of narrow political or economic interest and influence. Independence enables an authority to exercise its powers based on the application and interpretation of the competition law informed by legal and economic evidence and arguments. Independence is conditioned by political, economic and administrative factors that enable or constrain the capacity for independent decision-making.

Politically, competition authorities should be in a position to implement the law without direct or indirect interference or influence from market participants or other special interest groups, including politicians and government representatives. Economically, the control over the allocation and use of funding may also curtail the independence of competition authorities unless transparent funding processes are established. Administratively, the independence of competition authorities may be undermined if it is unable to exercise discretion over prioritisation of enforcement action, hiring of staff, and the way in which the budget is utilised. A common safeguard to assure independence of competition authorities in many jurisdictions internationally is to establish a juristic entity that is structurally separate and independent.

The EAC Competition Act is silent on the legal status of the EACA, unlike for instance, in the case of the CAK and COMESA Competition Commission in which the legal framework provides explicitly for the establishment of a 'body corporate' or 'independent legal entity' respectively. The EACA is established as an institution of the EAC that forms an integral part of the institutional arrangements established to give effect to the objectives of the Community. As with other institutions, it remains unclear whether these are specialised agencies with a distinct legal personality or subsidiary organs that only exercise delegated powers.¹⁷ In practice, the EACA has very little authority and discretion over the budget it receives, staff it appoints and day-to-day operational decisions. The pace at which decisions can be made and implemented is therefore, closely linked to the time it takes for decisions to be made in such a complex bureaucracy as the EAC.

Independence need not displace or undermine accountability. Accountability is provided for in two ways. Firstly, decisions of the EACA can be taken on judicial review at the East African Court of Justice (EACJ) and the Council. In terms of section 13(3) of the Act, merger decisions

¹⁶ UNCTAD. (2008). Independence and accountability of competition authorities. Note by the UNCTAD Secretariat. Trade and Development Board. Available from http://unctad.org/en/docs/c2clpd67_en.pdf

¹⁷ Kaahwa, W. (2017). The Institutional Framework of the EAC. In Ugirashebuja E., Ruhangisa J., Ottervanger T., & Cuyvers A. (Eds.), *East African Community Law: Institutional, Substantive and Comparative EU Aspects* (pp. 43-78). Boston: Brill Academic Publishing.

may be taken on appeal to the Council who may consider it only on the grounds that it fulfils an overriding public interest). Secondly, the EACA must submit reports to the Council through the Sectoral Council on Trade, Industry, Finance and Investment.

2.2.3. Institutional design and organisational capacity

The EAC Competition Act adopts an Integrated Agency Model in which the EACA investigates and adjudicates cases, while appeals can be made to EACJ and Council (in terms of section 13(3) of the EAC Competition Act, the Council may approve a merger on appeal if it fulfills an overriding public interest).

The main advantage of this design is the potential administrative efficiency that can be achieved through investigating and deciding cases, as well as the potential for developing competition expertise in the Authority. There is also a perception that this type of design enables higher levels of accountability, greater consistency and continuity in decision-making since the Authority is headed by a board of Commissioners who oversee the investigation process and take decisions.

The main weakness of this model is the lack of separation between investigation and adjudication, which may raise concerns of due process. It will therefore be important to ensure that internal procedures reinforce the ability of the authority to undertake investigations without the involvement of the Board. The conflation of the governance (priorities, budgets and capacity) and adjudication functions in the board of the competition authority also has the potential to impact the adjudicative function of the institution. Practically, Commissioners serving in an ad-hoc capacity have to juggle schedules and priorities of full-time responsibilities.

Staff capacity has been identified as a critical constraint, especially given the scarcity of staff with expertise to undertake the required economic analysis and investigations. At present, the EACA only has two staff members with economics and legal backgrounds who, at this stage must fulfil multiple roles and responsibilities. The limited staff numbers is a significant capacity constraint. Careful consideration needs to be given the staff capacity needed in the next five years, how the relevant human resource capacity will be recruited, and identification of staff development measures.

2.2.4. Competition law, Regulations and Guidelines

The EAC Competition Act was developed and adopted more than a decade ago and EAC Competition Regulations issued in 2010. One of the major focus of the EACA since its operationalisation in 2016 has been a review of the legislation and regulation. A number of issues have been identified that have the potential for creating uncertainty and have pointed to the need for tightening definitions; determining thresholds within or beyond which a merger should be notified; introducing a revenue-based penalty approach rather than a fixed amount, as is currently the case; and, clarifying the legal status of the Authority. Proposed amendments to the EAC Competition Act have been developed and work in this regard is ongoing. A review of the merger control framework has made concrete recommendations for revisions to the EAC

Competition Act and EAC Competition Regulations, and the development of guidelines that need to be integrated to the strategic plan for implementation as a matter of priority.¹⁸

2.3. Stakeholder analysis

The following main stakeholders were identified as having influence over the work of the EACA and represent constituencies that are important for the effective execution of the Authority's mandate:

Table 3: Stakeholder analysis

Stakeholders	Influence	Importance	Role and Interaction Strategies
East African Community			
Summit	High	High	Provides strategic direction towards the realisation of the goal and objectives of the Community. Interaction – Sensitization and Awareness
Council	High	High	Policy organ with power to establish institutions and performs supervisory role. As policy organ it has a high degree of influence over priorities of EACA, and is important for approval of strategy, priorities and budget. Interaction – Sensitization, Awareness & Education & Reporting
East African Legislative Assembly	High	High	Enacting laws, review, monitor, and evaluate activities carried. Interaction – Sensitization, Awareness, Education & Reporting
Sectoral Council on Legal and Judicial Affairs	High	High	Policy organ responsible for preparation of programme of work and monitoring implementation in respect of legal and judicial affairs. Interaction – Sensitization, Awareness, Education
Sectoral Council on Ministries of EAC and Planning	Moderate	Moderate	Policy organ responsible for coordinating the implementation of the work programme of the EAC in Partner States. Interaction – Sensitization, Awareness, Education and Coordination of activities.
Secretary General	High	High	Principal executive and accounting officer and oversees the implementation of regulations, directives and programmes of the Community. Interaction – Sensitization, Awareness, Education and Coordination of

¹⁸ See World Bank. (2017). Review and assessment of the EAC merger control framework. Prepared for the EAC Competition Authority by Macmillan Keck.

			activities.
Sectoral Council on Trade, Industry, Finance and Investment	High	High	Executive strategic planning, management and monitoring of programmes to implement decisions of Council. Interaction - Sensitization, Awareness & Education & Reporting
East African Court of Justice	High	High	Judicial review of enforcement decisions. Interaction – Sensitization, Awareness & Education
Directorates (Customs & Trade; Productive Sectors; Planning, Finance; Human Resources and Administration)	High	High	Coordinate the day-to-day work of the Community; Finance, Human Resources, and Administration responsible for budgets and staff appointments. Interaction – Sensitization, Awareness, Education & Reporting
Partner States			
Ministries/ Departments for the EAC	Moderate	High	Responsible for coordinating activities of EAC in Partner Countries – Inform & Coordinate
Ministries responsible for Trade & Economic Development	Moderate	High	Responsible for policy and oversight of competition enforcement - Sensitization, Awareness, Education
National Competition Authorities	High	High	Responsible for competition enforcement in national jurisdictions. Interaction – Inform, Engage, Cooperate & Capacity Building
Sector Regulators	Moderate	Moderate	Responsible for economic regulation which may have impact on competition. Interaction – Sensitization & Awareness
Organised Business			
East African Business Council	Moderate	High	Represent the interest of business in the Community. Interaction – Sensitization, Awareness, Education & Engagement
Business/ Industry Associations in Partner Countries	High	High	Represent the interest of business in Partner Countries. Interaction – Sensitization, Awareness, Education
Consumer and Standards Organisations			
National Consumer Protection Organisations/ Associations	Low	High	Promote the interest of consumers. Interaction – Sensitization, Awareness & Education
National Bureaus of Standards	Low	High	Development of standards and quality assurance services. Interaction – Sensitization, Awareness & Education
Other			

Legal Fraternity	Moderate	High	Advise clients on competition law and enforcement – Awareness, Education & Engagement
Media	Moderate	High	Create awareness of competition law and enforcement. Interaction – Awareness, Education & Engagement
Development Cooperation Partners	Moderate	High	Provide funding and technical support for capacity building in competition enforcement. Interaction – Inform, Engage & Collaborate
Competition Networks	Moderate	High	Peer learning and sharing of best practice. Interaction – Collaborate & Partner
Academia	Moderate	Moderate	Curriculum development, training and skills development, research. Interaction – Engage & Collaborate
Research Bodies	Moderate	Moderate	Provide research services and support. Interaction – Engage and Collaborate.
Regional Civil Society Organisations	Moderate	Moderate	Create awareness of competition law and enforcement. Interaction – Awareness, Education & Engagement

2.4. Strategic risk analysis

The strategic risk analysis takes into account the occurrence of events that are likely to effect the achievement of goals and objectives in a major way. These risks have been characterised in terms of legal and regulatory, stakeholder, operational, financial and compliance risks.

Table 4: Strategic risk analysis

Risk Description	Likelihood	Impact	Mitigation Measures
Legal and Regulatory			
Contradictory decisions and potential for forum shopping arising from uncertainty about applicable legislation due to overlapping jurisdictions	Likely	Major	<ul style="list-style-type: none"> Publish regulations to clarify jurisdictional overlap by delineating boundaries, establishing referral procedures and merger thresholds. Enter into cooperation agreements with national and regional competition authorities
Unnecessary, costly, and time-consuming disputes arising from the current framing of the law and regulations	Likely	Major	<ul style="list-style-type: none"> Tighten relevant definitions by revising the EAC Competition Act Publish guidelines/regulations to clarify the EACA's merger review in terms of scale and regional nexus
Potential for digital technology innovation and disruption to reshape competition regulation	Likely	High	<ul style="list-style-type: none"> Participate in global competition for a to learn and adjust to the need for rules governing digital platforms and economics
Stakeholder Mobilisation			
Limited stakeholder support due to a lack of awareness about the role and importance of competition law enforcement for regional integration	Likely	Major	<ul style="list-style-type: none"> Awareness campaign to sensitize and educate key stakeholders on the role and importance of competition law enforcement for regional integration Implement strategy to engage strategically placed media to build awareness among the public Implement a targeted advocacy strategy
Credibility of the EACA undermined as a result of stakeholders not complying with the law	Likely	Major	<ul style="list-style-type: none"> Implement a targeted advocacy strategy to promote voluntary compliance with the EAC Competition Act Ensure effective enforcement serves as a deterrent for non-compliance with the EAC Competition Act
Operational			
Delayed decision-making resulting from the bureaucratic processes within the EACA	Likely	Major	<ul style="list-style-type: none"> Assume full responsibility for decisions about operational matters in practice Put in place reporting measures to account for assumed responsibility to build the confidence of oversight structures
Poor enforcement decisions due to inadequate legal expertise and	Possible	Major	<ul style="list-style-type: none"> Recruit and retain the right skills and expertise

economic analysis			<ul style="list-style-type: none"> • Mobilise external expertise to supplement experience and expertise in the start-up phase • Establish clear procedures for decision-making and resolution of differences by Commissioners
Poor case management and related organisational operating procedures and systems that do not effectively support the mandate of the EACA	Possible	Major	<ul style="list-style-type: none"> • Deliberately invest in the development of key operating procedures and systems
Financial			
Increase in the budget of the EACA not keeping pace with work load due to an increased awareness of the role of the Authority	Likely	Major	<ul style="list-style-type: none"> • Manage costs deliberately from the onset • Develop a clear workload model that effectively forecasts funding requirements • Diversify funding sources, including merger notification fees
Compliance			
Non-compliance by firms with the EAC Competition Act that undermines the enforcement regime under implementation	Possible	Major	<ul style="list-style-type: none"> • Advocacy and awareness campaign to make firms aware of the Community's competition law and consequences for not following the prescripts of the law

2.5. Strengths, weaknesses, opportunities and threats

A synthesis of identified strengths, weaknesses, opportunities and threats based on the analysis of external and internal trends and developments are provided in the table below:

Table 5: SWOT

Strengths	Weaknesses
<ul style="list-style-type: none"> • Two well-established national competition regimes. • Revisions of EAC Competition Act underway, and preparation of Regulations and Guidelines to bring about greater certainty in the application of the law • Prioritise areas of focus as mechanism to allocating limited resources to the most impactful areas • EACA Competition Act, 2006 and regulations in place • Committed EACA Commissioners and staff • Professional diversity of EACA Commissioners 	<ul style="list-style-type: none"> • Ad-hoc nature of Commissioners • EACA is in its start-up phase with limited resources, experience and expertise, and organisational systems for effective enforcement • EACA has limited discretion over day-to-day operational decisions
Opportunities	Threats

- | | |
|--|---|
| <ul style="list-style-type: none"> • Significant potential for trade and integration of economies in the region and potential areas for further investments across borders in the EAC as local exports grow in Partner States • Expertise and enforcement experience can be 'shared' by more experienced local authorities (such as those in Kenya and Tanzania) with those in the other Partner States through frameworks of collaboration • Number and increase in merger transactions may be stream of revenue for the EACA which can be leveraged to build capacity and bring in technical skills in other areas of enforcement • Learn from the merger regulation experiences of the CCC, including operationally and in terms of the key sectors on which the EACA could focus its work in the next five years • Capacity building for the EACA, with benefits for national competition authorities • Awareness campaign to sensitize stakeholders on the role of competition enforcement in regional integration • Targeted advocacy programme to inform, engage and educate selected stakeholders on the need for compliance with the EAC Competition Act | <ul style="list-style-type: none"> • Lack of awareness of the role of competition policy and law and the functioning of competition authorities in regional integration • EAC and Partner States are extensively exposed to patterns in global investment and trade and increasing levels of concentration such that the region may be impacted negatively by adverse global economic conditions • Intra-regional trade in the EACA remains significantly skewed reflective of the different production capabilities and economic activity in the Partner States • Uneven and limited competition enforcement capacity in Partner States, with competition regimes at different stages of development • Large volume of merger applications may overwhelm capacity of EACA in start-up phase • Overlapping jurisdiction between EACA, Partner States, COMESA and SADC competition regimes • High expectations of what can be achieved in the start-up phase by Partner States • Slow pace of decision-making in the EAC bureaucracy • inconsistencies in the political environment in Partner States |
|--|---|

3. Strategy

The strategy reflects the strategic priorities and options in response to taking advantage of the opportunities identified, mitigating the threats noted, building on the strengths and addressing the weaknesses.

3.1. Vision

The vision aims to capture the desired end-state resulting from effective competition enforcement in the EAC. It represents the image of future success. The vision of the EACA is informed by the goals and objectives of the *Treaty* and *Protocols*, which provide the building blocks for widening and deepening regional integration, including economic integration. It is framed by the ideals of inclusive growth expressed in Vision 2050, and anchored in the objectives of the EAC Competition Act, which sets out the desire for enhancing the welfare of the people by promoting the competitiveness of enterprises in the Community, while contributing to a favourable investment climate. The vision for the EACA is as follows:

“Competitive markets that enable inclusive economic integration for shared prosperity and consumer welfare in the East African Community”

3.2. Mission

The Mission describes the reason for the existence of the EACA. It takes account of the objectives of the EAC Competition Act to frame the mission. The mission of the EACA over the five years of this strategic plan is:

“Promotion of fair competition and protection of consumers in support of regional economic integration in the EAC”.

3.3. Values

The following values will guide the practices of the EACA:

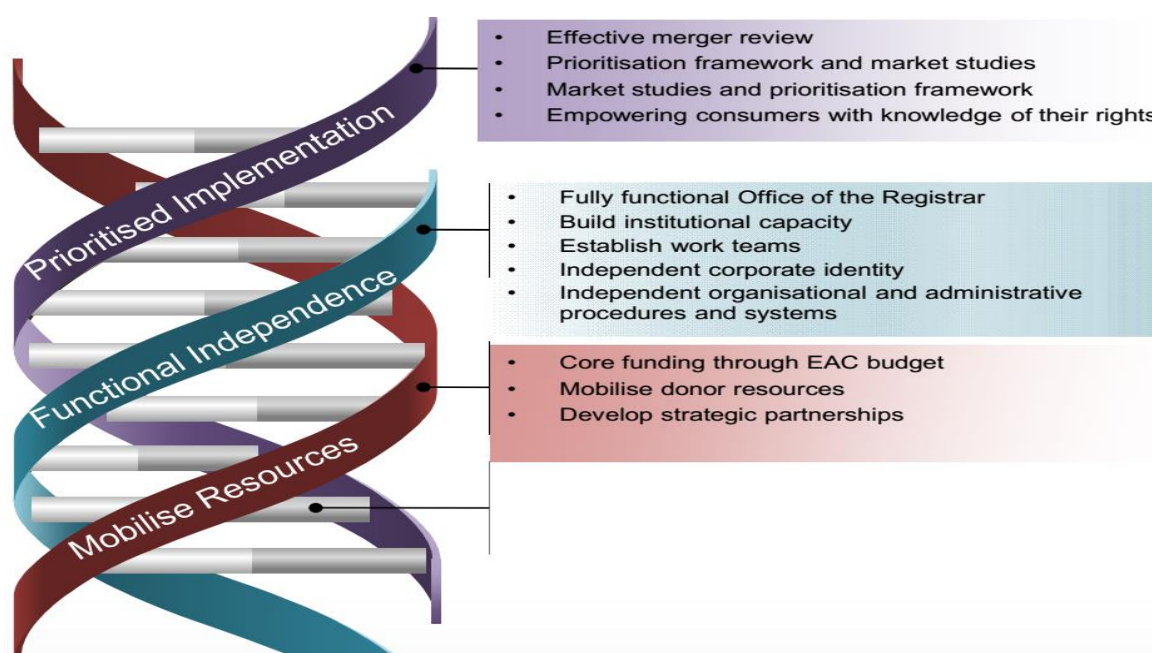
<i>Integrity -</i>	We are honest in our conduct, transparent in our decisions, and ethical in the execution of our mandate
<i>Transparency -</i>	We are open in our communication, account for the way in which we conduct ourselves and have accessible and clear procedures
<i>Fairness -</i>	We are just in the application of the law and take our decisions without bias based on objective analysis and evidence
<i>Responsiveness -</i>	We adjust through continuous learning in response to dynamic conditions
<i>Confidentiality -</i>	We treat stakeholder information with the highest standards of confidentiality when required
<i>Quality -</i>	We shall apply the highest rigour and quality in our legal assessment and economic analysis

4. Strategic approach

There is no shortage of options to pursue for new competition authorities considering the scope of competition review and enforcement. And, there are many fronts on which actions can be taken as can be seen by the needs expressed in the situational analysis. Options have been considered in light of their *feasibility*¹⁹, especially considering the resource environment of the EACA; and the *potential for mobilising and building up the required capacity and expertise* for effective enforcement.

The strategic approach proposed involves pursuing three strategic courses of action that are interdependent and interrelated. First, it is proposed that prioritisation underpins the operationalisation of the EAC Competition Act. This recognises that critical expertise will take time to develop, and as such the EACA should prioritise and sequence the implementation of different enforcement and regulatory activities. Second, it involves working towards the establishment of the EACA as a functionally independent institution of the EAC. This recognises the need to act independently in the exercise of its mandate and the decisions it takes. Third, a concerted effort needs to be made to mobilise the required resources to operationalise the implementation of the EAC Competition Act. These strategic pathways are illustrated and discussed below.

Figure 5: EACA strategic approach



4.1. Prioritised implementation of the EAC Competition Act

The EAC Competition Act mandates the EACA to regulate market structure in terms of mergers and acquisitions, and enforce competition rules related to market conduct in terms of restrictive practices by enterprises and abuse of dominance. Furthermore, the EAC Competition Act mandates the EACA to protect the welfare of consumers from unconscionable conduct and

¹⁹ Practicality with due regard to resource available

injurious goods. The challenges of developing the necessary capabilities to perform these functions means it is necessary for the EAC to phase the operationalisation of the different mandates in the EAC Competition Act over the coming five years. The priority will initially be on the build-up of effective merger regulation, then shifting to market studies and enforcement, while putting in place the building blocks for consumer protection. In this regard, the goal is *to establish a competition enforcement record through the prioritised implementation of the EAC Competition Act*. The following initiatives and tactics will be implemented to realise this goal:

Table 6: Strategic goal 1

Strategic Goals	Outcome(s)
<ul style="list-style-type: none"> Establish a competition enforcement record through the prioritised implementation of the EAC Competition Act 	<ul style="list-style-type: none"> Increased compliance with the EAC Competition Act and awareness of the law
Measurable Objectives	Outputs
<ul style="list-style-type: none"> Build an effective merger review regime 	<ul style="list-style-type: none"> Amendments to the EAC Competition Act passed Merger regulations developed and updated Guidelines for merger review developed and published Establish cooperation frameworks with national authorities and COMESA Competition Commission Internal merger review procedures and systems established Merger review conducted
<ul style="list-style-type: none"> Develop a framework for prioritising competition enforcement actions and conduct market studies 	<ul style="list-style-type: none"> Enforcement prioritisation framework established Market studies conducted Competition enforcement advocacy campaign implemented Capacity established to pursue complaints
<ul style="list-style-type: none"> Empower consumers with knowledge of their rights through awareness and advocacy 	<ul style="list-style-type: none"> Consumer protection function operationalised

4.1.1. Build an effective merger review regime

Merger review is typically where new authorities start, as evidence from other new jurisdictions around the world suggest. It enables authorities to build up the expertise in economic analysis of markets that can over time be applied in more complex enforcement cases. The development of an effective merger review regime will involve action on different fronts, and the EACA should target commencement of merger review within twelve months of adoption of this strategy.

Amendment the EAC Competition Act and Regulations and develop Guidelines

A process to amend the EAC Competition Act and the EAC Competition Regulations has commenced and key activities undertaken to date include a study on the review and assessment of the EACA merger control framework and preparation of draft amendments to the EAC Competition Act. The revisions to the EAC Competition Act and EAC Competition Regulations should, among others, consider tightening the definition of mergers, providing clarity on the procedures and economic standards to be used, and delineating jurisdictional boundaries and establishing referral procedures with national competition authorities.²⁰ Where the EACA can act under existing authority it should prepare guidelines on the thresholds and identification of the regional nexus for notification; notification fees and consultation procedures; and other guidance that may be useful to provide clarity to market participants.

Establish cooperation frameworks with national authorities and the COMESA Competition Commission

The development of cooperation frameworks through the conclusion of Memoranda of Understanding (MoU) with national competition authorities and the COMESA Competition Commission is a priority. Cooperation frameworks should aim to promote a degree of harmonisation in the implementation of competition laws and set out how the jurisdictions will consult with each other, exchange information (including the treatment of confidential information), cooperate in investigations, develop capacity, resolve disputes and the share revenue from filing fees.

Develop internal merger review procedures and systems

The EACA needs to develop a clear and consistent set of procedures for supporting merger review. This should include a fast-track assessment methodology for assessing merger without any competition concerns (especially since there are not merger thresholds at this stage) and that prioritises mergers with potential competition issues. It should involve the development of the screening and analytical tools informed by the specific economic standards used.

Conduct merger review

Kicking off merger review activities should be one of the key milestones achieved in the start-up phase of the EACA. A date must be established by when this milestone must be achieved and a holding notice must be issued that clarifies the position of mergers taking place before the

²⁰ See World Bank. (2017).

operationalisation of the regulatory activity, and clearly setting out when the process will commence.

4.1.2. Develop a framework for prioritisation of enforcement activity and conduct market studies

Vision 2050 has identified sectors viewed as critical to the development of the Community, based on existing capabilities and resource endowments. These include specific sub-sectors in manufacturing²¹ to promote industrialisation; construction of housing, roads and civil works; mining and the pharmaceutical industry. There is also significant potential for an increase in trade in services and this is regarded as one of the key pillars by which to achieve the goals set out in Vision 2050. As an intermediate input, services play a critical role in other sectors of the economy. Availability and access to good quality and competitive services such as business services, telecommunications, transport, and logistics influence the competitiveness of the regional economy as a whole. The region is fast liberalizing trade and services and Partner States have made commitments to liberalizing seven sectors under the EAC Common Market Protocol. These sectors are: business services; distribution services; educational services; financial services; communication services; tourism and travel related services; and transport services. Discussions are also under way to open up sectors such as construction and related services through liberalisation.

However, it is important to recognise that there are some sectors in which there have been extensive abuses of dominance and cartel behaviour in other countries in Africa, and South Africa in particular. For example, in construction, there was widespread collusion identified in South Africa involving more than twenty large construction companies, many of which are international with projects in the EAC region. There have also been global cartels identified in fertilizer manufacturing as well as cartels uncovered in both South Africa and Zambia.

As part of preparations to launch its enforcement mandate, the EACA should initiate a series of selected market studies with a view to identifying competition issues, while at the same time establishing a framework for prioritising infringements and sectors for specific focus.

While the focus of the EACA's work will be on competition enforcement within the prioritisation framework, competition concerns that may arise will also be addressed.

Develop enforcement prioritisation framework

Prioritisation refers to “a process of deciding what type of activities, enforcement actions, advocacy initiatives, or general competition policy measures a competition agency might pursue in a given period of time”.²² It involves the selection of a set of criteria and the application thereof to focus on specific infringements and / or sectors and markets. Criteria typically used include the gravity of the infringement (such as cartels); the importance of the sector to

²¹ Iron-ore and other mineral processing; fertilizers and agro-chemical production; pharmaceuticals, petro-chemicals and gas processing, agro-processing and energy and bio fuels

²² UNCTAD. (2013). *Prioritization and resource allocation as a tool for agency effectiveness*. Intergovernmental Group of Experts on Competition Law and Policy Thirteenth Session. Geneva, 8–12 July 2013. Retrieved from http://unctad.org/meetings/en/SessionalDocuments/ciclpd20_en.pdf. Pg. 4.

consumers (e.g. food); the importance of the sector for the economy (such as construction and inputs to agriculture); the resources required or ease of proof (such as leniency applications); the availability of remedies; the precedent setting nature of the case; and, whether the competition authority is best placed to act.²³ The framework based on the criteria selected should be used to prioritise enforcement activities.

Undertake market studies

Market studies are useful for a number of reasons. They can enable authorities to analyse whether there are competition problems in a sector and enhance its knowledge about competition issues in a sector, which can be leveraged in future enforcement activities or advocacy.²⁴ The EACA should identify a selected number of sectors/ markets to undertake studies with a view to identifying market structure or behavioural constraints and issues. The outcomes of the market studies can be used for advocacy purposes where regulatory and other reforms that may promote competition have been identified, or be used for further investigation of specific infringements of the Competition Act.

Implement a sustained awareness raising and advocacy campaign

Advocacy and enforcement are regarded as the twin pillars supporting the creation and promotion of a competition culture. Advocacy involves those activities that seek to create a competitive environment using means other than competition enforcement. Advocacy is aimed at changing behaviour as the overriding objective is to convince stakeholders of the necessity to comply with laws and regulations before the need for applying sanction. This is achieved through a variety of means that are aimed at persuading and convincing parties of the benefits of voluntary compliance against the consequences of a sanction and reputational harm to the business. Effective advocacy is necessary to educate the stakeholders and create awareness among them of the role of competition law and enforcement in promoting regional integration. Of course, advocacy is most effective when there is a credible threat of sanction for infringements of the law.

The EACA should design and implement a sustained awareness raising and advocacy campaign to sensitize stakeholders, create awareness and encourage compliance with the EAC Competition Act. Advocacy activities should be targeted to ensure optimum impact given the resource constraints faced by the Authority. Stakeholder groups should be carefully selected based on the influence they are able to exert on their constituencies in respect of promoting voluntary compliance.

4.1.3. Operationalise consumer protection

The focus of the EACA in the first five years will be on protecting the interests of consumer by advising the EAC and Partner States and organising public information and education

²³ Jenny, F. (2013). Priority Setting and Discretionary Powers of Competition Authorities. Presentation to Roundtable on “Priority Setting and Resource Allocation as Tool for Agency Effectiveness”, UNCTAD, Geneva, 9 July 2013.

²⁴ OECD. (2018). *Guide on Market Studies for Competition Authorities*. Accessed from [https://one.oecd.org/document/DAF/COMP/WD\(2018\)26/en/pdf](https://one.oecd.org/document/DAF/COMP/WD(2018)26/en/pdf).

programmes targeted at selected consumer protection groups, in collaboration with stakeholders in Partner States. This will further involve establishing the procedures for handling complaints, launching a consumer awareness campaign and establishing partnerships with key consumer protection bodies.

4.2. Building functional independence in practice

The credibility of competition authorities is closely tied to the quality of their enforcement decisions, which in turn depends on the ability of the authority to make decisions independently, and to function free of undue influence and interference. The position of the EACA, as it relates to the independence of the institution, is unclear. For instance, the EAC Competition Act is silent on whether the EACA is a separate juristic entity, whereas the legislation in other jurisdictions make it explicit that the agency set up to enforce the law is an independent legal entity. Furthermore, the EACA has limited autonomy over its budget, appointment of staff and its work programme. These are subject to approval by the Council, through its dedicated sectoral councils and the relevant directorates. These institutional arrangements undermine the ability of the EACA to function independently. As such, a series of proposals are set out in this strategy aimed at engineering functional independence in practice, while an amendment to the EAC Competition Act, which explicitly provides for the EACA as a separate juristic entity, is enacted. In this regard, the goal is *to build functional independence of the EACA in practice*.

The following initiatives and tactics will be implemented to realise this second strategic goal:

Table 7: Strategic goal 2

Strategic Goals	Outcome(s)
<ul style="list-style-type: none"> Build functional independence of the EACA in practice 	<ul style="list-style-type: none"> Independent decisions taken in pursuance of enforcing the EAC Competition Act
Measurable Objectives	Outputs
<ul style="list-style-type: none"> Establish a fully-functional Office of the Registrar 	<ul style="list-style-type: none"> EACA Registrar appointed Governance structures of EACA implemented Delegation of Authority Matrix Adopted
<ul style="list-style-type: none"> Build institutional capacity 	<ul style="list-style-type: none"> Critical staff appointed External technical expertise mobilised Work teams established for mergers; research, advocacy, market studies and enforcement; consumer protection; legal and corporate services; and the Office of the Registrar
<ul style="list-style-type: none"> Develop an independent corporate identity 	<ul style="list-style-type: none"> Corporate logo developed EACA corporate identity and promotional material developed

	<ul style="list-style-type: none"> • EACA Website developed
<ul style="list-style-type: none"> • Develop independent organisational and administrative procedures and systems for effective enforcement 	<ul style="list-style-type: none"> • Financial management system implemented • Procurement policies and procedures implemented • Human resource policies and procedures implemented • Records management system implemented

4.2.1. Establish a fully-functional Office of the Registrar

At present the EACA has been operating without executive leadership required by the EAC Competition Act, in the form of the Registrar. The appointment of a Registrar signals a critical milestone in the operationalisation of the EACA for a number of reasons.

Firstly, the appointment will activate the accounting authority of the EACA vested in the Registrar for managing the budget and to achieve the defined outputs. This confers the delegated accountability and responsibility in the Registrar for managing the budget, establishing the requisite internal controls, and accounting for the manner in which funds have been used. Such *administrative leadership* is central to effective governance and management within the institutional landscape of the EAC family of organs and institutions established to realise the vision of the Community.

Secondly, the appointment of the Registrar will put in place the necessary *strategic leadership* to develop and communicate the vision of the EACA, align internal and stakeholder resources towards the achievement of this vision and to empower those in the organisation tasked with the day-to-day responsibility for enacting the vision.

Thirdly, the appointment of the Registrar will further establish the *professional leadership* necessary to execute the mandate and functions in a highly specialised professional discipline. The Registrar will, on behalf of the EACA, be in a position to interact and enter into collaborative arrangements with a range of stakeholders in the field of competition policy and law for a variety of objectives including, the establishment of cooperative frameworks with regional and Partner State competition authorities and enter into strategic partnerships with stakeholders able to bolster technical and other resources of the Authority.

Thus, the appointment of the Registrar is critical for establishing the requisite administrative, strategic and professional leadership necessary for executing the mandate of the EACA. This will further involve the development of the appropriate governance structures to support the work of the Board.

In addition, the EACA must develop a proposal setting out clear delegations of authority covering decision-making, granting of authority, and assignment of duties in respect of its work programme, budget, procurement, and recruitment of personnel and reporting. It should set out the discretion to be exercised by the EACA and the controls that will be instituted to ensure high

standards of accountability. This proposal must serve as the basis for negotiating and embedding the desired level of independence for the EACA within the broader institutional arrangements of the EAC.

4.2.2. Build institutional capacity

In addition to the Registrar (discussed above), the EACA needs to recruit critical professional and administrative staff in preparation for commencing merger review activities. Furthermore, administrative expertise and skills will be required to handle the filing, lodgement and processing of notifications and complaints.

In order to bolster the experience available to the EACA it may be necessary to explore innovative ways in which to access short-term experts. This may be through donor-funded technical assistance whereby an experienced and skilled competition enforcer is made available for a specific period of time, or through twinning partnerships with an authority in a less resource constrained environment (from a developed country) seconding their staff, or strategic partnerships with academic institutions able to make available expertise for undertaking short-term assignments. In addition to providing case support, these assignments should be linked to the development of internal procedures and tools to support the enforcement work.

At the start of its operations, EACA staff will have to accept that multi-tasking will be the order of the day. Levels of specialisation and work organisation will only be justified as the volume of work increases and a broader range of enforcement activities are considered. As such, the key mode of operation at the start will of necessity be team-based. Teams in respect of the following functional areas must be established:

- a) mergers;
- b) research, advocacy, market studies and enforcement;
- c) consumer protection;
- d) legal and corporate services; and
- e) the Office of the Registrar.

4.2.3. Develop a corporate identity for the EACA

The EACA should develop a separate corporate identity that acknowledges its role as an institution of the EAC and at the same time positions the Authority as an operationally independent entity. The development of a corporate identity must include the design and development of a logo, promotional materials, and website.

4.2.4. Develop independent organisational and administrative procedures and systems

The EACA needs to develop independent organisational and administrative systems to support the procedures for merger regulation, competition enforcement and consumer protection. At inception, these systems (such as a case management system) should be simple and fit for purpose and can grow in complexity over time alongside the growth in complexity of the issues the EACA will deal with. Independent management systems to administer funding, procurement and recruitment, appointment and remuneration of staff must be developed and implemented, as well as the management of records.

4.3. Mobilising resources to sustain the prioritised implementation of the EAC Competition Act

The likelihood of significant increases in the available budget contributed by Partner States and Development Partners is limited. Increases in the budget to the EACA is, therefore, highly unlikely as there are many competing policy priorities contending for limited financial resources. A series of proposals are set out below to mobilise the required resources. In this regard, the goal is *to mobilise the requisite resources to sustain the prioritised implementation of the EAC Competition Act*.

The following initiatives and tactics will be implemented to realise this third strategic goal:

Table 8: Strategic goal 3

Strategic Goals	Outcome(s)
<ul style="list-style-type: none">• Mobilise resources to sustain the prioritised implementation of the EAC Competition Act	<ul style="list-style-type: none">• Financial resources to sustain the prioritised implementation of the EAC Competition Act
Measurable Objectives	Outputs
<ul style="list-style-type: none">• Mobilise core funding through the EAC budget	<ul style="list-style-type: none">• Core funding mobilised through the EAC budgetary process
<ul style="list-style-type: none">• Mobilise donor resources to support the mandate of the EACA	<ul style="list-style-type: none">• Funding mobilised through development cooperation
<ul style="list-style-type: none">• Develop strategic partnerships	<ul style="list-style-type: none">• Resources mobilised through strategic partnerships

4.3.1. Mobilise core funding through the EAC budget

The EAC budget and budgetary processes should be mobilised to leverage funding for core activities of the EACA. This includes funding for the activities of the Board, Office of the Registrar, Legal and Corporate services in addition to mergers and enforcement, consumer protection and advocacy.

4.3.2. Mobilise donor resources to support the mandate of the EACA

The EACA must identify donors with an interest in supporting competition enforcement capacity building work, and prepare development cooperation proposals to unlock financial support, specifically focused on capacity building in the form of technical assistance in the initial phase. The work of the EACA needs to be positioned in light of its role in contributing to regional integration, inclusive growth, and sectors and markets in which identified donors may have an interest.

4.3.3. Strategic partnerships and networks

The EACA should make a concerted effort to establish partnerships with a view to mobilising human, technical and financial resources. Partnerships with other (and better resourced) competition authorities, development partners, research centres and universities could unlock such resources.

In addition, the EACA should join and participate in international networks and fora in which information sharing and capacity building are key features. Internationally, these include fora such as the International Competition Network (ICN) and the African Competition Forum.

5. Organisation Design, Structure and Capacity

The organisational establishment of the EACA to ensure prioritised implementation means building the structure and capacity in key teams, ensuring flexibility to respond to demands that are likely to arise. For the first two years, the structure will be around the following teams:

- a) the Office of the Registrar
- b) Legal and corporate services
- c) Mergers
- d) Research, advocacy, market studies and enforcement
- e) Consumer protection

From year three, that is, the year 2021/22, the EACA will expand to create a separate Legal Unit, Corporate Affairs directorate and separate Monopolies and Cartel Directorate as the institution builds capacity (see Table 9). The positions in the table below should be regarded as indicative and may be subject to change

- Provided a paragraph to explain that positions in table nine are indicative and may be subject to change depending on how the strategy will be rolled out and which areas require capacity to be filled in practice.

Table 9: Projected EACA staff complement

Key area	2019/20 and 2020/21	Key area	2021/22 to 2023/24
Office of registrar	Registrar	Office of Registrar	Registrar
	Personal Secretary		Personal Secretary
Legal and corporate services	Principal Legal Officer	Legal Unit	Principal Legal Officer
	Accountant		
	HR Officer	Corporate Affairs Directorate	Accountant
	IT Officer		Procurement Officer
			HR officer
			Admin Assistant
			IT Officer
			Driver

Mergers	Deputy Registrar / Director	Mergers	Deputy Registrar (Head of mergers)/Director
	Principal Analyst		Principal Analyst
	Senior Analyst		Senior Analyst
			Analyst
Research, advocacy, market studies and enforcement	Principal analyst	Research & Advocacy Unit	Senior Analyst
			Analyst
		Monopolies & Cartel Directorate	Deputy Registrar / Head of Enforcement / Director
			Principal Analyst
Consumer protection	Senior Analyst	Consumer protection	Senior Analyst
			Deputy Registrar / Head of Consumer Protection / Director
			Principle Analyst
			Senior Analyst
Total staff	11		22

Given constraints in terms of experienced competition practitioners, it is anticipated that technical assistance will be drawn on in the five-year period, especially in conducting market inquiries, as well as to assist in analysing complex mergers. These activities will further assist the staff in building their expertise.

A structured capacity building programme is an important part of the EACA developing the necessary capabilities in an incremental manner (as in section 4.2.2 above, as well as through strategic partnerships, section 4.3.3). The capacity building programme will focus on:

- Building the internal capacity of the EACA in a phased approach starting with market assessment and merger evaluation, and moving to enforcement and consumer protection. This is closely linked with the development of the institutional structure and complement of the EACA.
- Building a competition and consumer protection analytical base across the EAC, building partnerships with the established national authorities and supporting the new national authorities while developing the methodologies for assessment of cross-border arrangements and conduct.

The capacity building programme will have the following main components:

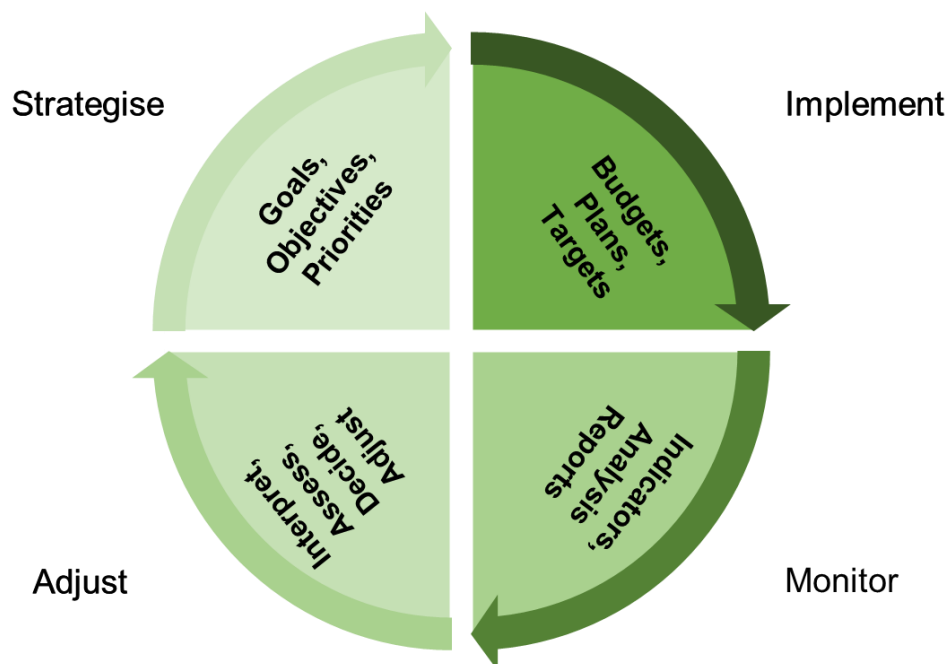
- Support and training for new staff complement. This is 'on the job' training by experts, including from international authorities, focused in the initial phase on mergers and market assessments, followed by cartels, abuse of dominance and consumer protection.
- Staff exchanges and secondments with established authorities, in the EAC and in Africa.
- Short courses and seminars on key issues in analysis of cross-border competition and consumer protection, for EACA staff, new and existing national authorities, private practitioners, journalists and researchers.

- Strategic partnerships with academic institutions to build regional centres of competition law and economics in the EAC and ensure appropriate qualifications to supply needs of EACA and national authorities.

6. Performance Monitoring and Evaluation

Strategic planning and performance monitoring and evaluation involves a four-stage virtuous cycle that incorporates creating strategy and implementing plans, monitoring the execution of those plans, and adjusting activities to achieve strategic goals. This process requires data and indicators as set out in the strategy implementation matrix (Annexure 2), which provide a measurement framework to gauge the effectiveness of strategic implementation, as indicated in Figure 6.

Figure 6: Strategic planning, monitoring and evaluation cycle



Source: adapted from Eckerson, W. (2009). Performance Management Strategies – How to Create and Deploy Effective Metrics. *TDWI Best Practices Report*. First Quarter 2009.

The strategy needs to be anchored in the annual planning and performance monitoring cycle, as illustrated in Figure 7. The five-year strategic plan should be reviewed and updated annually. This is to ensure that it remains relevant to changing conditions. The yearly review is however, limited and fundamental changes to the strategy should only be made if changing circumstances overtake or make the goals, measurable objectives and targets irrelevant. The strategic plan also provides the framework for the annual operational plan, which in turn, structures the development of individual performance agreements against set targets and commitments in the strategy. In this way, the strategy cascades down from the organisational level to the team and individual levels.

Figure 7: Annual planning, monitoring and reporting cycle



The quarterly report will be an important monitoring instrument as it captures performance against plans on a quarterly basis. It describes the progress against performance targets by teams, and should provide an update on expenditure for the quarter, which should be reconciled with the budget for that specific quarter. The report should also describe the challenges experienced, list the issues, and highlight the risks involved.

The quarterly reports feed into the annual reports which reviews progress for the year against the annual operational plan. An annual review of performance should be conducted that assesses whether there are any significant changes in the external and internal environment and if any of the major assumptions underpinning the strategy has changed. The annual report should provide a more detailed report that reflects on the performance over the year and incorporates a review of the targets achieved.

A mid-term review should be undertaken at the halfway mark of the strategy implementation period (around 30 – 32 months). The review is important to determine if any significant changes need to be made to the strategy. The opportunity for aligning the EACA strategy to the timeframe of that of the 6th EACA Development Strategy should be explored at this point.

An in-depth evaluation should be undertaken towards the end of the 5-year planning cycle. The evaluation should consider the relevance, effectiveness and efficiency, impact and its influence on the sustainability of the EACA. The strategic plan assumes that the formal approval for the implementation of the strategy will be granted in the first half of 2019, so that implementation can commence at the start of the financial year in July 2019.

Table 10: Planning, monitoring, review and evaluation schedule

Year	2019/20	2020/21	2021/22	2022/23	2023/24
Month					
September	<ul style="list-style-type: none"> • 1st Quarterly Report 	<ul style="list-style-type: none"> • 1st Quarterly Report 	<ul style="list-style-type: none"> • 1st Quarterly Report 	<ul style="list-style-type: none"> • 1st Quarterly Report 	<ul style="list-style-type: none"> • 1st Quarterly Report
December	<ul style="list-style-type: none"> • 2nd Quarterly Report 	<ul style="list-style-type: none"> • 2nd Quarterly Report 	<ul style="list-style-type: none"> • 2nd Quarterly Report 	<ul style="list-style-type: none"> • 2nd Quarterly Report 	<ul style="list-style-type: none"> • 2nd Quarterly Report
March	<ul style="list-style-type: none"> • 3rd Quarterly Report 	<ul style="list-style-type: none"> • 3rd Quarterly Report 	<ul style="list-style-type: none"> • 3rd Quarterly Report • Mid-term Review of Strategy (align to 6th EAC Development Strategy) • Adjust strategy and submit for approval 	<ul style="list-style-type: none"> • 3rd Quarterly Report 	<ul style="list-style-type: none"> • 3rd Quarterly Report • In-depth evaluation of the Strategy
June	<ul style="list-style-type: none"> • Annual Report, with strategy review to assess if change are required • Prepare Annual Operational Plan 	<ul style="list-style-type: none"> • Annual Report, with strategy review to assess if change are required • Prepare Annual Operational Plan 	<ul style="list-style-type: none"> • Annual Report • Prepare Annual Operational Plan in line with adjusted strategy (where adjustments have been made) 	<ul style="list-style-type: none"> • Annual Report, with strategy review to assess if change are required • Prepare Annual Operational Plan 	<ul style="list-style-type: none"> • Final Annual Report in line with existing strategy • Prepare Annual Operational Plan, in line with new strategy

7. Estimated Budget for 2019/20 to 2023/24

As per the 2018/19 budget, there is a range of technical assistance and consultative meetings provided for, including relating to merger regulations and guidelines, merger decision-making legislative amendments, outreach and sensitization, and planning. This budget is set out below.

This has been allocated as per the staff complement planned for 2019/20 to 2020/21 in section 5 above, and for the second phase from 2021/22 to 2023/24, with a 20% mark-up for allowances, equipment and office space (Table 11).

The budget for the range of other activities is given in Table 12.

Revenue projections and assumptions are set out in Table 13. This include very rough initial and conservative estimates of revenue from merger filing fees (which are contingent on the thresholds decided upon and the levels of fees set), and have been estimated on the expectation of an average fee of \$20,000 per merger notification, with half of this amount being shared with the national authorities.

Table 11: Annual Estimated Budget for Expenditure on Staff Salaries, Allowances, and Board of Commissioners

	2019/20 & 2020/21		2021/22 to 2023/24
Salaries	675,561		1,330,708
Allowances, rental, equipment @ 20%	164,312.50		191,812.50
Total staff costs	839,874		1,522,521
Board of Commissioners			
Air travel, DSA for 12 meetings per year	122,400		122,400
Sitting allowance	28,800		28,800
Total commissioners costs	151,200		151,200
Total	991,074		1,673,721

Table 12: Budget for Expenditure on Activities

Objective	Activities	2019/20	2020/21	2021/22	2022/23	2023/24
Amendments to the Act	Professional services, Expert meetings, Drafters meeting, Stakeholder consultations, Review meetings	130,720	130,720	74,420	74,420	74,420
Merger regulations	Professional services, Experts meetings, Stakeholder consultations, Review	85,440	85,440	74,420	74,420	74,420
Merger guidelines	Professional services, Experts meetings, Stakeholder consultations, Review	78,840	78,840	74,420	74,420	74,420
Merger investigations	Interviews, travel, analysis, determination	247,950	330,600	495,900	495,900	495,900
Merger investigations	Technical experts for complex cases two experts	106,784	106,784	106,784	106,784	106,784
Cooperation frameworks with National Authorities & CCC	Outreach strategy, stakeholder engagement, meetings	41,740	41,740	41,740	41,740	41,740
Prioritization framework	Framework setting out criteria; research to apply; stakeholder engagement	22,700	22,700	22,700	22,700	22,700
Market inquiries	1 per year from 2020/21		88,000	88,000	88,000	88,000
Competition Advocacy	Seminar in each EACA member state every 2 years; Annual conference	78,150	78,150	78,150	78,150	78,150
Corporate Leniency Programme	Design and implementation	62,040	62,040	62,040	62,040	62,040
Consumer Protection advocacy	Seminar programme Newsletter and advocacy materials	48,400	48,400	48,400	48,400	48,400
Consumer protection	Engagement with national bodies, workshops	22,700	22,700	22,700	22,700	22,700
EALA engagement	Meetings	74,700	74,700	74,700	74,700	74,700
Capacity development	Internal training programme	20,000	20,000	20,000	20,000	20,000
	Staff exchanges & secondment	20,000	20,000	30,000	30,000	30,000
	Stakeholder short courses and seminars	34,400	34,400	34,400	34,400	34,400
	Strategic partnerships with EAC universities and international centers	28,400	28,400	28,400	28,400	28,400
	Recruitment of staff; advertisement, short listing and interviews	31,950	31,950	31,950	31,950	31,950
Development of EACA identity	Logo, Publicity materials, Website development	40,000	40,000	40,000	40,000	40,000
Development of procedures	HR and procurement procedures	10,000	10,000	10,000	10,000	10,000
	Records management system	15,000	15,000	15,000	15,000	15,000
	Accounting systems	35,000	35,000	35,000	35,000	35,000
Strategic plan	Annual monitoring & review; Mid-term review	27,960	27,960	27,960	27,960	27,960
	Development of plan for 2024/25 to 2028/29				65,000	65,000
Subtotal		1,262,874	1,433,524	1,537,084	1,602,084	1,602,084

Table 13: Expenditure and Revenue

	2019/20	2020/21	2021/22	2022/23	2023/24
EXPENDITURE					
Expenditure on salaries & allowances	839,874	839,874	1,522,521	1,522,521	1,522,521
Expenditure on Activities	1,262,874	1,433,524	1,537,084	1,602,084	1,602,084
Total expenditure	2,102,748	2,273,398	3,059,605	3,124,605	3,124,605
REVENUE					
Merger filing fees	250,000	300,000	350,000	400,000	400,000
Funds from EAC budget	1,702,748	1,773,398	2,259,605	2,259,605	2,274,605
Donor & strategic partner funds	150,000	200,000	450,000	450,000	500,000
Total revenue	2,102,748	2,273,398	3,059,605	3,059,605	3,124,606

Annexure 1: Key Definitions

Goal	An observable and measurable end result having one or more objectives to be achieved within a more or less fixed timeframe.
Functional Independence	The ability of the Authority to make decisions independently, and to function free of undue influence and interference with autonomy over its budget, appointment of staff and its work programme
Key Performance Indicators	Key performance indicators are clearly defined measures that enable an organisation to demonstrate the achievement of an organisational outcome or output in line with its goals and objectives.
Measurable Objective	Measurable objectives are the specific measures we use to determine whether or not we are successful in achieving a goal.
Outcomes	Outcomes are the medium-term results for specific beneficiaries that are the consequence of achieving specific outputs. Outcomes should relate clearly to an institution's strategic goals set out in its plans. Outcomes are "what we wish to achieve".
Outputs	Outputs are the final products, or goods and services produced for delivery through organisational processes. Outputs may be defined as "what we produce or deliver".
Targets	Targets are the desired or promised levels of performance based on performance indicators. Targets specify time bound desired levels of improvement. It is a commitment to achieve a specific and better quality or level of service over a specified time frame.

Annexure 2: Strategy Map

Vision Competitive markets that enable inclusive economic integration for shared prosperity and consumer welfare in the East African Community	
Mission To promote fair competition and protect consumers in support of regional economic integration in the EAC, through: Regulating market structure and conduct by participants;- and, Building awareness and capacity in support of compliance with the EAC Competition Act	
Values <i>Integrity</i> - We are honest in our conduct, transparent in our decisions, and ethical in the execution of our mandate <i>Transparency</i> - We are open in our communication, account for the way in which we conduct ourselves and have accessible and clear procedures <i>Fairness</i> - We are just in the application of the law and take our decisions without bias based on objective analysis and evidence <i>Responsiveness</i> - We adjust through continuous learning in response to dynamic conditions <i>Quality</i> - We shall apply the highest rigour and quality in our legal assessment and economic analysis <i>Confidentiality</i> – we treat stakeholder information with the highest standards of confidentiality when required	
Goals	Outcomes
<ul style="list-style-type: none"> Establish a competition enforcement record through the prioritised implementation of the Competition Act 	<ul style="list-style-type: none"> Increased compliance with the EAC Competition Act and awareness of the law
<ul style="list-style-type: none"> Build functional independence of the EACA in practice 	<ul style="list-style-type: none"> Independent decisions taken in pursuance of enforcing the EAC Competition Act
<ul style="list-style-type: none"> Mobilise resources to sustain the prioritised implementation of the EAC Competition Act 	<ul style="list-style-type: none"> Financial resources to sustain the prioritised implementation of the EAC Competition Act
Measurable Objectives	Outputs
<ul style="list-style-type: none"> Build an effective merger review regime 	<ul style="list-style-type: none"> Amendments to the EAC Competition Act passed Merger regulations updated

	<ul style="list-style-type: none"> Guidelines for merger review published Established cooperation frameworks with national authorities and COMESA Competition Commission Internal merger review procedures and systems established Merger review conducted
<ul style="list-style-type: none"> Develop a framework for prioritising competition enforcement actions and conduct market studies 	<ul style="list-style-type: none"> Enforcement prioritisation framework established Market studies conducted Competition enforcement advocacy campaign implemented Capacity established to pursue complaints
<ul style="list-style-type: none"> Empower consumers with knowledge of their rights through awareness and advocacy 	<ul style="list-style-type: none"> Consumer protection function operationalised
<ul style="list-style-type: none"> Build institutional capacity 	<ul style="list-style-type: none"> Critical staff appointed External technical expertise mobilised Work teams established for mergers; research, advocacy, market studies and enforcement; consumer protection; legal and corporate services; and the Office of the Registrar
<ul style="list-style-type: none"> Develop an independent corporate identity 	<ul style="list-style-type: none"> Corporate logo developed EACA corporate identity and marketing material developed EACA Website developed
<ul style="list-style-type: none"> Develop independent organisational and administrative procedures and systems for effective enforcement 	<ul style="list-style-type: none"> Financial management system implemented

	<ul style="list-style-type: none"> • Procurement policies and procedures implemented • Human resource policies and procedures implemented • Records management system implemented
<ul style="list-style-type: none"> • Mobilise core funding through the EAC budget 	<ul style="list-style-type: none"> • Core funding mobilised through the EAC budgetary process
<ul style="list-style-type: none"> • Mobilise donor resources to support the mandate of the EACA 	<ul style="list-style-type: none"> • Funding mobilised through development cooperation
<ul style="list-style-type: none"> • Develop strategic partnerships 	<ul style="list-style-type: none"> • Resources mobilised through strategic partnerships

Annexure 3: Strategy Implementation Matrix

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
Strategic Goal 1: Establish a competition enforcement record through the prioritised implementation of the Competition Act	Build an effective merger review regime	Amendments to the EAC Competition Act passed	Amendments effected with regard to: <ul style="list-style-type: none"> - <i>Notification thresholds</i> - <i>Revised definition of merger & acquisition</i> - <i>Remove deadline for notification, provide a second phase review, and allow limited extensions</i> - <i>Revise the economic standard for refusing mergers, allow for conditions to apply to approved mergers</i> - <i>Provision for Council to consult with Authority on mitigation conditions to apply to mergers where Council authorises a merger</i> 	-	EAC Act amended by 2022	Draft amendments developed	Legislative approval	Amendments approved	Implement amendments	Implement amendments

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
			- <i>Delineate jurisdictional boundaries and establish referral procedures with national authorities</i>							
		Merger regulations updated	Updated merger regulations with regard to: - <i>Correct scope of appeals to the Council to align with Act</i> - <i>Effect changes that flow from the Act</i>	-	Updated merger regulations published by 2019	Draft updated merger regulations	Publish updated merger regulations	Implement regulations	Implement regulations	Implement regulations
		Guidelines for merger review published	Guidelines with regard to: - <i>Scope of regional merger review in terms of scale, jurisdictional nexus</i> - <i>Definitions of mergers, acquisition and agreement for purposes</i>	-	Guidelines published by 2019	Scope of regional merger review in terms of scale, jurisdictional nexus; Definitions,	Implement guidelines	Implement guidelines	Implement guidelines	Implement guidelines

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
			<i>of notification</i> - <i>Set notification fees</i> - <i>Pre-notification procedures</i> - <i>Application of merger review standard</i>			Notification Fees, Merger review standards				
		Established cooperation frameworks with natl authorities, COMESA Competition Commission	Cooperation agreements established with COMESA National Competition Authorities and Partner States (where authorities do not yet exist)	-	All national Authorities and COMESA CC	COMESA CC, CAK, FCC	Maintain cooperation agreements	Maintain cooperation agreements	Maintain cooperation agreements	Maintain cooperation agreements
		Internal merger review procedures and systems established	Merger review procedures established with regard to: - <i>Procedures for merger application</i> - <i>Product and geographic market analysis</i> - <i>Information requests</i> - <i>Competitive analysis</i>	-	Internal procedures established by 2019	Procedures for mergers, market analysis, information requests, competitive analysis, merger	Implement internal procedures	Implement internal procedures	Implement internal procedures	Implement internal procedures

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
			- <i>Merger review reporting</i>			review reporting				
		Merger review conducted	Number of merger determinations made	-	175	20	30	35	40	50
			Amount of revenue collected from merger filing fees	-	TBC	TBC	TBC	TBC	TBC	TBC
	Develop a framework for prioritising competition enforcement actions and conduct market studies	Enforcement prioritisation framework established	Enforcement prioritisation framework published setting out criteria for prioritisation and markets and sectors identified for prioritisation	-	By 2020	Enforcement Prioritisation Framework published	Framework implemented	Framework implemented	Framework implemented	Framework implemented
		Market studies conducted	Market studies conducted within the framework of the Prioritisation Framework	-	4	-	1	1	1	1
		Implemented a competition advocacy campaign	Number of advocacy engagement undertaken within countries and across countries	-	10	2	2	2	2	2

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
	Capacity established to pursue complaints		Designed and developed a Corporate Leniency Programme	-	CLP Implement by 2023	-	-	Design CLP	Design CLP	Implement CLP
			Established methodology to screen complaints	-	Screening Methodology Developed by 2021	-	Develop screening methodology	Implement screening methodology	Implement screening methodology	Implement screening methodology
			Internal procedures for investigations developed	-	Procedures implemented from 2021	-	Develop procedures	Implement procedures	Implement procedures	Implement procedures
	Empower consumers with knowledge of their rights through awareness and advocacy	Consumer protection function operationalised	Procedure for handling consumer complaints established	-	Procedures implemented from 2021	-	Procedures developed	Procedures implemented	Procedures implemented	Procedures implemented
			Consumer awareness campaign launched	-	Awareness campaign implemented from 2021	-	Awareness campaign developed	Awareness campaign implemented	Awareness campaign implemented	Awareness campaign implemented

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
			Partnerships established with key consumer protection bodies	-	Partnerships with key consumer protection body in each member state established	-	1	1	2	2
Strategic Goal 2: Build Functional independence in practice	Establish a fully functional office of the registrar	EACA Registrar appointed	Registrar appointed in 2019	-	Registrar appointed	1	-	-	-	-
		Governance structures of EACA implemented	No of Board meetings held	-	Quarterly Board meetings	4	4	4	4	4
			Minutes of board meetings held	-	Within 7 days of Board meeting	4	4	4	4	4
			Board decisions		100%	100%	100%	100%	100%	100%

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
			implemented							
			Annual report produced	-	5	1	1	1	1	1
			Risk Management Framework Implemented	-	Mitigations measures adopted to manage critical risks	-	Develop Risks Management Framework	Implement Risk Management Framework	Implement Risk Management Framework	Implement Risk Management Framework
		Delegation of Authority Matrix Adopted	Delegation of Authority Matrix Implemented setting out decision-making authority of EACA relative to other EAC structures	-	Delegation of Authority Matrix Implemented	Delegation of Authority Matrix developed	Delegation of Authority Matrix implemented	Delegation of Authority Matrix implemented	Delegation of Authority Matrix implemented	Delegation of Authority Matrix implemented
	Build institutional capacity	Appoint critical staff	Timeous appointment of staff	1	25	6	5	5	4	5
		Mobilise external technical expertise	Technical expertise mobilised to support mergers and enforcement		Technical expertise for mergers and enforcement	Technical expertise for mergers	Technical expertise for mergers	Technical expertise for mergers	Technical expertise for enforcement	Technical expertise for enforcement

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
					nt					
		Work teams established	Teams established	-	Teams established	Office of the Registrar Legal & Corporate services Mergers	Research, advocacy, market studies team	Enforcement team Consumer protection team	-	-
	Capacity development programme	Training for new staff complement and for new national authorities.	Training modules completed and application of techniques to cases and inquiries	-	All relevant staff have competition & consumer protection specialist expertise	Merger training Market assessment training	Merger training Market assessment training Consumer protection	Cartels Abuse of dominance Consumer protection	Cartels Abuse of dominance	Advanced training in mergers, cartels and abuse of dominance
		Staff exchanges and secondments	Secondments to EACA, and of EACA staff to other authorities	-	13	2	2	3	3	3
		Stakeholder workshops and courses on cross-border	3 country workshops per year and one regional symposium, leading to informed media coverage	-	20	4	4	4	4	4

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
		competition	and awareness							
	Develop an independent corporate identity for the EACA	Corporate logo developed	Corporate logo used in corporate documents	-	Corporate logo used in corporate documents	Corporate logo developed	Corporate logo used	Corporate logo used	Corporate logo used	Corporate logo used
		EACA corporate identity and publicity material developed	Corporate publicity materials produced	-	Corporate publicity materials produced	Corporate publicity materials designed	Corporate publicity materials produced	Corporate publicity materials produced	Corporate publicity materials produced	Corporate publicity materials produced
		EACA Website developed	Corporate website maintained	-	Updated website maintained	Website designed & launched	Website maintained	Website maintained	Website maintained	Website maintained
	Develop independent organisational and administrative procedures and systems for effective	Financial management system implemented	Unqualified audit received	-	Unqualified audit	-	Financial management system developed	Financial management system implemented	Financial management system implemented	Financial management system implemented
		Procurement policies and procedures	All procurements undertaken in line with policies and procedures	-	100%	-	Procurement policies and	Procurement policies and	Procurement policies and	100% of procurements in line

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
	enforcement	implemented					procedures developed	procedures implemented	procedures implemented	with policies and procedures
		Human resource policies and procedures implemented	Suite of human resource policies and procedures implemented	-	HR policies & procedures implemented	HR policies & procedures developed	HR policies & procedures approved	HR policies & procedures implemented	HR policies & procedures implemented	HR policies & procedures implemented
		Records management system implemented	Record management system implemented	-	Record management system implemented	-	Records management system developed	Records management system developed	Records management system implemented	Records management system implemented
resources sustain the prioritised implementation of the EAC	Mobilise core funding through the Community budget	Core funding mobilised through the EAC budgetary process	Amount of funding mobilised through EAC budgetary process	-	100% of funding raised through EAC budget	100%	100%	100%	100%	100%

Strategic Goals	Measurable Objectives	Outputs	Key Performance Indicators	Baseline	Target	Annual Targets				
						2019/20	2020/21	2021/22	2022/23	2023/24
	Mobilise donor resources to support the mandate of the EACA	Funding mobilised through development cooperation	Amount of funding mobilised through strategic partnerships developed	-	5% of funding raised through development cooperation	5%	5%	5%	5%	5%
	Develop strategic partnerships	Resources mobilised through strategic partnerships	Amount of funding mobilised through strategic partnerships developed	-	5% of funding raised through strategic partnerships	5%	5%	5%	5%	5%

Annexure 4: Detailed Stakeholder Analysis

Stakeholders	Influence	Importance	Role and Interaction Strategies	Stakeholder Expectations	EACA Expectations
East African Community					
Summit	High	High	Provides strategic direction towards the realisation of the goal and objectives of the Community. Interaction – Sensitization and Awareness	<ul style="list-style-type: none"> • Execute the mandate of the EACA, in line with the EAC Competition Act and in support of regional integration 	<ul style="list-style-type: none"> • Support and resource the EACA in order to execute its mandate, in line with the EAC Competition Act
Council	High	High	Policy organ with power to establish institutions and performs supervisory role. As policy organ it has a high degree of influence over priorities of EACA, and is important for approval of strategy, priorities and budget. Interaction – Sensitization, Awareness & Education & Reporting	<ul style="list-style-type: none"> • Develop the required institutional capacity to implement the strategic plan of the EACA in support of regional integration 	<ul style="list-style-type: none"> • Approve the strategy with priorities and mobilise the resource to execute the strategy
East African Legislative Assembly	High	High	Enacting laws, review, monitor, and evaluate activities carried. Interaction – Sensitization, Awareness, Education & Reporting	<ul style="list-style-type: none"> • Implement competition enforcement in the framework of the EAC Competition Act 	<ul style="list-style-type: none"> • Approve amendments to the EAC Competition Act to bring about regulatory certainty
Sectoral Council on Legal and Judicial Affairs	High	High	Policy organ responsible for preparation of programme of work and monitoring implementation in respect of legal and judicial affairs. Interaction – Sensitization, Awareness, Education	<ul style="list-style-type: none"> • Implement the approved strategic plan and account for the use of resources on an annual basis 	<ul style="list-style-type: none"> • Enable the EACA to implement its strategy through effective governance and administrative support
Sectoral Council on Ministries of EAC and Planning	Moderate	Moderate	Policy organ responsible for coordinating the implementation of the work programme of the EAC in Partner States. Interaction –	<ul style="list-style-type: none"> • Implement the approved strategic plan and account for the use of 	<ul style="list-style-type: none"> • Enable the EACA to implement its strategy through effective

			Sensitization, Awareness, Education and Coordination of activities.	resources on an annual basis	governance and administrative support
Secretary General	High	High	Principal executive and accounting officer and oversees the implementation of regulations, directives and programmes of the Community. Interaction – Sensitization, Awareness, Education and Coordination of activities.	<ul style="list-style-type: none"> Implement the strategic plan, account for resources utilised and demonstrate impact of its work in terms of regional integration 	<ul style="list-style-type: none"> Provide leadership and administrative support that enables the implementation of the EACA's mandate and strategy
Sectoral Council on Trade, Industry, Finance and Investment	High	High	Executive strategic planning, management and monitoring of programmes to implement decisions of Council. Interaction - Sensitization, Awareness & Education & Reporting	<ul style="list-style-type: none"> Implement the approved strategic plan and account for the use of resources on an annual basis 	<ul style="list-style-type: none"> Enable the EACA to implement its strategy through effective governance and administrative support
East African Court of Justice	High	High	Judicial review of enforcement decisions. Interaction – Sensitization, Awareness & Education	<ul style="list-style-type: none"> Develop the expertise to make good decision based on the prescripts of the law 	<ul style="list-style-type: none"> Develop the expertise to exercise sound judgement in regard to competition matters on appeal
Directorates (Customs & Trade; Productive Sectors; Planning, Finance; Human Resources and Administration)	High	High	Coordinate the day-to-day work of the Community; Finance, Human Resources, and Administration responsible for budgets and staff appointments. Interaction – Sensitization, Awareness, Education & Reporting	<ul style="list-style-type: none"> Timeously comply with planning, administrative and financial management requirements 	<ul style="list-style-type: none"> Effective governance, management and administrative support that enable effective performance
Partner States					
Ministries/ Departments for the	Moderate	High	Responsible for coordinating activities of EAC in Partner Countries – Inform &	<ul style="list-style-type: none"> Provide information on markets, identify 	<ul style="list-style-type: none"> Assist in the provision of information, coordinating

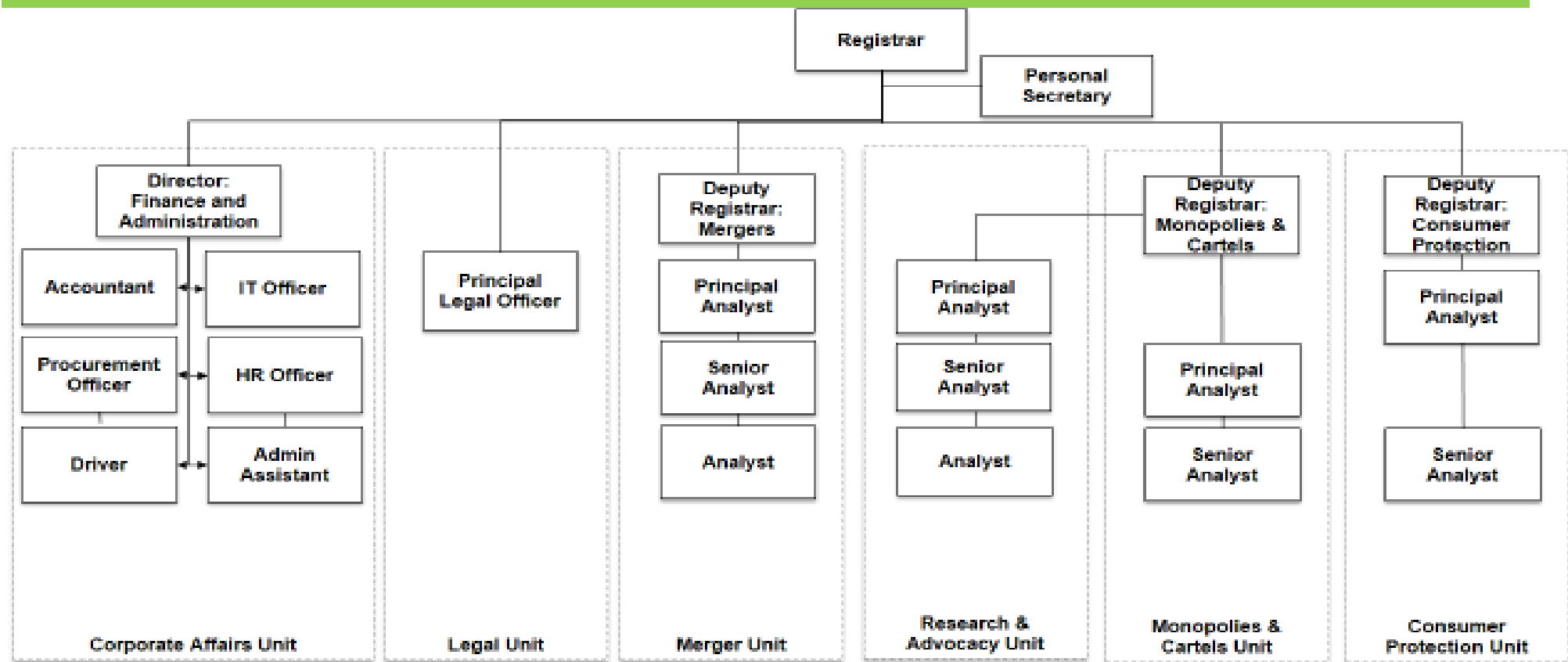
EAC			Coordinate	competition issues, enforce competition and protect consumers in the process of supporting fair regional integration	activities, supporting awareness creation and participating in capacity building activities
Ministries responsible for Trade & Economic Development	Moderate	High	Responsible for policy and oversight of competition enforcement - Sensitization, Awareness, Education	<ul style="list-style-type: none"> • Provide information on markets, identify competition issues, enforce competition and protect consumers in the process of supporting fair regional integration 	<ul style="list-style-type: none"> • Assist in the provision of information, coordinating activities, supporting awareness creation and participating in capacity building activities
National Competition Authorities	High	High	Responsible for competition enforcement in national jurisdictions. Interaction – Inform, Engage, Cooperate & Capacity Building	<ul style="list-style-type: none"> • Collaborate closely to enforce regional competition and support competition enforcement in Partner States 	<ul style="list-style-type: none"> • Provide access to information, assist with coordination of, and participate in activities, coordinate enforcement activities and support capacity building initiatives
Sector Regulators	Moderate	Moderate	Responsible for economic regulation which may have impact on competition. Interaction – Sensitization & Awareness	<ul style="list-style-type: none"> • Complement economic regulation through effective competition enforcement 	<ul style="list-style-type: none"> • Collaborate in information gathering and supporting competition enforcement
Organised Business					
East African Business Council	Moderate	High	Represent the interest of business in the Community. Interaction – Sensitization,	<ul style="list-style-type: none"> • Communicate the obligations on business 	<ul style="list-style-type: none"> • Comply with the provision of the EAC

			Awareness, Education & Engagement	in terms of competition law and enforcement, provide guidelines in support of compliance with the law	Competition Act
Business/ Industry Associations in Partner Countries	High	High	Represent the interest of business in Partner Countries. Interaction – Sensitization, Awareness, Education	<ul style="list-style-type: none"> Communicate the obligations on business in terms of competition law and enforcement, provide guidelines in support of compliance with the law 	<ul style="list-style-type: none"> Comply with the provision of the EAC Competition Act
Consumer and Standards Organisations					
National Consumer Protection Organisations/ Associations	Low	High	Promote the interest of consumers. Interaction – Sensitization, Awareness & Education	<ul style="list-style-type: none"> Provide support and build capacity for effective consumer protection 	<ul style="list-style-type: none"> Support the activities of the EACA in awareness creation and protection of consumers
National Bureaus of Standards	Low	High	Development of standards and quality assurance services. Interaction – Sensitization, Awareness & Education	<ul style="list-style-type: none"> Use standards produces against which to assess infringements of consumer right 	<ul style="list-style-type: none"> Collaborate to create awareness of consumer rights and recourse to protection
Other					
Legal Fraternity	Moderate	High	Advise clients on competition law and enforcement – Awareness, Education & Engagement	<ul style="list-style-type: none"> Create certainty in terms of the compliance with the law through advocacy, and guidelines 	<ul style="list-style-type: none"> Advise business and client to comply with the provisions of the EAC Competition Act, regulations and

					guidelines
Media	Moderate	High	Create awareness of competition law and enforcement. Interaction – Awareness, Education & Engagement	<ul style="list-style-type: none"> • Provide information on compliance, the importance of compliance and the consequences of non-compliance 	<ul style="list-style-type: none"> • Communicate the importance of competition enforcement in contributing to regional integration
Development Cooperation Partners	Moderate	High	Provide funding and technical support for capacity building in competition enforcement. Interaction – Inform, Engage & Collaborate	<ul style="list-style-type: none"> • Participate in capacity building activities 	<ul style="list-style-type: none"> • Support the development of expertise and capacity relevant to competition enforcement
Competition Networks	Moderate	High	Peer learning and sharing of best practice. Interaction – Collaborate & Partner	<ul style="list-style-type: none"> • Share experience and insights on starting new regional competition authority 	<ul style="list-style-type: none"> • Share knowledge and expertise on competition enforcement, especially regional enforcement
Academia	Moderate	Moderate	Curriculum development, training and skills development, research. Interaction – Engage & Collaborate	<ul style="list-style-type: none"> • Collaborate to inform curriculum development and identify research priorities 	<ul style="list-style-type: none"> • Support the development of the field of competition economic and law through curriculum development, training and research
Research Bodies	Moderate	Moderate	Provide research services and support. Interaction – Engage and Collaborate.	<ul style="list-style-type: none"> • Collaborate in, and support research projects related to competition enforcement 	<ul style="list-style-type: none"> • Share existing knowledge and support the creation of new knowledge in competition enforcement

					(markets and sectors)
Regional Civil Society Organisations	Moderate	Moderate	Create awareness of competition law and enforcement. Interaction – Awareness, Education & Engagement	<ul style="list-style-type: none"> • Provide information relevant to civil society on the importance of competition enforcement for inclusion and regional integration 	<ul style="list-style-type: none"> • Mobilise civil society to support competition enforcement

Organisation design, structure and capacity



Annexure 6: Strategic Planning Framework

