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THE EAST AFRICAN COMMUNITY AND THE CLIMATE CHANGE AGENDA: AN INVENTORY OF THE PROGRESS, Hurdles, AND PROSPECTS

by James Forole Jarso*

“Climate change cannot be addressed by a single nation. We must lay emphasis on a regional approach since whatever happens in our individual nations affects the entire region. This means that we must act both individually and collectively, especially in instituting effective and sufficient measures towards mitigation against the adverse effects of climate change.”

— H.E. Mwai Kibaki

INTRODUCTION

In the early and mid-1960s, the United Nations Economic Commission for Africa (“UNECA”) championed regional integration in Africa, calling for division of the vast continent into regions (“economic blocs”). Almost immediately, African countries responded by grouping based on their geographic proximity and the congruence of their individual interests. The call would bear more fruits when, in April 1980, the defunct Organization of African Unity (“OAU”), the predecessor to the African Union (“AU”), launched the Lagos Plan of Action (“The Plan”). The Plan, reaffirmed in the 1991 Abuja Treaty, established three regional arrangements: separate but convergent integration arrangements for West Africa, Central Africa, and East and Southern Africa. Over the years, various initiatives have seen the light of day, as part of African governments’ efforts to implement The Plan. One such initiative is the re-establishment, in November 1999, of the East African Community (“EAC”).

The initiatives aim to ensure sustainable growth and development in the regions concerned. The EAC’s constitutive treaty tasks the EAC to ensure, inter alia, the attainment of sustainable growth and development, the promotion of sustainable utilization of natural resources, and effective protection of the natural environment, in the Partner States. Similar provisions are found in the EAC’s yet-to-be-operationized Protocol on Environment and Natural Resource Management, as well as the EAC’s Fourth Development Strategy.

So far, the EAC has made remarkable strides in steering the sub-region towards sustainable growth and development. Be that as it may, like many other sub-regional entities, the EAC faces numerous challenges. Primary among these is climate change, which poses one of the biggest impediments to the region’s sustainable growth and development.

This article details efforts to combat climate change within the framework of the nascent EAC. The discourse begins by providing a clear picture of the EAC’s establishment, membership, purpose, and mandate, and the relevance of the latter two to EAC’s climate change agenda. This is followed by a general overview of the evidence and impacts of climate change in the sub-region. In the substantive sections, the article takes stock of the achievements registered by the EAC in its efforts to address climate change in the sub-region, as well as the challenges impeding these efforts. Weighing these achievements and challenges, it then attempts to paint the picture of the prospects for addressing climate change issues in the sub-region within the EAC’s prevailing framework. Finally, the author submits recommendations for addressing climate change issues in the sub-region.

UNDERSTANDING THE EAC

In 1967, Kenya, Uganda and Tanzania formalized socio-economic ties by heralding a cooperation-based integration framework — the first East African Community. Unfortunately, the EAC was not to live beyond its tenth birthday; in 1977, it met its demise. In November 1999, the EAC was reincarnated as the three countries committed themselves to a renewed regional cooperation framework under a second EAC Treaty that took effect on July 7, 2000.

The new EAC was primarily established to “develop policies and programmes aimed at widening and deepening co-operation among the Partner States in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs, for their mutual benefit.” The revived EAC establishes mutual responsibility for the States’ socio-economic and political legacies. The latter includes the ravages of poverty, perpetual debt, the HIV/AIDS menace, economic exploitation, natural resource depletion, civil wars, and ethnic violence.

In addition to Kenya, Uganda, and Tanzania, the Treaty opens avenues for an expanded membership. It was on this basis that Rwanda and Burundi were admitted when the two acceded to the Treaty on June 18, 2007, and became full members July 1, 2007. Expectations are high that the newly independent South Sudan may also soon join the growing EAC.
The Sudan expressed a similar intention, which was turned down by the EAC Summit.24

The EAC exists to ensure sustainable growth and development in the Partner States.25 It recognizes that “a clean and healthy environment is a prerequisite for sustainable development.”26 Thus, the Treaty tasks member states to take measures to “preserve, protect and enhance the quality of the environment;”27 “contribute towards the sustainability of the environment;”28 and “ensure sustainable utilisation of natural resources.”29 This mandate guides the implementation of a climate change agenda in the sub-region.

**CLIMATE CHANGE IN EAST AFRICA: EVIDENCE AND IMPACTS**

Over the years, climate change has vividly presented itself as not just an environmental problem, but also as a legal, political, social, economic, cultural, planning and financing problem. In the last decade, climate change has posed one of the biggest impediments to the sub-region’s realization of sustainable growth and development.30 Unprecedented floods and droughts have slowed economic growth in the sub-region.31 Now the area stands a very marginal chance of registering meaningful progress towards achievement of the Millennium Development Goals (“MDGs”).32 Particularly affected is the sub-region’s poverty reduction agenda.33

Climate change has also created serious food security threats in the sub-region. Due to floods and droughts, the sub-region’s appalling humanitarian catastrophes have garnered international media attention.34 Consequently, news of failed harvests, massive livestock deaths, malnutrition and nutrition-related ailments has not been uncommon,35 a situation that has stirred a growing food insecurity crisis in the sub-region.36 The catastrophes have been reported even beyond the traditionally food insecure areas, to include areas that had hitherto been regarded as the sub-region’s “food baskets.”37

Further, climate change has generated serious challenges for human security in the sub-region. On one hand, it continues to impact the health of millions of the region’s inhabitants as it unleashes vector- and water-borne diseases.38 As health catastrophes impact previously unaffected areas,39 women and children have borne the brunt of these impacts.40 This fact erodes from the gains achieved by in implementing MDGs relating to child mortality and maternal health.41 On the other hand, violent conflicts in agricultural areas of Kenya,42 Uganda,43 and Tanzania have been attributed to climate related stresses.44 The frequent floods and droughts have compounded human suffering,45 deprivation, and displacement.46

In addition, climate change has, over the years, heavily impacted the sub-region’s ecosystem sustainability. For instance, the iconic snowcaps on mounts Kilimanjaro, Kenya and Ruwenzori are fast disappearing, posing significant threats to downstream ecosystems and livelihoods.47 Furthermore, rivers are continually running dry,48 threatening the lives of both human and wildlife populations.49 With rising sea levels, the sub-region continues to experience varying extents of coastal erosion,50 destruction of mangrove forests, and the submergence of small islands.51 The rise in seawater temperature has also threatened marine life.52 Cumulatively, these changes pose a serious threat to tourism, one of the major income-earners for the local economies.53

**THE EAC AND THE CLIMATE CHANGE AGENDA: TAKING STOCK OF THE ACHIEVEMENTS**

**NORMATIVE PROGRESS WITHIN THE EAC FRAMEWORK**

A discourse on climate change within the EAC framework should commence with an understanding of the relevant provisions of the EAC Treaty. These provisions task the EAC and, by extension, the Partner States to take measures to preserve and protect the environment.54 The Treaty stressed the need for environmental impact assessments (“EIAs”) for all development projects with potential to affect the environment.55 Over the years, in response to the challenges created by climate change, the EAC has taken numerous steps to enhance regulatory regimes on environmental protection. Examples include:

*The Protocol on Environment and Natural Resources Management*

In October 1998, even before the EAC was re-established, the initial three Partner States created a Memorandum of Understanding (“MoU”) to govern mutual cooperation in matters relating to environmental management.56 Upon re-establishment of the EAC, the Treaty preserved this ad hoc arrangement.57 Further, the Treaty allowed Partner States to enact new Protocols to promote the Treaty’s mandate.58 In April 2006, the EAC’s Council of Ministers adopted the Protocol on Environment and Natural Resources Management, formalizing the MoU.59

The purpose of the Protocol is to promote “cooperation [among the Partner States] in the management of the environment and natural resources within their jurisdiction.”60 It applies to the management of transboundary resources,61 biodiversity,62 forest and tree resources,63 water resources,64 wetland resources,65 coastal and marine resources,66 energy resources,67 mountain ecosystems,68 and rangelands.69 Its application also extends to fight desertification and mitigation of the effects of droughts.70 More importantly, the Protocol applies to mitigation of the effects of climate change.71 Further, it includes provisions in respect of protection of ozone layer,72 pollution control and management,73 environmental impact assessments and audits,74 environmental standards,75 public participation and access to justice (and information),76 as well as environmental disaster preparedness and management.77 The Protocol’s normative framework is grounded in a number of international environmental law principles, including the right to a clean and healthy environment.78 Thus far, all EAC Partner States have ratified the Protocol save Tanzania,79 which is reportedly “[i]n the process of finalizing the ratification of the Protocol.”80 Once in force, the Protocol has potential to provide a normative framework and boost the sub-region’s climate change agenda.
The EAC Common Position on Climate Change

To facilitate effective participation in the on-going regional and international climate change negotiations, the EAC has adopted a common position on climate change negotiations, culminating after roundtable meetings convened in all five Partner States — Burundi, Kenya, Rwanda, Tanzania, and Uganda. The position, which is aligned with the five pillars of the Bali Plan of Action, prioritizes adoption of the five pillars. Other areas of focus are mitigation, technology development and transfer, capacity building, and financing.

The EAC Climate Change Policy Framework

The search for a sub-regional climate change policy framework has consistently been on the EAC’s policymakers’ agendas. In April 2011, the Ninth Extraordinary Summit adopted and approved the Declaration on Food Security and Climate Change, the EAC Climate Change Policy, and the EAC Food Security Action Plan, 2010-2015. The EAC Climate Change Policy contributes to sustainable development in the region through harmonized and coordinated climate change actions.

In May 2011, the EAC Secretariat convened the Multi-Sectoral Meeting on Food Security and Climate Change to facilitate expert deliberation on the modalities of implementing these documents. The eventual outcome was the adoption of the EAC Climate Change Master Plan. Together with the EAC Climate Change Policy, the Master Plan provides a number of guidelines that partner states and other stakeholders can use in the preparation and implementation of collective measures to address climate change.

Climate Change Programming

Climate change has, to a large extent, been mainstreamed in all programs of the EAC. In fact, the EAC’s recently adopted five-year development plan recognizes climate change as a threat to EAC development, calling for “climate-sensitive planning.” With the growing body of normative instruments relevant to the climate change agenda, it can be only envisaged that climate-related issues will only be further mainstreamed in the EAC’s operations.

Externally, the EAC has partnered with other Regional Economic Communities (“REC”). In December 2011, in partnership with the Common Market for Eastern and Southern Africa (“COMESA”) and the Southern Africa Development Community (“SADC”), the EAC launched a joint five-year Programme on Climate Change Adaptation and Mitigation. The initiative, funded by the Royal Government of Norway, the European Union (“EU”) Commission and UK’s Department of International Development (“DFID”), was launched on the sidelines of 17th Conference of the Parties to the United Nations Framework Convention on Climate Change (“COP-17”) in Durban, South Africa.

EAC Institutions Relevant to the Climate Change Agenda

In tandem with the search for an appropriate normative framework, the EAC embarked on the establishment of specialized institutions to coordinate climate change actions within the sub-regional framework. In December 2010, the Council of Ministers established the Climate Change Coordination Unit (“CCCU”) under the EAC Secretariat and appointed a Unit Coordinator. Since that time, the unit has been instrumental in driving the sub-region’s climate change agenda, working closely with other EAC institutions.

But any climate change initiative requires adequate financial support to actualize its objectives. For this reason, in December 2010, the EAC Summit endorsed the establishment of the EAC Climate Change Fund. Modalities to operationalize the fund were recently developed. If well harnessed, the Fund has the potential to enhance climate change adaptation and mitigate actions in the sub-region.

The LVBC is a specialized institution of the EAC charged with coordination of sustainable development in the shared Lake Victoria Basin. Among its key activities are: harmonization of laws and policies on the management of the environment in the Lake and its catchment area; continued management of the Lake’s ecosystems; and development of infrastructure on and around the Lake. In this respect, LVBC’s mandate remains relevant to the sub-region’s climate change agenda.

The LVFO is another specialized institution of the EAC. It was established under the LVFO Convention to harmonize, develop and adopt conservation and management measures for the sustainable utilization of the fisheries resources of Lake Victoria. In its work, the LVFO has partnered with local fishing communities to empower them to become equal and active partners with the government in matters relating to fisheries management and development. Consequently, its mandate remains pivotal in the implementation of the sub-region’s agenda on climate change, poverty reduction and sustainable development.

The EAC and the Climate Change Agenda: An Inventory of the Practical Challenges

Incapable Political Leadership

Despite some progress in setting up a climate change governance framework, the East African sub-region, like many other sub-regions of Africa, has yet to establish credible leadership on climate change. The leaders have not fully committed themselves to preventing further destruction of the sub-region’s ecosystems, or to mitigating poverty and hunger, two of the biggest drivers behind environmental destruction. As vast forestlands are opened to foreign agricultural and industrial investments, the sub-region is also exposed to the threats of climate change. To make matters worse, the Partner States are yet to fully integrate climate change issues in their national development policies, plans, and strategies.

Corruption and Economic Mismanagement

Over the years, East African countries have consistently ranked among the continent’s “corruption heavyweights.” Corruption, which has been deeply embedded in all aspects of the sub-region’s public life, has profoundly plagued the sub-region’s socio-economic and political life, and has not spared climate change adaptation and mitigation programs. As public funds (including those from global climate financing mechanisms) are continually embezzled, corruption has proved...
to be a serious threat to climate governance in the sub-region.\textsuperscript{121} The most obvious result has been the continued weakening of the local populations’ resilience to the shocks of climate change.\textsuperscript{122}

**Poverty and Economic Injustice**

East African governments have unsuccessfully struggled to eradicate poverty.\textsuperscript{123} Consequently, an overwhelming majority of East Africans have been exposed to abject poverty and deprivation.\textsuperscript{124} This unfortunate situation has compounded the climate change problem in the sub-region; the millions condemned to perpetual poverty and chronic food insecurity have largely turned to various forms of environmentally harmful means of survival, including charcoal burning,\textsuperscript{125} illegal logging, and encroachment on sensitive ecosystems.\textsuperscript{126}

**Marginalization of Vulnerable Groups**

By and large, climate change discussions in the sub-region have been dominated by political elites.\textsuperscript{127} Sadly, vulnerable groups — indigenous peoples, women, and children — have been pushed to the peripheries, effectively removing their voices from critical policy discussions.\textsuperscript{128} This challenge, which was expressly acknowledged at the Seventh African Development Forum (“ADF-VII”), presents a serious threat to the fight against climate change because these groups are likely to suffer the consequences thereof.\textsuperscript{129}

**Unreliable Climate Financing**

Global commitment to the fight climate change is marked by mixed results.\textsuperscript{130} In the realm of climate financing, the reality is far from promising; we have yet to see sustained, adequate, predictable, and reliable financing for climate change actions in the sub-region and elsewhere.\textsuperscript{131} Considering that many of these actions are capital-intensive, the absence of external financial support means that the sub-region may be able to do little on its own.\textsuperscript{132} This lack of financing is exacerbated firm international mandates to fight climate change.\textsuperscript{133}

**Limited Institutional and Technical Capacity**

A critical review of the EAC Partner States reveals that there is a glaring gap in institutional and technical capacities to implement climate change programs and projects.\textsuperscript{134} The lack of adequate financial and material capacities to implement climate change adaptation and mitigation actions highlights the challenges faced by the EAC Partner States. As a result, the sub-region depends heavily on external funding to drive its climate change agenda.\textsuperscript{135} The lack of institutional and technical capacities has been exacerbated by the general lack of awareness of climate change in national development decisions, a fact largely attributable to stakeholder’s limited exposure to key information.\textsuperscript{136} Thus, climate change issues are yet to be fully integrated into national policies and strategies.

**The “Indecent Land Rush”**

Various multinational corporations and foreign governments have looked to Africa to acquire cheap agricultural land.\textsuperscript{137} The East African sub-region has remained a prime target. In deals largely shrouded in secrecy, governments have leased large tracts of land, including forestlands and other sensitive ecosystems, to the foreign investors at bargain prices; most affected are Kenya,\textsuperscript{138} Tanzania,\textsuperscript{139} and Uganda.\textsuperscript{140} Beyond destruction of forestland and sensitive ecosystems, the deals have caused displacement of indigenous populations from their traditional farmlands.\textsuperscript{141} By exposing the affected populations to the ravages of poverty and food insecurity,\textsuperscript{142} the deals exacerbate the impacts of climate change.

**Beyond the Horizon: Prospects for Climate Protection in the East African Sub-Region**

Despite the challenges that the EAC faces in confronting climate issues, prospects for climate protection in the sub-region are relatively bright. Below is a cursory review of different realities surrounding climate change actions, each suggesting that substantial improvement to climate protection is underway.

**Proliferation of Climate Financing Mechanisms**

Recently, a proliferation of climate financing mechanisms has benefited the sub-region’s countries. The salient ones are: the Strategic Climate Fund (“SCF”);\textsuperscript{143} the Congo Basin Forest Fund (“CBFF”);\textsuperscript{144} the Forest Carbon Partnership Facilities (“FCPF”);\textsuperscript{145} the Global Climate Change Alliance (“GCCA”);\textsuperscript{146} the Least Developed Countries Fund (“LDCF”);\textsuperscript{147} and the Special Climate Change Fund (“SCCF”).\textsuperscript{148} Despite general dissatisfaction with and criticism of these mechanisms,\textsuperscript{149} the growing body of climate financing facilities can contribute to the sub-region’s fight against climate change.

**Global Developments**

The fight against climate change in the sub-region must be considered in the global context. In this respect, it is important to note that, over the last two decades, the UN system has seen normative and institutional developments intended to curb climate change. On the normative front, issues relating to climate change are addressed by treaties adopted within the UN system. These include: the UN Framework Convention on Climate Change,\textsuperscript{150} the UN Convention to Combat Desertification (“Desertification Convention”),\textsuperscript{151} the Convention on Biological Diversity (“Biodiversity Convention”),\textsuperscript{152} the Kyoto Protocol,\textsuperscript{153} and the Cartagena Protocol on Biosafety.\textsuperscript{154} The sub-region’s countries have subscribed to these (and other) multilateral environmental agreements, which hold significant promise for the global climate change fight.

**Regional Developments**

Within the AU framework, climate change has garnered significant attention of the Assembly of the Heads of State and Government. In January 2007, the Assembly called upon AU Member States to integrate climate change considerations into their national development policies, strategies and programs.\textsuperscript{155} In February 2009, the Assembly approved the Algiers Declaration on Climate Change, paving the way for building a common African position on climate change.\textsuperscript{156} In July of the same year, the Assembly established the Conference of African Heads of State and Government on Climate Change (“CAHOSCC”) to spearhead
climate governance in the region.\textsuperscript{157} In February 2010, it requested the CAHOSCC to establish a streamlined regional negotiation structure.\textsuperscript{158} Since then, the CAHOSCC has remained instrumental in refining the African Common Position on Climate Change.\textsuperscript{159}

Another critical institution within the AU climate change framework is the African Ministerial Conference on the Environment (“AMCEN”),\textsuperscript{160} a specialized committee charged with providing leadership for environmental management and advocacy.\textsuperscript{161} In two special sessions on climate change—the first in Nairobi, Kenya (May 2009),\textsuperscript{162} and the second in Bamako, Mali (September 2011)—issues relating to climate change have dominated deliberations.\textsuperscript{164}

AMCEN has also offered political guidance in matters relating to environmental protection. It led the process for the development and adoption of the Action Plan of the Environment Initiative of the New Partnership for Africa’s Development (“NEPAD”),\textsuperscript{165} and is playing a critical role in NEPAD’s implementation. Additionally, with the help of the UN Environment Programme (“UNEP”), it has monitored and reported on the state of the continent’s environment and plays a pivotal role in the revision of regional environmental treaties.\textsuperscript{166}

Other regional institutions whose work addresses the climate change agenda include: the African Development Bank (“AfDB”),\textsuperscript{167} NEPAD,\textsuperscript{168} the AU Conference of Energy Ministers (“CEMA”),\textsuperscript{169} and the AU Commission (“AUC”).\textsuperscript{170} Within the growing normative and institutional framework, a host of climate change adaptation and mitigation programmes are currently running in the region. These include: the Climate for Development in Africa (“ClimDev-Africa”) Programme,\textsuperscript{171} the Great Green Wall for the Sahara and Sahel Initiative (“GGWSSI”),\textsuperscript{172} the Climate Change Adaptation in Africa Program (“CCAAP”),\textsuperscript{173} and the Africa Adaptation Programme (“AAP”).\textsuperscript{174}

**Developments within Other RECs**

EAC Partner States have overlapping membership in other RECs. These include: the Inter-Governmental Authority on Development (“IGAD”), the Common Market for Eastern Africa (“COMESA”),\textsuperscript{175} and the Southern African Development Community (“SADC”). Like the EAC, these RECs have made remarkable progress in establishing frameworks for combating climate change and have proved to be valuable partners for the EAC in climate change programming.\textsuperscript{177}

**Progress within Individual Partner States**

The EAC Partner States have put in place initiatives with general and specific effects on the climate change agenda. Below are several examples of EAC implemented programs within the territories of Partner States:

**Progress in Kenya**

Kenya, the only developing country in the sub-region, has taken numerous normative\textsuperscript{178} and institutional\textsuperscript{179} strides to create conducive environment for climate change action. Within this framework, Kenya is currently implementing projects that include the Climate Change Action Plan,\textsuperscript{180} the Africa Adaptation Programme,\textsuperscript{181} the Kenya Adaptation to Climate Change in Arid and Semi-Arid Lands (“KACCAL”);\textsuperscript{182} and the Market Transformation for Efficient Biomass Stoves.\textsuperscript{183} Further, at the time of writing, there were five fully registered Clean Development Mechanism (“CDM”) projects in the country — the Mumias Sugar Company’s Bagasse-Based Cogeneration Project;\textsuperscript{184} the Ol Karia III Phase 2 Geothermal Expansion Project;\textsuperscript{185} the Ol Karia II Geothermal Expansion Project;\textsuperscript{186} the Lake Turkana Wind Power Project;\textsuperscript{187} and the Aberdare Range/ Mt. Kenya Small Scale Reforestation Initiative.\textsuperscript{188}

**Progress in the Other States**

The four Least Developed Countries (“LDCs”) of the sub-region — Burundi, Rwanda, Tanzania and Uganda — have made remarkable progress in implementing the climate change agenda. First and foremost, they have developed their National Adaptation Programmes of Action (“NAPAs”).\textsuperscript{189} In addition to the NAPAs,\textsuperscript{190} the LDCs have various normative tools which bear on the climate change agenda.\textsuperscript{191} This growing wealth of normative gains is buttressed by subscription to various multilateral environmental agreements (“MEAs”) relevant to climate change, including the UNFCCC,\textsuperscript{192} the Desertification Convention,\textsuperscript{193} the Biodiversity Convention,\textsuperscript{194} the Kyoto Protocol,\textsuperscript{195} and the Cartagena Protocol.\textsuperscript{196} Further, the LDCs have taken measures to establish institutions to manage climate change issues. For instance, the Rwanda Environment Management Authority (“REMA”), oversees CDM projects.\textsuperscript{197} In Tanzania, key institutions include the Environment Division of the Vice President’s Office and the National Environment Management Council (“NEMC”).\textsuperscript{198} Uganda has an even more elaborate institutional framework for advancing the climate change agenda.\textsuperscript{199} Within their respective normative frameworks, the LDCs are currently implementing a number of CDM projects: Uganda has the lion’s share with five — a series of reforestation projects targeting the Nile Basin;\textsuperscript{200} Rwanda follows with three;\textsuperscript{201} while Tanzania has one.\textsuperscript{202} Burundi has none at the moment.\textsuperscript{203} Further, alongside Kenya, Tanzania and Rwanda are participating in the AAP\textsuperscript{204} while Uganda is in the process of incorporating climate change in the national education curriculum.\textsuperscript{205}

**Partnership Opportunities**

Recently, various multilateral and bilateral development agencies have supported national climate change actions in the sub-region within the frameworks of COMESA, IGAD and AU.\textsuperscript{206} These partnerships seek to enhance resource mobilization, mitigation and adaptation, capacity building, and technology transfer.\textsuperscript{207}

**The Foreign Direct Investment (“FDI”) Rush**

The FDI rush holds immense promise for the sub-region’s climate change agenda despite potential negative impacts on poverty reduction and food security. The sub-region has a huge potential for investment in renewable energy,\textsuperscript{208} especially in Kenya, where large-scale foreign investments have supported development of geothermal\textsuperscript{209} and wind power.\textsuperscript{210} If well harnessed, the FDI rush, which has spread its tentacles to all the EAC Partner States, can be a valuable driving force supporting the sub-region’s climate change agenda.
CONTRIBUTIONS OF THE CIVIL SOCIETY AND THE PRIVATE SECTOR

East African civil society organizations (“CSOs”) continue to play an indispensable role in shaping the sub-region’s climate change agenda. Though long excluded from mainstream discussions on the subject, they have gradually come to occupy a special niche, particularly through their environmental advocacy activities. At the recently concluded COP 17 in Durban, South Africa, African CSOs played an active role in advancing the region’s climate change position.

For its part, the East African private sector has proved critical in supplementing financing mechanisms projects aimed at combating climate change. Through their private foundations, private sector companies have vitally injected funds to support “green project.” In June 2008, the Nairobi-based Alliance for a Green Revolution in Africa (“AGRA”) established the Africa Enterprise Challenge Fund (“AECF”) to provide competitive grants and interest-free loans to African entrepreneurs who wish to implement innovative climate change adaptation projects in agriculture, financial services, renewable energy, and technology sectors. For instance, in Kenya, financing mechanisms include UAP Insurance Company’s insurance products targeting the agriculture Sector and the Index-Based Livestock Insurance (“IBLI”) initiative. UKAID, USAID, and the World Bank are the primary funding sources of the latter project.

CONTINUED TERRITORIAL GROWTH OF THE EAC

Since the admission of Rwanda and Burundi in June 2007 several other States in the larger East Africa sub-region have expressed their desire to join the EAC, including the Central African Republic (“CAR”), the Democratic Republic of Congo (“DRC”), Ethiopia, the Sudan, and the newly independent South Sudan. With growth of the EAC set to extend to Africa’s biggest carbon sink — the Congo Basin Forest—the EAC’s geographical sphere of influence continues to spread. Still, it must be remembered that climate change is a transnational problem, and can be best dealt with through concerted international cooperation.

BEYOND RHETORIC: THE WAY FORWARD FOR THE EAC

To enhance the sub-region’s capacity to implement a holistic climate change agenda that includes sustainable adaptation, mitigation, technology development and transfer, capacity building and financing mechanisms the sub-region’s leaders should:

- secure adequate, reliable and predictable financing for climate change actions in the sub-region;
- strengthen partnership with other RECS, relevant AU institutions, and global mechanisms relevant to the climate change agenda;
- operationalize of the Protocol on Environment and Natural Resources Management;
- support public engagement and representation in the climate change discourse, in order to accommodate the views of vulnerable and marginalized groups;
- enhance institutional capacity to monitor climate change, to warn and report on threats from climate change, and to link climate change and disaster risk reduction;
- combat corruption by enhancing transparency and accountability in management of climate financing funds and integrating corruption safeguards in the design of climate change actions;
- climate-proof agriculture (through, e.g., investment in conservation agriculture and appropriate rainwater harvesting technologies);
- identify investment opportunities presented by climate change such as emissions trading, and upscale investment in clean and renewable energy sources (e.g., geothermal, wind, solar and hydropower options); and
- further mainstream climate change issues in national and sub-regional laws and policies and initiate a radical paradigm shift from sectoral planning to integrated, climate-sensitive planning for development projects;

CONCLUSION

Climate change is, the greatest long-term threat facing the East African sub-region. This article has demonstrated that climate change is real and its effects in the sub-region result in adverse consequences. It has also taken stock of the progress made, as well as the challenges the sub-region faces. Although the East African sub-region has made remarkable strides in tackling climate change, much remains to be done. Accordingly, it is time the EAC and the individual Partner States focused their attention on climate issues because the cost of inaction far outweighs the cost of taking appropriate and timely action.

Endnotes: The East African Community (“EAC”) and the Climate Change Agenda: An Inventory of the Progress, Hurdles, and Prospects

2. See ALAN MATTHEWS, REGIONAL INTEGRATION AND FOOD SECURITY IN DEVELOPING COUNTRIES Ch. 6 (2003), http://www.fao.org/docrep/004/y4793e/y4793e0a.htm.
3. Id.
Endnotes: What Litigation of a Climate Nuisance Suit Might Look Like
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18 See JAN PAUL ACTON & LLOYD S. DIXON, INST. FOR CIV. JUSTICE, RAND CORP., SUPERFUND AND TRANSACTION COSTS: THE EXPERIENCES OF INSURERS AND VERY LARGE INDUSTRIAL FIRMS (2002), http://www.rand.org/content/dam/rand/pubs/reports/2007/R4132.pdf (finding on average that transaction costs were 88% of total expenditures; individual expenditures varied from 80% to 96%).


20 Alien Tort Statute, 28 U.S.C. § 1350 (2006). But see Sosa v. Alvarez-Machain, 542 U.S. 692 (2004) (holding that, in establishing a valid Alien Tort Statute, “courts should require any claim based on the present-day law of nations to rest on a norm of international character accepted by the civilized world and defined with a specificity comparable to the features of the 18th-century paradigms we have recognized”); Kiobel v. Royal Dutch Petroleum Co., 621 F.3d 111 (2d Cir. 2010) (imposing liability on corporations for violations of customary international law “has not attained a discernible, much less universal, acceptance among nations of the world in their relations inter se” and would therefore not meet the requirements of Sosa).

Endnotes: An Un-Conventional Approach: Ecuador’s Yasuní-ITT Initiative is in Discord with the UNFCCC
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66 Id.


68 Id. at 2.

69 Id. at 69-74.

70 Id. at 2.

71 Id. at 41.

72 Id. at 43.

73 See infra, notes 14 – 17. (The proposal does not mention REDD+, and proposes a compensation system predicated on the market value of the foregoing oil, rather than the benefits of deforestation and reduction in greenhouse gas emissions.).

74 Davis, supra note 8, at 247 (citing Lucas, supra note 6).

75 See PAUL VARGHESI, THE ENERGY AND RES. INST., AN OVERVIEW OF REDD, REDD PLUS AND REDD READINESS AT INTERNATIONAL CONFERENCE ON COMMUNITY RIGHTS, FORESTS AND CLIMATE CHANGE (2009).

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7 See EAC Treaty, supra note 5, art. 2.

8 EAC Treaty, supra note 5, art. 5(2)(a),(c),(g).

9 Id. art. 3.


14 See generally Peter Cooper, Walker Inst., Evidence-based Adaptation to Climate Change in East Africa: Complexities, Challenges and Opportunities (2012), http://www.walker-institute.ac.uk/events/seminars/Cooper%20Reading%20Seminar%20(feb%202013).pdf.


18 Id.
coral reefs are additive or antagonistic, not synergistic, 3(2) CONSERVATION LETTERS 122 (2010).
51 So far, the sub-region has lost Tanzania’s Maziwe and Fungu la Nyani islands to the “gluttonous” Indian Ocean. See, e.g., Ceven Shemanga et al., The Cost of Climate Change in Tanzania: Impacts and Adaptation, 61 J. AFR. SCI. 3, 182-96 (2010); Deodatus Mfingale, Rising sea levels threaten safety of Pungani residents, DAILY News (Feb. 14, 2011), http://www.dailynews.co.tz/?feature/?n=17260.
53 Id. at 27.
54 See generally EAC Treaty, supra note 5, art. 111(2).
55 Id. art. 111(1).
57 See EAC Treaty, supra note 5, art. 142(1)(i).
58 Id. art. 151(1).
59 See Environment & NRM Protocol, supra note 8, art. 51.
60 Id.
61 Id. arts. 3 & 9.
62 Id. arts. 3 & 10.
63 Id. arts. 3 & 11.
64 Id. arts. 3 & 13.
65 Id. arts. 3 & 14.
66 Id. arts. 3 & 15.
67 Id. arts. 3 & 19.
68 Id. arts. 3 & 20.
69 Id. arts. 3 & 22.
70 Id. arts. 3 & 23.
71 Id. arts. 3 & 24.
72 Id. arts. 3 & 25.
73 Id. arts. 3 & 30.
74 Id. arts. 3 & 31.
75 Id. arts. 3 & 32.
76 Id. arts. 3 & 34.
77 Id. arts. 3 & 35.
78 Id. art. 4(2)(a), (c), (j), (k), (m), (n), (q), (t)
84 Republic of Rwanda, Rwanda Position on Climate Change, Report From a Two Days Country Round Table on Climate Change (May 7-8, 2009), http://www.eac.int/environment/index.php?option=com_docman&task=doc_download&gid=105&Itemid=126.
88 Under the Adaptation pillar, the policy aims at, inter alia — strengthening early warning systems; enhancing preparedness and disaster risk management; scaling up efficient use of water and energy resources; enhancing irrigation-based crop agriculture and livestock production; protecting wildlife and key vulnerable ecosystems; improve land use; and intensifying control of diseases, vectors and pests. Bali Action Plan, supra note 87.
89 Among the key mitigation measures prioritized by the Policy are: afforestation, reforestation, forest conservation, access to carbon credit facilities, promotion of energy efficiency, efficient and sustainable crop and livestock production systems, and promotion of efficient transport and waste management systems. Bali Action Plan, supra note 87.
90 The Policy focuses on, for instance, enhancing technology development and transfer, addressing technology transfer barriers, enhancing research capacity, and enhancing South-South and North-South cooperation for enhanced technology development and transfer within the sub-region. Bali Action Plan, supra note 87.
91 The Policy aims to, for instance, introduce climate change issues into education curricula, skills training in technology development and transfer, and harnessing of indigenous knowledge on climate change. Bali Action Plan, supra note 87.
92 The policy envisages an elaborate financing mechanism for climate change actions in the sub-region, including the establishment of an EAC Climate Change Fund. Bali Action Plan, supra note 87.
97 Id.
99 See Id.
100 Id.
101 See EAC DEVELOPMENT STRATEGY, supra note 12.
103 Generally, it aims to harmonize climate change programmes in the three regional blocs, mainstream climate change in national and regional policies and strategies, and particularly enhance investments in climate resilience and carbon efficient agriculture (“climate-smart agriculture”). Id.
105 Id.
106 Id.
107 The establishment of the Fund was endorsed by the Summit at the Special Retreat on Food Security and Climate Change, Dec. 2, 2003. EAC Official Calls for Involvement of Regional Blocs in Climate Change Initiatives, S. AFR. TRADE.
We either burn charcoal or die of starvation, see also report.aspx?reportid=94810; boom a bust for forests
BURUNDI: (Sept. 25, 2009), http://news.bbc.co.uk/2/hi/africa/8272603.stm; i
ventions on the Lake and its Basin.
Lake Victoria Basin Commission (LVBC), 14, 2012) (citing the period 1990-2005 as “the worst [time] for Kenya” as it
124 anti-corruption efforts).
cable giving an account of how a former Director of the KACC frustrated
Visas Donkey: Corruption 212(F) Visa Denial
See, e.g., NORMINGTON, supra note 117, at 7 (showing lack of institutional and technical capacity in Kenya).
See, e.g., OAKLAND INST., UNDERSTANDING LAND INVESTMENTS DEALS IN AFRICA: TANZANIA (2011).
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81 Kenya is one of the twenty African countries participating in the program, which aims to strengthen the country’s institutional and systemic capacity to implement the NCCRS and to address the risks and opportunities presented by climate change. Kenya, UNDP-ADP, http://www.undp-aap.org/countries/kenya (last visited March 23, 2012).

82 KACCAL is a joint World Bank and UNDP programme that seeks to develop and pilot a wide range of climate change coping mechanisms for reducing the vulnerability of small holder farmers and pastoralists in the country. It was approved in 2009. WORLD BANK, PROPOSED GRANT FROM THE GLOBAL ENVIRONMENT FACILITY SPECIAL CLIMATE CHANGE FUND TO THE REPUBLIC OF KENYA FOR KACCAL (2010), http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2010/05/28/0003330308_20100528101812/Rendered/PDF/390580PA D0P078101OfficialUse0Only1.pdf.

83 This project seeks to remove market barriers to the adoption of sustainable biomass energy practices and technologies in schools, hospitals and restaurants by promoting adoption of highly energy-efficient cook stoves and establishment of woodlots. It was approved in 2009. VIOLET MATHEU & JASON SCHAFFNER, UNITED NATIONS DEVELOPMENT PROGRAMME, MARKET TRANSFORMATION FOR HIGHLY EFFICIENT BIOMASS STOVES FOR INSTITUTIONS AND MEDIUM-SCALE ENTERPRISES IN KENYA 3 (2011).


89 The NAPs are intended to assist the LDCs define their adaptation priority activities in order to obtain climate financing from the Global Environment Facility (“GEF”) and other sources. National Adaptation Programmes of Action, UNFCCC, http://cdm.unfccc.int/national/reports/napa/items/2719.pdf (last visited March 23, 2012).


98 The Division was established in 1991 under the Ministry of Natural Resources and Tourism. In 1995, it was transferred to the Vice President’s Office to give it the requisite priority and attention on promoting management environmental agenda. It is responsible for the overall environmental policy and regulation, formulation, coordination and monitoring of environmental policy implementation in the country. See Environment, TANZANIA.GOV.TZ, http://www.tanzania.go.tz/environment.html#Division%20so%20Environment (last visited March 23, 2012).


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In the latter front, the World Bank, UNEP, UNDP, the UN Food and Agriculture Organization (“FAO”), and the EU particularly stand out for mention. In the bilateral realm, the US International Development Agency (“USAID”), DFID, the Japanese International Cooperation Agency (“JICA”), the Swedish International Development Agency (“SIDA”), the Canadian International Development Agency (“CIDA”), the Austrian Development Agency (“ADA”), the Belgian Development Agency (“BTC”), and the Danish International Development Agency (“DANIDA”) lead the pack. See, e.g., Catherine Karongo, UNEP, Kenya in Sh270m Mau rehabilitation plan, CAPITAL FM NEWS (Nov. 29, 2011), http://www.capitalfm.co.ke/news/2011/11/unep-kenya-in-sh270m-mau-rehabilitation-plan/


See generally ILEG, supra note 180.

