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## THE EAST AFRICAN COMMUNITY COMMON MARKET PROTOCOL ON KENYA'S TOURISM SECTOR

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**Abstract:** *The main aim of this study is to investigate the effects of East Africa Common Market on Kenya's Tourism Sector. Research questions include establishing the effects of: free movement of: goods; labor; Services; and Capital. This study adopted a descriptive research design. This was done by evaluating key Tourism-related policies including: EAC Treaty, the EAC Customs Union Protocol, EAC Common Market Protocol, the National Tourism Strategy 2030; Competition Policy; Investment Policy; Migration Policies and financial sector laws and regulations in tourism sector. Additionally, key informant interviews were conducted with senior public officials from relevant ministries, chambers of commerce and Kenya Tourism Federation. The target population was 294 members from the above mentioned entities, random stratified sampling was applied to get 147 respondents. The study found that free movement of goods, persons, services and finance positively affects tourism in Kenya in that it: has steadily contributed to the GDP of the country; has increased on the revenue base for players in the sector after hitting the 2 million mark on tourists arrival with each tourist spending about 2000 US dollars; tourists from the region is almost 100,000 compared with less than 10,000 before the protocol came into being; Kenya has become a host to international conferences; it takes an average of 37 minutes for tourist to clear at Busia border compared down from two hours, also of the over 894 vehicles that cross the border daily basis, 1/3 are tourist related. The study also found out that EAC CMP implementation is faced with plentiful challenges in that member states are signing laws but taking long to localize them thereby causing a clash. The study recommends that: EAC to ensure compliance with community laws; sectoral committees and working groups be given more powers to tackle and determine some of teething problems such as NTB's, service liberation and harmonization of tax; research on effects of EAC CMP on other sectors as study was particularly looking at Kenya's tourism sector. This study is likely to benefit global partners, EAC, partner states, researchers and scholars.*

**Key Words:** *Economic Community Treaty, Customs Union and Common Market*

## 1.1 Study background

Tourism is considered as one of world's oldest industry playing a humongous role in both the national and regional economies. Ruger (2016) defines tourism as travel from ones local area for leisure purposes. United Nations World Tourism Organization (UNWTO) defines Tourism as set of activities that involve a person living away from their normal environment for not more than one consecutive year for either leisure or business or any other purposes that does not entail the exercise of an activity which earns salary from within the place. In a nutshell tourism entails travelling from one place to the other for leisure purposes. Travel for fun has slowly evolved from an activity exclusively for the few to everyone. Since time in memorial, the ability to travel was an activity left for very few people, mainly the upper class and members of royal families. Even though that was the case, young men and women were encouraged to travel and have a feeling of the other parts which was a practice that existed since ancient Roman times through to the 17th century (Chaney, 2000).

After coming into force of the Treaty of Lisbon in 2012, the EU parliament adopted a resolution (OJ C 56 E, 26.2.2013, p. 41) to market Europe as world's number one tourist attraction. In supporting the 21 point policy strategy presented by the commission, the parliament made emphasis on the need to take measures in other sectors that complement the tourism sectors and was explicit on issue relating to employment, taxation and consumer rights (EU, 2012). In 2015, Parliament unanimously adopted a legislative resolution during its second reading and whose intention was to protect travelers undertaking package tours; later that year statistics showed that one out of ten businesses which were non-financial in Europe belonged to the tourism industry bringing the number to 2.4 million. All together these enterprises employed roughly 12.7 Million people. Tourism related businesses accounted for 9.2% of the people employed in entire non-financial and 12% in the whole service sector (EU, 2015). In 2017, the world recorded 1.32 billion tourist arrivals, 671 million (57%) of them went to Europe (UNWTO).

In 2018, the EU committee on tourism and transport held discussions with representatives of international tourism bodies including UNWTO Secretary-General and signed for a memorandum of cooperation focusing on encouraging progressive sustainable tourism across Europe; later that year tourism and related sectors contributed 10.3 % of the EU GDP and employed 27.3 million persons (EU, 2018). Tourism takes the third spot after trade and construction in EU economy with tourism related sectors such as travel accounting for over eleven percent of GDP. This has been made possible by creation of a single market in which; air carriers operate in unobstructed route and traffic rights all over the region, people easily cross over borders, tourist related firms operate businesses at ease all over EU and presence of a mechanism of recognizing educational credits among members states of EU. Moreover the idea of marketing Europe as one destination gave birth to a single regional tourist visas known as "Schengen" (UNECA, 2013).

Tourism has been identified as one of the sectors with a bright future by the African Union. The industry stands at USD 165 billion in terms of value and accounts for 7.8 of the continent's GDP, a figure that exceeds the contribution of manufacturing and baking sector. Tourism consumes 6.2% of the continent's investment which translates to USD 28.5 billion; it also employs 20 million or 6.5% of the total workforce (AU, 2018). The continent's organized approach to tourism is based on NEPAD Tourism Action Plan (TAP) which is a framework aimed at fostering sustainable tourism in Africa. The NEPAD TAP was the brain child of African Ministers of Tourism whose

meetings are held annually under the umbrella of United Nations World Tourism Organization (UNWTO) Commission for Africa; it was adopted in 2004 during the third general assembly in Addis Ababa, Ethiopia.

Tourism has been recognized as one of the sectors that can always spur socio-economic growth, no wonder it has been adversely mentioned in the African Union (AU) Agenda 2063 and the 2030 United Nations (UN) Agenda for Sustainable Development as one of the drivers of broad growth and development (NEPAD, 2017). According to the UNWTO report of 2016, tourists arriving in Africa will hit tourism 134 million by 2030 which is almost threefold from the current 65 million. If this becomes a reality its contribution to the GDP will rise and in turn it will lead to massive job creation and transformation in the continent. According to the world economic forum (2019) the much awaited Africa Continental Free Trade Area (AfCFTA) is set to unlock countless opportunities as it will be the world's largest single markets with a whopping 4 trillion US dollars in expenditure and investment from the 54 countries in case all of them join. When it is fully operational the AfCFTA will enlarge the operational area for tourism entrepreneurs to the continental level thereby learning from increased competition, innovation which will in return lead to prosperity in Africa and its people in the long run (AU, 2019)

The East Africa Common Market Protocol (EAMP) was signed in 2009 and came into force in July 2010 following the ratification by the heads of states of the five member states; Kenya, Uganda, Tanzania Rwanda and Burundi. It guarantees free movement of goods, people and labour, rights of establishment and residence, free movement of services and free movement of capital. The protocol also elaborates other areas of cooperation by the partner states and rules on competition, public procurement and subsidies. Tourism in East African region is a huge business with many countries depending heavily on its proceeds. This explains the reasons why there is economic turmoil whenever this sector is affected among partner states in EAC. This is the reason why some of the countries have had to go into an economic turmoil every time the tourism sector in such a country is affected.

According to World Travel and Tourism Council (2018), the total input of Travel & Tourism into Kenya's GDP basket was KES769.1bn (USD7,432.9mn) which translated to 9.7% of GDP in 2017 and is forecasted to go up by 5.5% in 2018. In Tanzania, the entire contribution of Travel & Tourism to GDP was TZS10,526.7bn (USD4,721.0mn) which accounts for 9.0% of GDP in 2017, and is anticipated to rise by 9.1% in 2018. In Uganda, the total sum from Travel & Tourism to GDP was UGX6,171.5bn (USD1.8bn), 6.6% of GDP in 2016, it is forecasted to go up by 14.5% in 2017, and thereafter to be going up 7.1% per annum. In Rwanda, Travel & Tourism contributed to GDP RWF933.5bn (USD1,129.9mn) which accounts for 12.7% of GDP in 2017, it is expected that the increase of 6.8% will be recorded in 2018, followed by additional rise of 6.2% on annual basis. In Burundi, the industry contributed 4.7% of total GDP in 2016 and is forecast to go up by 0.3% in 2017, and to rise by 1.8% pa. There is no concrete information regarding its contribution to the Republic of South Sudan. It is evident from the figures given that the industry plays a very crucial role in its contribution to the GDP baskets of partner states in East African Community.

## **1.2 Statement of the Problem**

The EAC has recorded steady growth as a tourists destination in the recent past but there is urgent need to upgrade tourist facilities and other line sectors among some countries as they are wanting;

this translates to investment opportunities among member states and the rest of the world. Additionally, all EAC countries are interested in diversifying the sources of tourism based on their strength opening up opportunities for investments in the tourism sector in the region (EAC, 2018). Under the coalition of the willing, Rwanda and Kenya have already scrapped off work permit fees for citizens of member states, also Kenya Uganda and Rwanda have agreed to introduce single tourist visa as a way of making the region attractive.

In 2009, the number of tourists that visited Kenya was 1,392,094; in 2010, the number rose to 1,469,586. From 2012 to 2014, Kenya country received an average of 1,500,000 tourists annually. According to Uganda wildlife organization (2010), the number of tourists that went to Uganda rose from 817,424 in 2009 to 945,899 in 2010. From 2011 to 2014, the number grew to reach 1,200,000 (<https://knoema.com>) In 2009, the number of tourists arriving in Tanzania dropped to 714,367 as compared to 770,376 in 2008; the number of arrivals in Tanzania has steadily gone up from 754,000 in 2010 to 1,233 Million in 2016 (<https://tradingeconomics.com>). In 2009, Burundi recorded a number of 212,000 tourists visiting it with the number going down to 142,000 in 2010; from 2011 to 2016 the country recorded mixed performance in terms of tourists' arrival with the exception of 2017 when it recorded the highest number at 299,000 tourists. In 2009, Rwanda received 502,000 tourists while in 2010, it received 504,000 visitors; from 2012 to 2016, the number of tourist visiting Rwanda has progressively increased to reach 932,000 (<https://knoema.com>).

The regional online platform which is a resource to market the region as a single destination and which was adopted by Kenya, Uganda and Rwanda was launched in early 2017. At the end of the 2017, Kenya recorded a total of 1,6736,00 and the figure grew to 2 million in 2018; Uganda recorded 1.32 million tourists during the same period, in 2018 it recorded 1.449 million tourists; Rwanda received 1.2 million tourists in 2018 up from 960,000 tourist in 2017. Despite entry into force of the EAC CMP in 2010 and tourism being an agreed upon sub sectors that should be liberalized without delays, there exist numerous restrictions on the free movement of goods, persons, services and capital across EAC Partner States all which have effects on important constituents of tourism such as transport, accommodation, food and entertainment, and intermediaries which includes travel agencies, tour operators and guide services.

Studies in the past regarding have shown positive outcomes in terms trading balance since the EAC CMP came into force but most of them were based on econometrics and none on tourism; research on the "Effects of EAC CMP on Cross Boarder Business with particular focus on Kenya Association of Manufacturers members" only focused on manufacturing sector; research on "The Institutional Challenge Facing the EAC CMP in Kenya" focused on only institutions in terms of the formative process; while research of the "Effects of EAC CMP on Cross Boarder Traders in Malaba Boarder" but failed to touch on tourism sector in Kenya. This warrants the need for a study of this kind using institutional economics approach so as to find out what is the effect of EAC CMP on Kenya's Tourism Sector.

### **1.3. General Objective**

The main objective of the study was to determine the effects of the East African Common Market Protocol on Kenya's tourism sector.

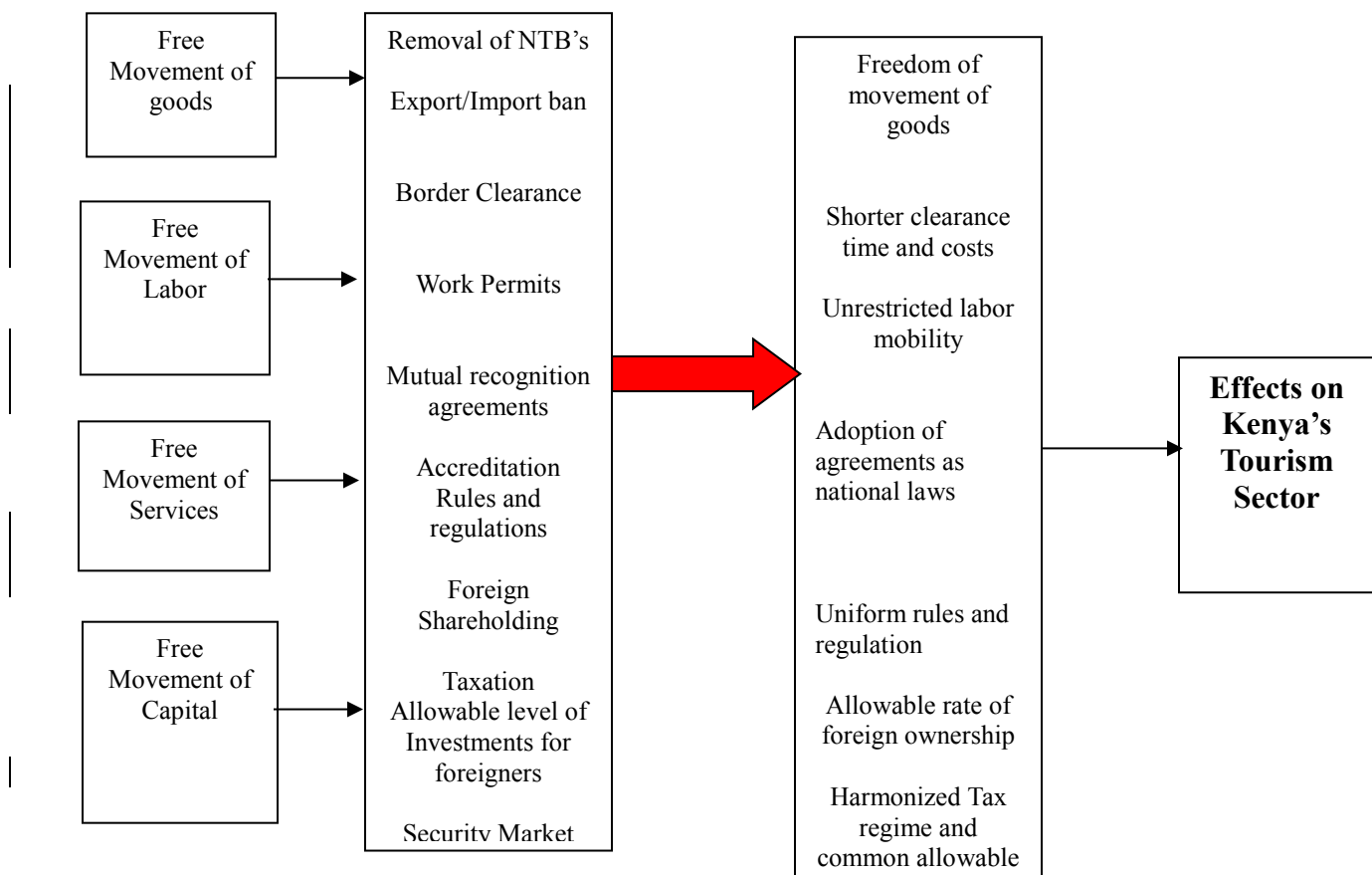
### 1.3.1 Specific Objectives

Specific objectives are to:

- a) Examine the effects of free movement of goods in EAC on Kenya's tourism sector.
- b) Establish the effects of free movement of labor in EAC on Kenya's tourism sector.
- c) Investigate the effects of free movement of services in the EAC on Kenya's tourism sector.
- d) Evaluate the effects of free movement of capital in the EAC on Kenya's tourism sector.

### 1.4 Conceptual Framework

**Independent Variable      Laws      Possible Outcomes      Dependent Variable**



Source: Own conceptualization, 2018

### 1.5 Literature review

#### 1.5.1 Theoretical review

There are several theories related to Impact of EAC CMP on Kenya's economy. These theories are: Neo-Functionalism and economic integration.

##### *Neo-Functionalism Theory*

Neo-functionalism was developed by Earnings Haas when he brought the theory in his 1958 work

‘The Uniting of Europe: Political, Social and Economic Forces 1950-1957 (Cini, 2004). In Europe, the academic status of Ernst B. Haas is without doubt inseparably linked to the school of ‘neo-functionalism’. He is famed to be the founding father of a distinct approach of elucidating the dynamics of European amalgamation that he is so famed of (Burley and Mattli, 2013). It oversees a vast Single Market, but also a monetary union and a single currency, and it is pan-European in its scope. It produces common policies, and procedures for on-going rule-making, across a broad spectrum of domains touching on virtually every dimension of modern life.

The heart of Neo-functionalism is the exploitation of the concept of ‘spill-over’. The process of ‘spill-over’ simply means occurrences of situations from the initial decision by governments to place a certain sector under the authority of central institutions leading to creation of pressures to extend the authority of the institutions into other areas of policy, such as currency exchange rates, taxation, and wages. This lays the basis of the European integration being self-sustaining: According to the theory ‘spill-over’ triggers the economic and political fields further entrenching the spirit of further cooperation (Cini, 2004).

Neo-functionalism re-engineers the functionalist tenets in regard to regional institutions. Whereas functionalists consider integration to be bound to happen as a result of development in which the state is pushed to establish institutions and whose mandate is to pursue cooperation with international functional institutions, neo-functionalists argue that the created institutions drive the integration further automatically even if the original idea was not meant for that. A notable distinction between the two is the end product as functionalists view the end result of integration as creation of detached institutional organization performing their functions while neo-functionalists base their belief on everything shifting to the new center as the result of a "new political community" which is born (Haas, 1958). Today’s EU is a different entity having developed into a quasi-constitutional, federal entity.

### ***Theory of Economic Integration***

Economic integration theory goes through two important stages which address political and economical issues pertinent to it. The first stage which encompasses traditional theories is based on Jacob Viner’s 1951 book “The Customs Union Issue” is often referred to as static analysis. In his book he introduced two concepts namely, trade creation and trade diversion. Viner (1950) was of the opinion that trade creation led to welfare gaining due to the fact that trade was shifting from a high cost supplier member country to a low one while trade diversion lowered the welfare as there was trade shift from a low cost supplier who is a non member of the union to high cost supplier member in that union.

Viner (1950) states that countries enter into free trade agreement with the end result being trade creation with the intention of accessing a certain commodity at a cheaper cost than that produced domestically. In doing so, countries that are in agreement develop a trading relationship which allows for cheaper access to goods and services produced externally which in turn leads to a net economic gain. On contrary, trade diversion leads to a net economic loss in the sense that countries pay more for imported goods and services than those produced locally transferring the baggage to domestic to domestic purchasers. In a nutshell, the theory tries to explain that countries would be more interested in integration if the benefits will be more than the cost which is the same as saying that countries would prefer more when there is trade creation than trade diversion in the economic integration process.

The second stage is known as the dynamic stage and is based on the static analysis inability to fully state the impact of integration. Balassa (1961) defines economic integration as both a process and a state of affairs. As a state of affairs he stresses the point of different kinds of discrimination between nation economies while as process he dwells on issues related to abolishment of discrimination between economic units of different national states.

Balassa outlines five stages necessary for removal of discriminatory measure: a free trade area whose goal is to eliminate tariffs and quotas only when trading with member countries of a union but individual tariffs are to be applied to an outsider.; a customs union which takes the all the traits of free trade area with additional responsibilities being instituting common external tariff to be applied when trading with a non-member and removal of restriction in regard to factors of production; an economic union which takes assumes all the characteristics of custom union and some degree of harmonization of economic policies such as monetary, fiscal and social ones and which culminated into formation of a supra national authority to oversee compliance and whose decisions are binding by member states.

### **1.5.2 Review of Empirical Studies**

Empirical literature has been looked at thematically from universal, regional to local context identifying existing gaps. These themes were identified from the independent in light of their effects on Kenya's tourism sector.

#### ***The East Africa Customs Union***

The East African Customs Union Protocol was signed on March, 2004 and it came into effect in the year 2005. The primary objective of the custom union was to enhance trade within the region and in turn, accelerate the economic growth. Under the Custom Union, partner states are expected to adopt a common external tariff and elimination of internal tariffs (Othieno and Shinyekwa, 2011). A harmonized three band CET structure which consists of 0 percent duty on raw materials, 10 percent duty on intermediate goods and 25 percent duty on finished goods was to apply to other countries supplying the EAC member countries with goods. This was aimed at increasing trade flow between partner states in the large market created and to reduce imports from non-partner states.

Article 5(2) of the EAC Treaty provides that after the customs union, partner states will progress to a common market. The protocol further states the instruments necessary for its implementation and they include; the EAC Customs Management Act and the EAC Customs Management regulations. The EAC CU has a number of features which includes; customs management, Common External Tariff, Export Promotion Schemes and sensitive products (EAC 2005). The ultimate hope was that co-operation in these areas will create new investment and trade openings for homegrown producers to maximize on economies of scale (ECA, 2001).

#### ***The East Africa Common Market Protocol***

The EACCM was signed in 2009 and came into force in July 2010 following the ratification by the heads of states of the five member states; Kenya, Uganda, Tanzania Rwanda and Burundi. The EACCM protocol (2009) guarantees free movement of goods, people and labour, rights of establishment and residence, free movement of services and free movement of capital. The protocol also elaborates other areas of cooperation by the partner states and rules on competition, public procurement and subsidies.

The common market is the second stage after customs union in the journey of economic integration in EAC; it involves amalgamation of partner states markets into a single market allowing for free movement of factors of production. It entails freedom of movement of goods and services, capital and labor. The common market in EAC is anchored on protocol for establishment of EAC common Market protocol which came into effect in 2010 after heads of states signed and ratified it. In adherence to the treaty as per Article 76 of the Treaty establishing EAC, partner states are expected to ensure that they come up with programmes that are aimed at widening and deepening cooperation among partner states in political, economic and social fields citizens (EABC, 2009). In the same spirit, partner states are expected to behave in a manner that supports the dictates of the common market protocol by ensuring that they ease the process of carrying out business across boarder by putting in place policies as well as legal mechanism relevant to the protocol. As of now, a number of initiatives have been put in place for this purpose and they include: easing movement of people as a result of introduction of EAC passport; introduction of single immigration entry to lessen time that is taken when clearing on the boarders; protocol for free movement of person, services and labor already in place.

#### ***The EAC Charter and Tourism***

In the EU, tourism was first mentioned in the treaty in 1992, Article 3 (t) of the treaty on EU laid emphasis on the need for EU to take steps in advancing energy, civil protection and tourism; it was explicitly stated that any action on tourism must be subject to unanimity of the council. In 2007, tourism got a good grounding in EU when a specific section (Article 195) was created. In this section, it laid down the aims of EU as: working towards the creation of a favorable environment to assist future activities; and encouraging exchange of good practice. The Article clearly set the procedure for adopting measures in tourism sector; in this regard the article clearly stipulates that the EU parliament and council shall adopt the measures as if there are deliberated upon in the ordinary legislative process (EU, 2015).

In 2010, EU commission adopted a strategy whose sole purpose was to make Europe the world's tourist destination, the strategy outlined action to be taken and initiatives to be implemented jointly by the commission, the member states and the industry stakeholders; all this was supposed to compliment the actions of the member states and the stakeholders in combating challenges that were being experienced in the sector. The strategy identified four main areas of concern and they were: stimulating competitiveness in the tourism sector in Europe; encouraging development of sustainable, accountable and quality tourism; present Europe as a preferred destination; and work on EU financial policies and instruments that ensures that the above is achieved. The EU in its quest to follow the dictates of the strategic paper launched a number of projects and initiatives amongst them; grants offering to tourism players, funding events such as the annual European Tourism Forum, creative competitions using webinars among others (EU, 2016).

Tourism was one of the productive sectors identified during the crafting of EAC development strategy (2001-2005) and as a result a milestone was achieved when the first Tourism Market Plan was born. Further tourism related aspects were noted when there was emphasis on the third EAC development strategy (2006-2010) as initiatives and intervention were explicitly mentioned (EAC, 2011). The EAC Tourism and Wildlife Protocol was ratified in 2011 and in which partner states agreed to ensure sustainable use of wildlife and other tourist attractions; among the hopes it carried if it became in operation were executing projects and programmes as stipulated in the EAC Treaty



under Articles 115 and 116 on Cooperation in Tourism and Wildlife Management (Trade Mark, 2016).

### ***Free Movement of Goods***

The association between freedom and economic growth has long been a heated debate with a lot of controversy but an issue of utmost importance in international trade literature with plenty of studies showing the correlation between the two (Gries and Redlin, 2012). Kaltani (2005) opines that openness encourages the efficient allotment of resources through comparative advantage and also allowing for spreading of knowledge and technological progress which in turn encourages competition in domestic and global markets. Narendra (2014) states that regional economic integration in the sense that the freedom of movement of goods and services is real leads to stimulated economic growth in countries and creates additional gains from free trade which cannot be compared to other trade arrangements such as general Agreement Tariffs and Trade (GATT) and WTO.

Article 28 of the Treaty European Union provides for free movement of goods alongside other three freedoms namely; services, capital and people; they are believed to be the foundation of the single market. The idea of having a single market in Europe has been driven by the need to help in economic growth as well as competitiveness; the two were seen as ingredients of job creation and development. Laws regarding single market in EU are meant to ensure that products being traded in EU are of good quality and are not hazardous to the environment; it legally expected that once a product is sold in the EU, it should circulate with within EU free from barriers to trade or administrative hindrances (EU, 2017).

Free movement of goods within the EU allows companies to access a market with a population of over 500 million persons; the commission opines that the single market has enabled the producers to access a wider range affordable supplies and consumers. The single market is famed for creating 2.75 million jobs between 1992 and 2006 and 9 million from 1986 to 1990; this improved on the wealth of EU by €877 billion from 1992 to 2002. Additionally, the share of foreign direct investment shot up by a quarter since 1992. About three quarters of all intra-EU trade is in goods generating 21% of EU GDP. Trading in goods between member states reached €3.1 trillion in 2016, which has been on the rise except on 2013 when the world experienced economic turmoil (<https://epthinktank.eu>).

Even though the EU is on books having recorded positive gains on incomes in Europe, it still has an ability to provide more welfare gains; this is truly reflected especially for trade in services where it accounts for 75% of value added in the EU. The EU year of tourism (1989), the much awaited action plan for tourism (1993-95), the famous Green book of the European Commission touching on the role of the union on tourism in 1995 and the Philoxenia Program of 1996 made tourism have a greater place within the EU institutions.

In terms of implementing the free movement of goods between partner states, the EAC Common Market Protocol stipulates that the process shall be directed by the customs law of the community jointly with the East African community protocol on standardization, quality assurance, metrology and testing which came into effect on 15th, January 2001, the same date it was signed in Arusha, Tanzania. To enhance the free movement of goods, the Partner States committed to implement

the Common External Tariff (CET) which has played a significant role in liberalizing the region which has led to lowering the cost of conducting business in the region. The CET has assisted to liberalize the region and significantly lowering the costs of doing business; this has greatly benefitted exporters and investor in Kenya as they are paying less in terms of tariffs (Ng'eno, 2003).

Late in 2011, all embracing consultations with various stakeholders in the region led to formation of East Africa Tourism Platform (EATP) which was to serve as a regional private sector body mandated to champion for collaborative approaches in dealing with tourism in East Africa. Among notable achievements included unending efforts towards: attainment of a Solitary Destination Brand which showcased the region as one in various Tourism shows; and introduction of single tourist visa which allows for visitors to transverse the region at ease except for Tanzania and Burundi who opted out of these arrangements (TradeMark, 2016).

### ***Free Movement of Labor***

In the EU free movement of person is contained in: Article 3(2) of the Treaty on European Union; Article 21 of the Treaty on the Functioning of the European Union; and Article 45 of the Charter touching on Fundamental Rights of the European Union. The concept of free movement of person has evolved since its inception, the initial provisions on the issue as covered in the 1957 Treaty establishing the European Economic Community dealt with free movement of workers and freedom of establishment thereby recognizing individuals as employees or service providers. Later on the Treaty of Maastricht came with the idea of EU citizenry which was to be enjoyed by every citizen of a member state; this gave right for every citizen to reside freely within the member state and be accorded benefits enjoyed by the locals. This was further cemented in the Lisbon Treaty when it included general provisions taking care of Justice, Security and Freedom (OECD, 2018). There was tremendous increase in intra-EU migration occasioned by principle of free movement of person as migration populace doubled from 10 million to 20 million between 1960 and 2015 (UN, 2017).

One of the principle drivers of this freedom is the EU parliament which has been on record having defended this noble concept: In its resolution of 2014 after debating on respect for the fundamental right of free movement within the EU, Parliament turned down efforts to frustrate free movement rights and urged Member States to respect and comply with the Treaty especially on the provisions that touched on freedom of movement as well as fundamental right of freedom; In its resolutions of 2017 after debating on restrains to EU citizens' freedom to travel and work in the domestic market, and in 2017 while deliberating on EU Citizenship Report of the same year, the Parliament called once more for the abolishing of obstacles to the right to free movement (EU, 2017). This state of affairs was facilitated by strong cultural and tribal linkages. Such linkages forged strong bondages, fortified by barter trade between clans. When the former East African Community (EAC) was created in 1967 following the signature of a treaty of cooperation between Tanzania, Kenya and Uganda, the free movement of persons within the region was ensured as one of the key elements of cooperation.

Unfortunately, the EAC disintegrated in 1977 due to political differences between Partner States (Anthony 2004). Kibua et al. (2007) in their study on contribution of EAC integration to East African development established that East African Community is potentially able to improve

the situation of rising numbers of unemployment as well as improve on the poverty levels that are dragging it behind due to the fact that its strength is based on cooperation in infrastructure such as the corridors and its ability to produce other public good as well as its appetite to align institutions to its objectives. Tourism was one of the productive sectors identified during the crafting of EAC development strategy (2001-2005). As a result a milestone was achieved as first Tourism Market Plan was born. Further emphasis was placed by the crafters of the third EAC development strategy (2006-2010) as initiatives and intervention that are explicitly mentioned focus strongly on the sector (EAC, 2011).

### ***Free Movement of Services***

Kaltani (2005) opines that openness encourages the efficient allotment of resources through comparative advantage. It also allows for spreading of knowledge and technological progress which in turn encourages competition in domestic and global markets. Narendra (2014) states that regional economic integration in the sense that the freedom of movement of goods and services is real leads to stimulated economic growth in countries. She further states that in doing so it creates additional gains from free trade which cannot be compared to other trade arrangements such as general Agreement Tariffs and Trade (GATT) and WTO.

Article 49 of the EC Treaty gives right to enterprises from any EU member states to establish themselves at any EU member state and Article 56 gives them legal grounding to provide services in those states they have chosen to operate in. In 2006, the EU adopted a service directive whose intention was to: eliminate the red tape and make it easy for service providers to operate at home and regionally; make it easy for service provision across the borders within the EU; to cement the rights of service receivers with special focus on consumers; to broaden the pool of services at disposal for EU citizens. The directive is responsible for activities that take up 46% of the EU GDP; they entail sectors like retail, construction, tourism and business services but some services such as healthcare, gambling, financial and transport industry are governed separate rules that do not fall within the category of services directive ([www.inbrief.co.uk](http://www.inbrief.co.uk))

In the EU, restrictions on freedom to provide services arising from member states are not allowed. The provider of the service is allowed to undertake his activity in the state where the service is provided and enjoy privileges that are enjoyed by the citizens of that state. Even though the treaty only touches on the freedom to service providers, the European court of justice has broadened the clause to include recipient of the services such as tourists, patients seeking medical treatment, students studying abroad, in a nutshell the scope was widened by the court to cover both the providers and the recipients of these services ([www.europeanlawmonitor.org](http://www.europeanlawmonitor.org)). Articles 56 of the founding treaty of European Union allows free travel within EU for EU citizens to provide or receive service in the tourism sector; furthermore, when in another country, the law provides EU travelers with same rights as citizen of that state in the context of paying the same entrance fees to museums as well as parks. Additionally, where necessary they benefit from emergency healthcare enjoyed by the nationals of that state they are visiting upon producing the European Health Insurance Card ([www.repository.cam.ac.uk](http://www.repository.cam.ac.uk)).

Free movement of services are guarantees that are given by partner states in regard to free

movement of service suppliers that are nationals of partner states within the regional community. This implies that, by the free movement, service providers from one of the Partner States shall be allowed to supply the service in any other partner state without restraints. The freedom cover supply of services within all territories of partner through commercial presence in partner states. In the case of East African Community, seven areas have been agreed upon (Article 16, EAC CMP). The association between freedom and economic growth has long been a heated debate with a lot of controversy but an issue of utmost importance in international trade literature with plenty of studies showing the correlation between the two (Gries and Redlin, 2012).

Each EAC member state promised to commit towards ensuring liberalization in selected services sectors as contained in the Annex five of the protocol. Strict schedules containing different sub sectors were outlined and the deadline for liberalization agreed upon. The first round of service liberalization identified a number of core service sectors; additionally, they agreed to liberalize the sub sectors within seven initial sectors. They include; Business services, Communication services, Distribution services, Educational services, Financial services, Tourism and travel-related services and Transport services (EAC 2014). Even though such commitments towards liberalization of various service sectors were made by EAC member states, the reality on the ground paints a very different picture as countries are acting contrary to this spirit. For instance, Tours operators from Kenya are often denied entry into Tanzanian game parks while their colleagues are allowed not only to enter but to freely navigate the Kenyan (<http://www.tccia.com>).

The governments of Kenya, Tanzania, Uganda, Rwanda and Burundi had committed to services trade liberalization measures between 2010 and 2015, in line with the EAC's Common Market Protocol; on these agreed up sectors there is special emphasis on education and tourism. However, much of the liberalization has been thwarted due to differences in opinion among member countries on the ability of service providers from elsewhere in the EAC to work in their countries. As EAC member countries could not agree on how to overcome the deadlock, services liberalization has progressed more slowly than anticipated. It is the obligation of partner states to take essential measures and steps both in legal and administrative areas to allow for nil restrictions in the sector and further prohibits introduction of new limitations on the delivery of services inside the territories of partner states (EAC 2016).

### ***Free Movement of Capital***

Free movement of capital arises when exchange controls are detached resulting into creation of an opportunity where capital is freed allowing for free flow of financial resources within and outside a country or a region (Trichet, 2005). The free movement of capital takes place: when partner states agree amongst each other to eradicate restriction between themselves in regard to movement of capital belonging to the partner resident in the community; when discrimination based on nationality or on place of residence of the persons or the capital is invested is scrapped of; when countries pledge to remove any other limitations and promise not to introduce new ones; not limit payments and transfers or institute more limitations relating the current payments in regard to movement of goods, persons, services and capital among partner states in tandem with the dictates of Common Market Protocol (EAC CMP, 2010). In a nutshell, the free movement of capital calls for absence of restrictions affecting free movement of finances from one partner state to the other within the community. Free movement of capital is greatly dependent on other rights such as free movement of services and right to residency.

Even though the treaty on the functioning of the EU does not clearly define free movement of capital, the Court of Justice of the European Union has maintained that the definitions in the nomenclature annexed to Directive 88/361/EEC may be used to define that term; as per these definitions, capital movement across borders may include: foreign direct investments; investment in real estate's or purchases; security trading in shares, bonds and bills; getting access to loans and credit facilities; and other financial related operations such as mergers, legacies and endowments. Unrestricted movement of capital is one of the foundations of the single market in EU, a fact which is contained in the Treaty of Maastricht; upon entry into force in 1994, all interferences in regard to free movement of capital were declared illegal in EU (<https://ec.europa.eu>).

In the EU capital liberalization, all restrictions related to movement of capital between member states and third world countries are forbidden which brings out an element of clarity and openness when compared to EAC, it is even illuminated further by the fact that third world countries are included in the charter (EU, 1958). EU and EAC share the same reasons for restricting movement of capital on certain grounds which are prudential supervision and public policy. Article 24 of the EAC Common Market CMP (CMP) is very clear on removal of restrictions in regard to free movement of capital. It includes restrictions touching on one's nationality, place of dwelling, present expenditure, and investment destination because such restrictions water down the basic tenets of a common market (EAC CMP, 2010).

It aims at making financial process across the border easy thereby ensuring that investors are availed with multiple numbers of instruments touching on Equities and Bonds from all Partner States within reach. On the other hand, companies that are in need of capital injections are availed a wider audience of Capital Markets (EAC, 2019). Remarkable achievements were observed due to free movement of capital for example; Global Trading Rating (2018) reported that even though revenue was flat at KES6.4bn in financial year 2017 due to limited capacity at the Nairobi Serena Hotel, its performance exceeded expectations due to good performances in Tanzania and Uganda.

## **1.6 Methodology**

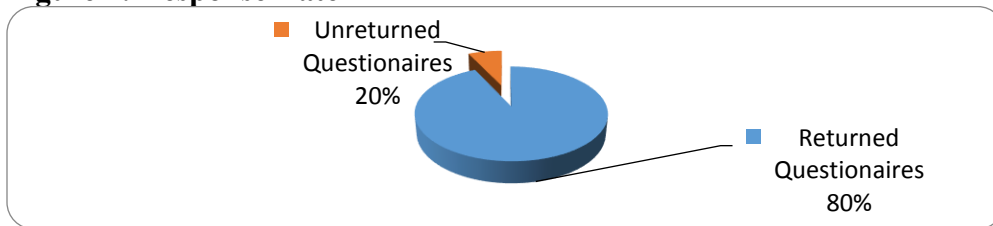
This section outlined the research methodology used in conducting the study. It includes the description of the research design, target population and sample size and the technique that was applied in the selection of the sample. It also states the data collection methods and tools, data analysis techniques, ethical consideration validity and reliability. This study used descriptive design. The connection between the independent and dependent variable in this study were examined in both the current and past periods. The study applied mixed research methods, which involved both qualitative and quantitative methods. Questionnaire and interview guide as tools for data collection were used to collect data to realize the goal of the study. The population of this study comprised of 294 respondents with key informant interviews conducted on senior public officials from relevant ministries and public corporations as well as key private sector associations and companies; and private sector players in major companies. According to Babbie (2010), sampling is the process of selecting a number of individuals for a study in such a way that the individuals selected represent the large group from which they are selected. The reasons for sampling are lower cost, greater accuracy of results, and greater speed of data collection and availability of population elements. Mugendi wa Mugendi (2003) opines that the larger the population, the more reflective the findings will be. The researcher used 50% of the population

which is also in tandem with law of large numbers. Random stratified sampling was applied since the population is heterogeneous. The population was divided into various strata basing on Ministry of Tourism, Tourist Fund, Tourist Finance and Ministry of EAC. Questionnaires were main means of data collection. The questions asked included Closed (requiring YES or NO answers), Open (requiring short essay answers) and partly closed partly open (requiring Yes or No and some explanation); this method saved time.

The researcher self-administered the questionnaires to the target respondents at their premises and then collected them at a later agreed date. The free respondents reply was own will since there was no interviewer to influence them. This was one of the ways to avoid biases and in particular the interviewer bias. In order for research quality in this study, both quantitative and qualitative methods of data analysis were used. Qualitative method was used in reviewing various policies and reports while descriptive statistics involved transforming a mass of raw data into tables, charts, with frequency distribution and percentages, which are a vital part of making sense of the data. The researched data was analyzed and presented using tables to give a clear picture of the research findings at a glance.

**1.7 Findings and discussions**

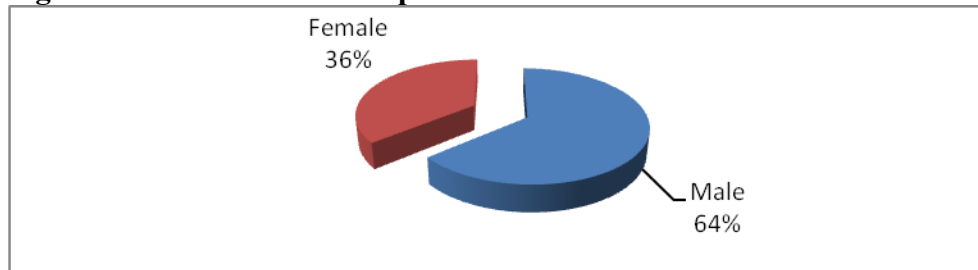
**Figure 1: Response Rate**



**Source: Author (2019)**

The reference figure 4.1 shows that out of the 147 questionnaires that were handed out during the study, 80% were returned. These came from the respondents who were able to return them on the day of collection. However, 20% were not returned to the researcher. These came as a result of the respondents who had not completed the questionnaires on the day of collection or were absent on the same day, 80% represents a high response rate.

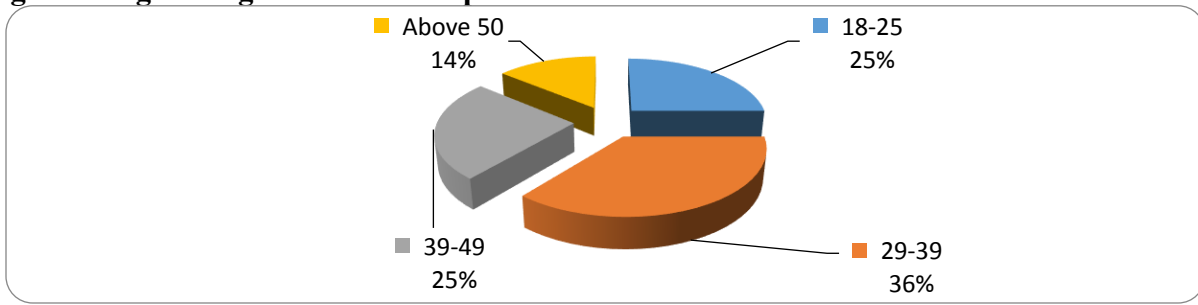
**Figure 2: Genders of the Respondents**



**Source: Author (2019)**

The reference figure 4.2 above indicates that 64% of the respondents were male while 36% were female. This shows that majority of the respondents were male. This means that the men are highly involved In EAC CMP issues in relevant ministries and organizations Kenya as compared to women.

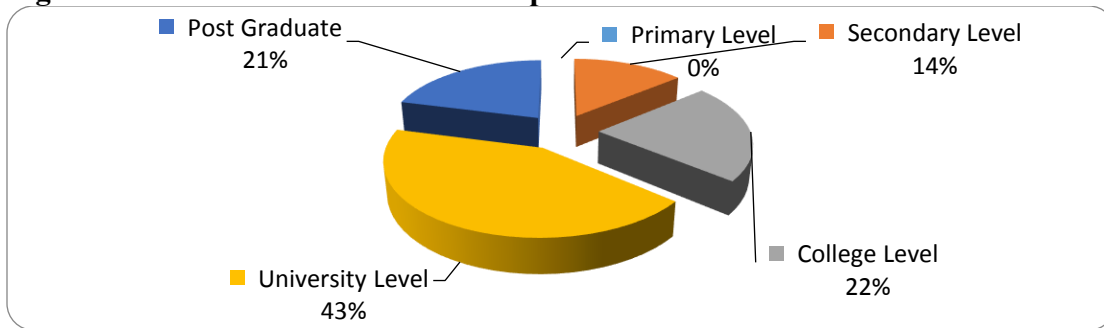
**Figure 3: Age Categories of the Respondents**



*Source: Author (2019)*

According to the reference figure 4.3 above, 14% of the respondents were above 50 years, 36% between 29-39 years, 25% between 18-28 and 39-49 years. This shows that majority of the respondents were between 29-39 years which also denotes the productive age in the tourism sector.

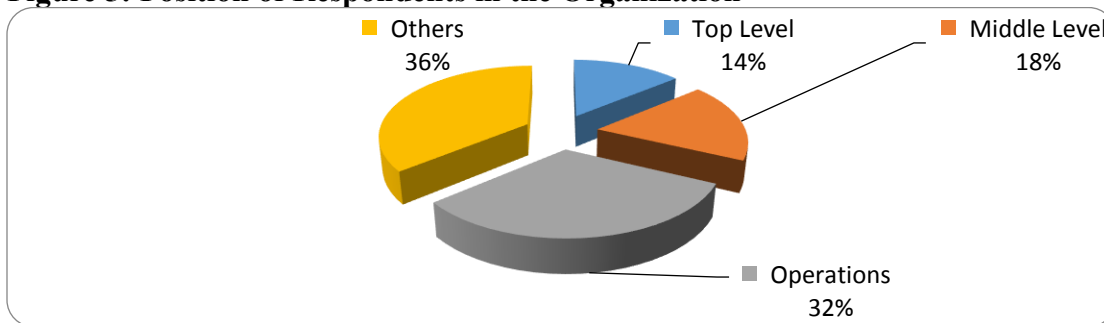
**Figure 4 Level of Education of the Respondents**



*Source: Author (2019)*

The reference figure 4.4 above, shows that majority of the respondents (43%) are in university level, 22% college level and 21% are graduates this implies that most of the respondents are qualified in their respective departments.

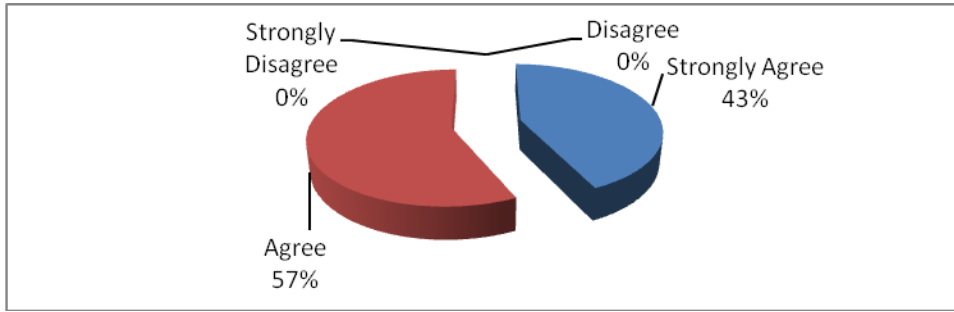
**Figure 5: Position of Respondents in the Organization**



*Source: Author (2019)*

According to the reference figure 4.5 above, majority of the respondents (36%) are others and this includes members from research department, library among others, 32% are operations managers, 18% middle level managers and 14% are top level managers. It shows majority of the respondents were others.

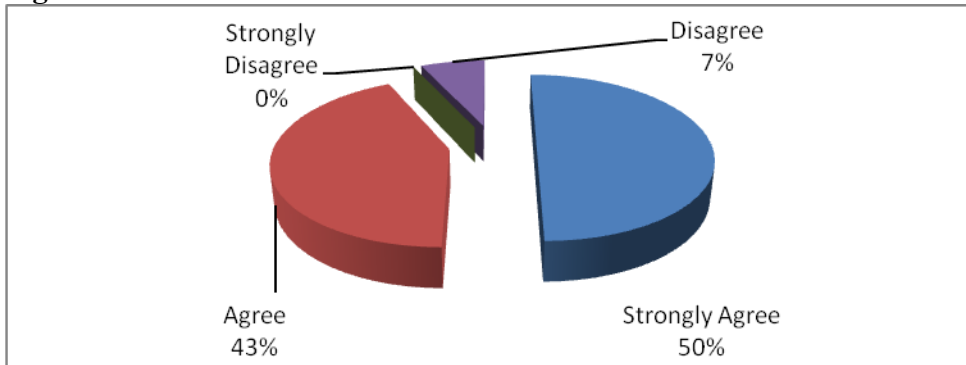
**Fig 6 Removal of NTB's in EAC**



**Source: Author (2019)**

According to reference figure 4.6 above shows that majority of the respondents (57%) agreed while 43% strongly agreed that removal of NTB's in EAC has effects on Kenya's Tourism sector. This implies that NTB's have effects on Kenya's Tourism Sector.

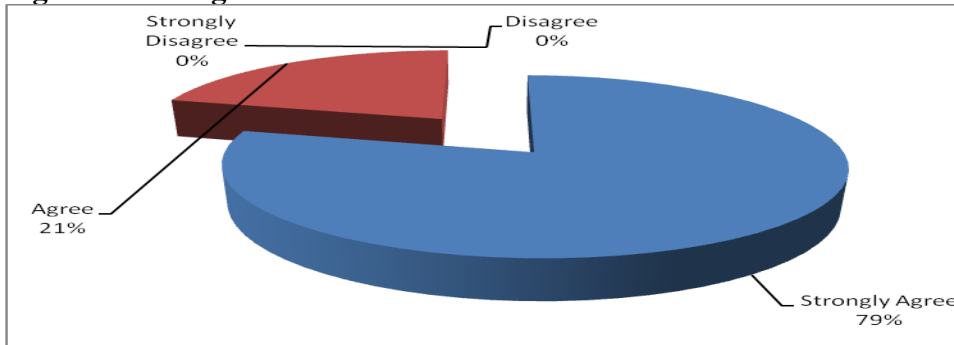
**Figure 7: Movement Bans in EAC**



**Source: Author (2019)**

According to the reference figure 4.7 above, most of the respondents (50%) strongly agreed, 43% agreed and 7% disagreed that bans within EAC have effects on Kenya's tourism sector. It implies that majority were in agreement that movement bans affects Kenya's tourism sector.

**Figure 8: Immigration Clearance in EAC**

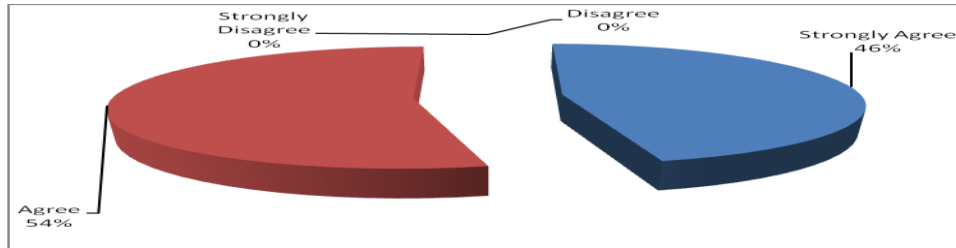


**Source: Author (2019)**

According to the reference figure 4.8 above, most of the respondents (79%) strongly agreed, 21% agreed that immigration clearance in EAC has effects on Kenya's tourism sector. This proves that immigration clearance in EAC has effects on Kenya's tourism sector.



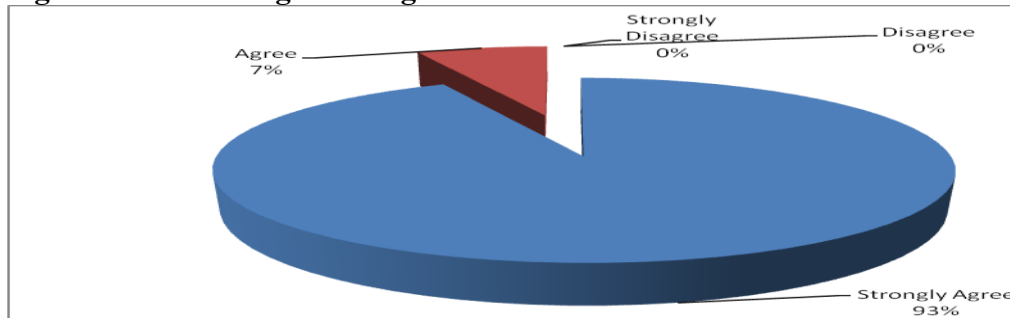
**Figure 9: Issuance and Renewal of work permits in EAC**



*Source: Author (2019)*

According to the reference figure 4.9 above, majority of the respondents (54%) strongly agreed while 46% agreed that issuance and renewal of work permits in EAC has effects on Kenya’s tourism sector. This shows that that issuance and renewal of work permits in EAC has effects on Kenya’s tourism sector.

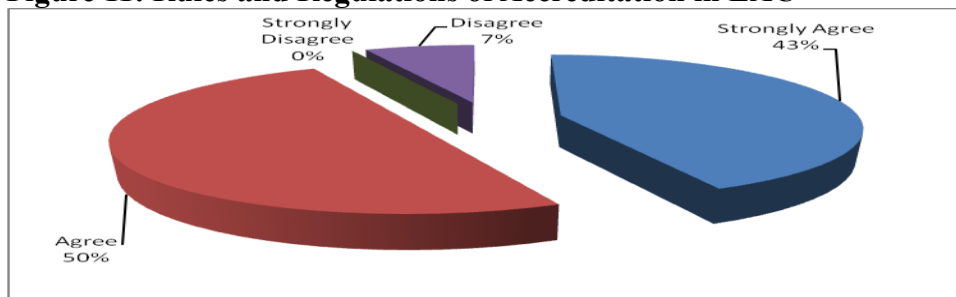
**Fig 10 Mutual Recognition Agreements in EAC**



*Source: Author (2019)*

According to the reference figure 4.10 above, majority of the respondents (93%) strongly agreed while 7% agreed that mutual recognition agreement has effects on Kenya’s tourism sector. This implies that mutual recognition agreement has effects on Kenya’s tourism sector.

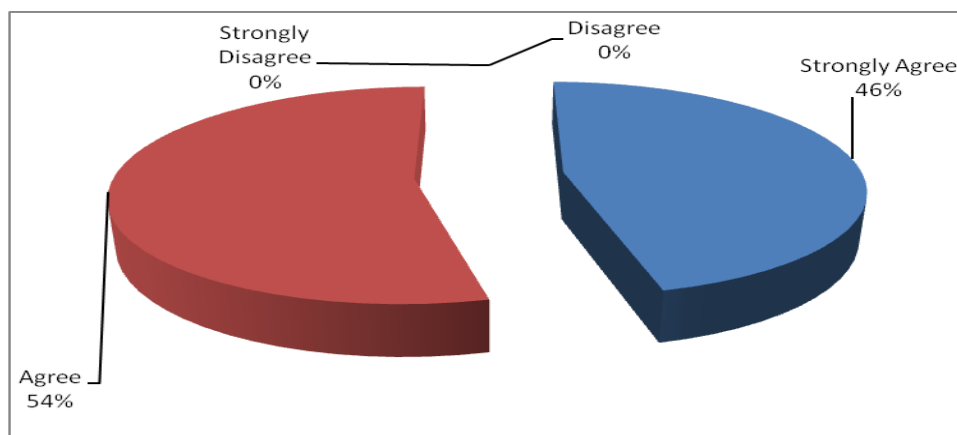
**Figure 11: Rules and Regulations of Accreditation in EAC**



*Source: Author (2019)*

According to the reference figure 4.11 above, most of the respondents (50%) agreed, 43% strongly agreed and 7% disagreed that rules and regulations of accreditation in EAC have impact on Kenya’s tourism sector. It implies that majority were in agreement that rules and regulations of accreditation in EAC have effects on Kenya’s tourism sector.

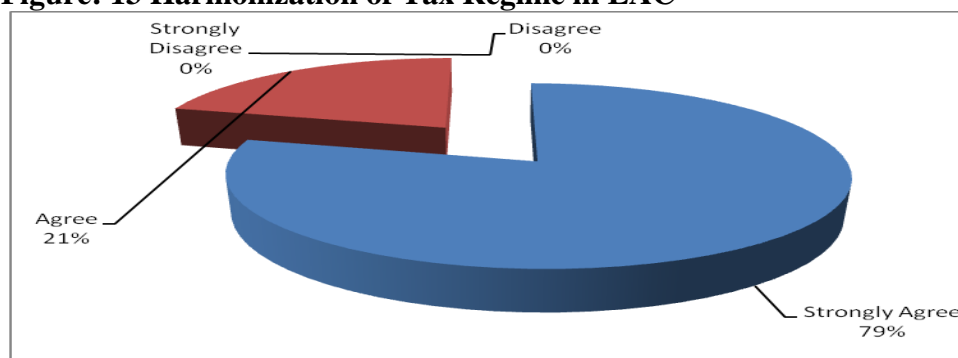
**Figure 12: Foreign Shareholding Level in EAC**



*Source: Author (2019)*

According to the reference figure 4.12 above, majority of the respondents (54%) strongly agreed while 46% agreed that foreign shareholding level in EAC has effects on Kenya’s tourism sector. This shows that foreign shareholding level in EAC has effects on Kenya’s tourism sector.

**Figure: 13 Harmonization of Tax Regime in EAC**



*Source: Author (2019)*

According to the reference figure 4.13 above, most of the respondents (79%) strongly agreed, 21% agreed that harmonization of tax regime in EAC has effects on Kenya’s tourism sector. This implies that harmonization of tax regime in EAC have effects on Kenya’s tourism sector

**Table 1: Research Findings**

	2007-2010	2011-2018	Outcome
<b>Elimination of NTB’s in EAC Standards</b>	<p>No Harmonized Standards.</p> <p>More occupancy rooms</p>	<p>1,526 with 1,007 being international with over 15 Kenyan Hotels classified as international.</p> <p>Kenya has 19, 100 rooms with occupancy of 47.3 percent which is double what was recorded from 2001 to 2010.</p> <p>Reduced clearance time from 38 to 10 days.</p>	<p>Account for over US\$ 6 billion.</p> <p>More earnings in tourism sector, as KES 157.4 billion was earned in 2018 compared to 73.7 billion in 2010.</p> <p>Smooth facilitation for Tour Operators in Kenya when crossing borders in EAC for example it takes a day to pay for insurance and other fees.</p>

Single Customs Territory	Over two months in clearance time.		
<b>Movement Bans in the EAC</b>	Government led.	Stakeholders' involvement brought on board.	Easy Access to the seventh wonder helping tourists visiting Kenya to reach 2 million in 2018 up from average 1.4 that has been visiting from 2000-2010 .  Kenya has affirmed its place as a conference hub with notable conferences such as TICAD and UNCTAD held in Kenya which is 2017, an indicator that the country has moved on from the effects of 1998 terror attack.
<b>Immigration Clearance in EAC</b> Introduction of One stop Border	Every member state manning its border point as there was no legal framework.	Consolidated approach towards border clearance with Section 55 of the EAC being One Stop Border Posts Act of 2013.	Of the 77 identified border points 15 are in EAC with 13 in operation.  Lesser time for tourists to cross borders.
Time to Clear	Over two hours taken to clear.	Less than 38 minutes.	Short queues at the border points making it easy to operate.
Number of vehicles Crossing Borders in Busia border point on daily basis.	Less than 300 hundred daily.	Over 894 vehicles crossing the border on daily basis with a third being tourists vans.	Increased the number of tourist from the region tremendously making Ugandans the biggest number of tourists from Africa to Kenya.
Intra region Tourism	On average less than 150,000 tourists	On average over 350,000 tourists	Kenya has become a desired place of choice for EAC citizens as Uganda now provides almost 50% of tourists from Africa to Kenya.
<b>Issuance and Renewal of Work Permits in EAC</b> Work permit requirement.	Mandatory and took up to six months to issue.	Not mandatory for EAC citizens in Kenya Uganda and Rwanda.	Easy movement of Kenya's stakeholders in tourism sector in Uganda and Rwanda.
Pre Visa Requirement	Mandatory	Pre visa scrapped off for other Africans.	
<b>Mutual Recognition Agreements in EAC</b>	Not in existence	In place.	The number of tourists increased from average 1.4 million from 2001-2010 to 2 million in 2018.
Multi-entry single tourist visa and joint marketing strategies.	Non-Issue.	Process is ongoing with heads of states committing to fast track the issue in 2016.	Fastened solving of issues between countries. Compatibility, Comparability, and mutual acknowledgment of higher education.
Harmonization of higher education.	Non Existence	In Existence	Kenya recorded a total of 95,845 visitors Rwanda and 80,841 from Uganda in 2018 which is double what it recorded in 2010.
Using national identity cards while entering Kenya for EAC citizens.			
<b>Rules and Regulations of Accreditation in EAC</b>	Strict and government controlled,	Relaxed after signing of agreement.	Free movement of professionals.  As of now, accountants, engineers, architectures, and veterinaries specialized and regulatory bodies from the 5 EAC can work anywhere of which these are the sub sectors that accelerate growth in tourism.
<b>Foreign Shareholding Level in EAC.</b>	Massive restrictions.	Lesser restrictions.	Kenya has no restriction on movement of capital. Kenya ranked fifth best destination in Africa for hotel development.
Willingness of foreign investors to invest.	Less than 20 global hotel brands.	Over 68 global hotel brands taking Kenya to 2 <sup>nd</sup> place behind South Africa.  New capital investments in hotel industry lined up with already established international Hotels such as Hilton and Radisson Blue	Construction of 27 hotels projects with 4232 rooms expected in the next five years.  Provides traders and bank customers with a safe, appropriate and timely method of sending and receiving money.

Inter-linked payment systems.	Not in place.  Every member country used its in-house clearing mechanism.	in process of putting up new facilities.  East Africa Payment and Settlement System.  Tanzania, Kenya, Uganda and Rwanda central banks have already inter-linked their payment systems.	Facilitates easy cross-border transactions that are vital in boosting tourism while also reducing exchange losses to tourists when touring the region.  Provides real time fund transfers which can be used to facilitate payments as they are irrevocable.  Transactions take a day to clear from 14 days from 2001 to 2010 making it easier for tourist to access money in Kenya and within the country as well as players in the tourism sector.
<b>Harmonization of Tax Regime in EAC</b>	Every member state controlled its own.	Consolidated approach	A double taxation agreement (DTA) is already signed by Kenya, Uganda and Tanzania.  A regional policy on domestic tax harmonization is in place having been finalized in 2016.

*Source: Author (2019)*

### 1.8 Conclusion

Going by the literature review and study results, the researcher found out that the EAC CMP has positive effects on Kenya's tourism sector in the sense that; it has steadily contributed to the GDP of the country and has been earmarked and an enabler towards achieving vision 2030; it has increased on the revenue base for players in the sector as the country is now receiving over 2 million tourists annually with each tourist spending an average of 2000 US dollars; the number of tourists from the region has gone up with Uganda taking the first spot as contributor of tourists from Africa to Kenya; Kenya became host to 243 global and continental meetings in 2017 with the notable conferences including the; Tokyo International Conference on African Development (TICAD), United Nations Conference on Trade and Development (UNCTAD), Global Partnership on Effective Development Co-operation's High-Level Meeting and the African, Caribbean and Pacific Assemblies Association countries; At the moment tourists spend an average of 37 minutes to clear at Busia border compared to almost two hours as a result of double queues previously, also of the over 894 vehicles that cross the border on daily basis, the tourist related vehicles amount to a third.

The positive effects were greatly pinned on initiatives such as: usage of identity cards for EAC citizens to cross over to Kenya; single multi-entry visa, joint marketing strategies; and inter-linked payment systems which allowed for quick and safe access for cash for tourists and players in the sector. It further revealed that despite partner states committing to the East African common market protocol almost a decade ago, the reality on the ground reflects a different picture as the protocol is marred by a myriad of challenges emanating from partner states holding on to their national laws. It is important for partner states to refocus their energies, policies and resources in the earliest time possible if they want to reap the maximum benefits from the protocol.

### 1.9 Recommendations

The study recommends that: EAC to ensure compliance with community laws; sectoral committees and working groups be given more powers to tackle and determine some of teething problems such as NTB's, service liberation and harmonization of tax; research on effects of EAC

CMP on other sectors as study was particularly looking at Kenya's tourism sector.

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**Internet Resources**

[https://econrsa.org/system/files/publications/working\\_papers/working\\_paper\\_635.pdf](https://econrsa.org/system/files/publications/working_papers/working_paper_635.pdf)

<https://globalriskinsights.com/2014/12/12/1ies-ahead>

<https://www.trademarka.com/news/kenya-dar-increase-barriers-to-trade-against-the-common-market-protocol/-eac/>

<https://www.theeastafrikan.co.ke/news/ea/How-visa-fees-flout-EAC-protocol/4552908-4824930-gnnt5d/index.html>

[http://www.tccia.com/tccia/wp-content/uploads/2011/07/trade\\_services\\_eac.pdf](http://www.tccia.com/tccia/wp-content/uploads/2011/07/trade_services_eac.pdf)