

An Assessment of the Legal Framework for the East African Monetary Union (EAMU): A Case Study of the EAC and Uganda

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Abstract

The legal framework of the East African Monetary Union (EAMU) consists of both EAC legal instruments and Partner State legal instruments. The Community legal instruments designate the priority areas for harmonisation in preparation for the EAMU. These guides on which Partner State laws may be relevant to the EAMU. Laws on banking, taxation, payment systems, and other commercial laws regulate fiscal policy, monetary policy, exchange rate policy, surveillance, compliance, and payment systems. These are also the areas envisaged under the Protocol as priority areas for harmonisation. In our assessment of the legal framework, therefore, we ask whether the EAC legal instruments are effective. Issues like lack of strict timelines, requirement for consensus in making key decisions, failure to explore and provide for more successful theoretical and practical alternatives, and lack of enforcement and sanction mechanisms render these laws ineffective. Regarding Partner State laws, their divergence from one state to another, non-recognition of EAMU goals, provisions conflicting with EAMU goals, and political barriers implicit in their texts present challenges for actualisation of the EAMU. We make conclusions, and suggest actionable recommendations for stakeholders at all levels.

A. Introduction.

The legal framework for the East African Monetary Union (EAMU) comprises Community and Partner State legal and policy instruments. Community instruments include the Treaty Establishing the East African Community (the Treaty), the Protocol on the Establishment of the East African Monetary Union (the Protocol), Acts of the East African Legislative Assembly (EALA), including the East African Monetary Institute Act 2019 (the EAMI Act), and relevant regulations; decisions; directives; and opinions of the Council of Ministers of the EAC (the Council) and Sectoral Committees.¹ Relevant Partner State instruments

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1 *Tralac*, EAC Legal Texts and Policy Documents, <https://www.tralac.org/resources/by-region/eac.h> tml (accessed 15 December 2025).

include their Constitutions, Central Bank Acts, Financial Institutions' Acts, Income Tax Acts, Budget Framework Papers, and Budget Speeches, among others.

The EAMU traces its origin to the defunct East African single currency area that operated between 1919 and 1965. This was not formulated by a Treaty, but was constituted by the UK Secretary of State for the Colonies, named the East African Currency Board (EACB), and it commenced operations.² It was governed through a series of regulations, including its Constitution, Secretary of State Approvals, and Orders in Council. It issued and regulated the East African Shilling in Uganda, Kenya, Tanganyika, Zanzibar, Eritrea, Ethiopia, Somalia, and the Middle Eastern territory of Aden (present-day Yemen).³

The single currency supplied and controlled by the EACB was the East African Shilling. Through the regulations, the EA shilling was backed by sterling securities. Hence, for every single EA shilling that was issued by the board, there was an equivalent in sterling securities reserved as security in London.⁴ This practice ensured the stability of the single currency area. One downside, however, was the lack of flexibility of the individual countries in dealing with shocks. Nevertheless, the single currency area thrived up to 1965 when the three Ministers of Finance for Kenya, Tanzania, and Uganda announced that they would be creating their respective national central banks.⁵

The EACB continued for a time as the currencies of the three newly independent countries were still backed by sterling securities. In 1967, however, the pound sterling was devalued by up to 14.3 % causing a substantial drop in the value of the Commonwealth's foreign reserves in London.⁶ Finally, in 1972, the British government withdrew its guarantee agreement for the sustained convertibility of its currencies.⁷ Other arrangements of a monetary union nature, such as cooperation in fiscal and monetary policies, continued under the East African Community (EAC). The collapse of the EAC in 1977 ended all forms of cooperation on monetary and fiscal policies among the three countries.

2 *IMF*, The East African Currency Board, <https://www.elibrary.imf.org/view/journals/024/1966/002/article-A003-en.xml> (accessed 15 December 2025).

3 *Mwangi Wambui*, Of Coins and Conquest: The East African Currency Board, the Rupee Crisis, and the Problem of Colonialism in the East African Protectorate, *Comparative Studies in Society and History*, 43(4), 2001, 765.

4 *International Bank for Reconstruction and Development*, The Economy of Uganda, <https://documents1.worldbank.org/curated/en/155551468349440654/pdf/multi0page.pdf> (accessed 15 December 2025).

5 *Lubega Henry*, When Plan for Single East African Currency came crumbling down in 1965, <https://www.monitor.co.ug/uganda/magazines/people-power/when-plan-for-single-east-african-currency-came-crumbling-down-in-1965-1855868> (accessed 15 December 2025).

6 *Cardiff University*, The Sterling Devaluation of 1967, the International Economy and Post-War Social Democracy, <https://orca.cardiff.ac.uk/id/eprint/13695/1/912.full%20Newton.pdf> (accessed 15 December 2025).

7 *Ezeoha A. et al*, The United Kingdom, the Sterling Area operations, and reserve management in Nigeria: The politics of the Sterling Guarantee Agreement (1931–1979), <https://www.tandfonline.com/doi/full/10.1080/20780389.2025.2495614#abstract> (accessed 15 December 2025).

It took 38 years, up to 2015, for another monetary union agreement amongst the countries to come into force. As noted above, the constitution of the EACB and operationalisation of its constitution, regulation, and orders in council were concluded in December 1919, and implementation started immediately the same year. In contrast, the EAMU Protocol came into force in 2015, ten years later in 2025; there is no implementation of its provisions. This article, therefore, looks at the legal factors that could be responsible for this protracted delay.

It begins with the introduction, which gives a historical peek into the first successful single currency area in East Africa. The second section gives a comprehensive background of the community's legal instruments, pointing out the weaknesses embedded therein. The third section looks at the national legal instruments of Uganda, assessing them against preparedness for the monetary union. The fourth provides actionable recommendations for the EAC, Uganda, and other Partner States. It ends with a conclusion.

B. Community Instruments

I. The Treaty

The Constitutive Treaty of the EAC provides for the EAMU under articles 5(2), 82, and 151 thereof. It sets up the EAMU as the third stage of integration after the customs union and the common market. The fourth and final stage, unique to the EAC, is the political federation. Prior cooperation in monetary policy, fiscal policy, and maintaining the convertibility of currencies among the Partner States is required. Furthermore, after ascertaining the proper operations of the customs union and the common market, the Council exercised its mandate as the EAC's policy institution and proposed the EAMU Protocol to the Summit of Heads of States (the Summit).⁸

The Treaty envisions a progressive attainment of the aforementioned stages of EAC integration. However, it omits strict timelines for the full realisation of each stage. A stage does not need to be fully implemented before the subsequent stage can commence. This has led to simultaneous implementations of the customs union, common market, and now the monetary union.⁹ These two former stages commenced in 2005 and 2010, respectively, a five-year gap. The same was attempted for the EAMU. Its Protocol was adopted in 2015. The five-year gap sequencing has proved insufficient, as there remain many challenges with the implementation of both the customs union and the common market.¹⁰ These include non-tariff barriers, non-alignment of national policies, and lack of political will, among others. These directly undermine the commencement of the EAMU.

8 *EAC, The Monetary Union*, <https://www.eac.int/monetary-union>, (accessed 15 December, 2025).

9 *Makame Abdullah, The East African Integration: Achievements and Challenges*, <https://ecdpm.org/work/trade-and-development-making-the-link-volume-1-issue-6-august-2012/the-east-african-integration-achievements-and-challenges>, (accessed 15 December 2025).

10 *Ibid.*

Writing on the failures of the customs union, Okumu and Nyankori opine that, as much as the tariff barriers have been eradicated in the region, non-tariff barriers have eradicated all the gains that were attributed to that eradication in the region.¹¹ Technical considerations as to quality and standards, have led to immense difficulty in intra-regional trade. Similarly, the free movement of goods, services, and persons (labour) and rights to establishment and residence under the Common Market Protocol are yet to be fully realised. Chilangazi and Magasi identify ‘political barriers, high transportation costs, food insecurity, discrepancies in standards, limited logistics and trade services, and restricted access to finance’ as the major emerging challenges in the EAC common market.¹² Hence, the failure of the Protocol to provide for full implementation before transition has led to the current stagnation in the integration process at the Monetary Union level.

The success of a monetary union requires harmonisation of fiscal and monetary policies. Because of the imperfection of the customs union and common market, these policies cannot be easily harmonised. For example, the failure of the free movement of goods and services results in stagnation of regional payments and settlement systems. The immense burden of the non-tariff barriers discourages intra-regional trade, and systems that should have been advanced by continued usage are stagnated by the low volumes of Trade among the Partner States.¹³ Similarly, banking prudential and regulation rules do not get a regional application due to the lack of usage of the preparatory system of the EAMU.

The elements pertinent to the customs union and the common market, such as productivity levels, growth rates, diversification, trade openness and integration, labour mobility, and capital mobility, are the prime indicators of real convergence in a monetary union.¹⁴ As will be shown below, the EAMU does not focus on real convergence, that is, the convergence that assesses the structural and economic similarity of States that want to enter a monetary union. These should ideally be attained through the proper functioning of the preliminary steps. Because the Treaty did not emphasise their perfection, their imperfect implementation has drastically affected nominal convergence, which is required in the EAC. This has led to the current reluctance by Partner States to enter a Monetary Union with states whose economies are not structurally similar to their own, hence the protracted delay of over 10 years.

- 11 *Okumu Luke and Nyankori Okok*, Non-Tariff Barriers in EAC Customs Unions: Implications for Trade Between Uganda and other EAC Countries, <https://elibrary.acbfpact.org/acbf/collect/acbf/index/assoc/HASHa807/88fd7b10/2b933020/3b.dir/EPRCseries75.pdf> (accessed 15 December 2025).
- 12 *Chilangazi Eliah, and Magasi Chacha*, Emerging challenges in implementing the common market protocol for free movement of goods in the East African community, <https://www.ssbfnct.com/ojs/index.php/ijrbs/article/view/2642> (accessed 15 December 2025).
- 13 *Drummond Paulo, et al.*, Toward a Monetary Union in the East African Community: Asymmetric Shocks, Exchange Rates, and Risk-Sharing Mechanisms, https://www.imf.org/external/pubs/ft/dp/2015/afr1506.pdf?utm_source=chatgpt.com (accessed 15 December 2025).
- 14 *Dirk Willem te Velde*, Regional Integration, Growth and Convergence, *Journal of Economic Integration*, 26(1), 2011, 1.

The Treaty also provides for all decisions of the Summit to be made by consensus. This gives each country a de facto veto power. In the EAMU operationalisation process, this veto power has prolonged the process by at least two years. Currently, the Summit is having discussions on the location of the Headquarters of the EAMI. This has been carried over for two meetings. It could have been dispensed with in a single sitting if it were subject to other decision-making formats, such as a simple majority among others. This has also affected the establishment of some of the vital institutions mentioned above in the earlier parts of this essay.

II. *The Protocol*

The EAMU came into force through the Protocol on the EAMU. It provides for the harmonisation of monetary, fiscal, exchange rate, interest rate, surveillance, compliance, and enforcement, payment and settlements, and bank regulation and prudential control policies and systems. At the core of the Protocol are the mandatory convergence criteria that should be attained and maintained for three years by all the Partner States. The protocol portrays all these as preparatory stages and briefly hints at institutions and laws necessary for the actual operation of the EAMU. Prime among these are the East African Central Bank and, Statistics Institute.

As stated, the convergence criteria including (a) a ceiling on headline inflation of 8 %; (b) a ceiling on fiscal deficit, including grants of 3 % of Gross Domestic Product; (c) a ceiling on gross public debt of 50 % of Gross Domestic Product in Net Present Value terms; and (d) a reserve cover of 4.5 months of import, form the core of the Protocol. These are to be attained and maintained for three consecutive years before the EAMU can be operationalised. These are nominal convergence criteria which focus mainly on macro-stability, that is, achieving a stable macro-economic environment and aligning with key monetary and fiscal indicators. These are easier to achieve than the real convergence criteria, but as stated above, they lead to less structural similarity amongst the Partner States, and affect the ability of the monetary union to effectively respond to asymmetric shocks as a bloc.¹⁵

Additionally, the convergence criteria approach is based on the optimum currency area (OCA) theory that posits that when the convergence criteria are met and sustained, the single currency area is ready to commence operation.¹⁶ This is the approach that was preferred by Europe, albeit they also abandoned it and commenced the single currency area

15 *Olorunsola E. Olowofeso, et al, Comparative Analysis of Nominal and Real Convergence in West African Monetary Zone (WAMZ): Time Varying Parameter Approach*, <https://www.wami-imao.org/sites/default/files/2024-07/OPS%2033%20%20Comparative%20analysis%20of%20nominal%20and%20real%20convergence%20in%20the%20WAMZ.pdf> (accessed 15 December 2025).

16 *Mundell A. Robert, A Theory of Optimum Currency Areas*, file:///C:/Users/ADMIN/Downloads/9781557756527-ch002.pdf (accessed 15 December 2025).

in the European Union (EU) without the full attainment of the OCA.¹⁷ There is very little evidence of any regional economic community (REC) in the world, at the monetary union level, that has actually obtained the OCA requirements and sustained them. This is a rather taxing requirement if all evidence points to its impossibility.

Additionally, the OCA approach at the core of the protocol ignores political factors in the success or failure of a monetary union. It solely focuses on economic factors. Dr. Annie Barbara Chikwanha has stated that most of the failures of the EAC so far are directly attributable to political factors.¹⁸ The EA single currency area of old came into being by way of a political pronouncement. Similarly, all the monetary unions currently on the African continent are in place as a result of political pronouncements, and not the attainment of convergence criteria. Cécile Couharde et al opine that these areas, despite not starting as OCAs, have performed well as single currency areas.¹⁹ In recognition of the fact that political decisions play a big factor, the Protocol should have expressly provided how the political decisions as to the commencement of the monetary union would be taken with hard deadlines, such that failure to meet them would render it obsolete. This would have prevented the current situation of uncertainty over whether or not the EAMU will ever become operational.

III. Acts of the Community

Under the Protocol, the East African Monetary Institute (EAMI) is described as the preparatory institution for the EAMU. Ligami reported that the EAC had adopted the EAMI Bill and the Bill establishing the EA Statistics Bureau to fast-track the EAMU.²⁰ Consequently, the EAMI was formally established under section 3 of the EAMI Act 2019. It is set up to coordinate the harmonisation of (i) the monetary and exchange rate policies of the Partner States; (ii) the legal framework for the regulation and prudential supervision of banking systems of the Partner States; and (iii) payment and settlement systems of the Partner States. As such, all the preliminary harmonisation steps to create the best macro-economic environment for the EAMU are supposed to be coordinated by the EAMI.

17 *European Central Bank*, Speech by Otmar Issing, Member of the Executive Board of the ECB, Helsinki, 24 March 2006, <https://www.ecb.europa.eu/press/key/date/2006/html/sp060324.en.html>, (accessed 15 December 2025).

18 *Annie Barbara Chikwanha*, *The Anatomy of Conflicts in the East African Community (EAC): Linking Security with Development*, <https://www.ascleiden.nl/pdf/lectureanniechikwanha.pdf> (accessed 15 December 2025).

19 *Cécile Couharde, et al*, *Revisiting the theory of optimum currency areas: Is the CFA franc zone sustainable?* https://www.cepii.fr/PDF_PUB/wp/2012/wp2012-13.pdf (accessed 15 December 2025).

20 *Ligami Christabel*, *EAC adopts Bills to pave the way for monetary union*, <https://www.theeastfrican.co.ke/tea/business-tech/eac-adopts-bills-to-pave-the-way-for-monetary-union-1392658> (accessed 15 December 2025).

However, the Act provides that it will come into force upon gazetting. The decision over gazettment is supposed to be recommended to the Summit by the Council. The decision has to be a by way of consensus.²¹ There are new Partner States that were not part of the ratification in 2015. These, according to the legal framework, still have a veto power over such decisions owing to the consensus rule. Important questions arise as to the practicality of the consensus model. As a result, since 2019, the Act has never been gazetted. This defeats the purpose of the legislation process, and most importantly, it has curtailed the monetary integration process and set it behind already by six years.

Needless to mention that the Bill establishing the EA Statistics Bureau has never been enacted into law since it was adopted in 2017. In our considered opinion, the Protocol is a missed opportunity in ensuring timely implementation of the EAMU. First it provides under Article 5 (1) (a) that the EAMU can only commence operations after the ‘full’ implementation of the customs union and common market protocols. It omits to define what ‘full implementation’ means. As such it is assumed that the earlier highlighted simultaneous implementations of the customs union and common market stages, coupled with the attendant challenges also highlighted above, amount to fully implementing the respective protocols. If it were not so, the Protocol and relevant community Acts would have been delayed pending full implementation of the prior stages.

This lack of clarity has, in turn, negatively impacted the community's Acts relevant to the EAMU. Just like the Treaty, the EAMU Protocol omits to set timelines for the attainment of EAMU goals. It also adopts nominal convergence criteria instead of real convergence criteria. As such, Partner State economies are structurally dissimilar, are ill-equipped to handle asymmetric shocks, and the political arms have a plethora of reasons to delay the implementation of the EAMU. It should have taken lessons from protracted operationalisation and continued deferment of timelines in the West African Monetary Zone (WAMZ).²² The WAMZ delays are attributable to the same reasons highlighted here.²³

IV. Lacunae

Since none of the community acts that actualise the protocol are in force, this is, in reality, a description of the entire community legal framework in relation to the EAMU. It is riddled with gaps and non-functional instruments. Earlier, we intimated that the EAMU aspires for harmonisation of “monetary, fiscal, exchange rate, interest rate, surveillance, compliance, and enforcement, payment and settlements, and bank regulation and prudential control policies and systems.” It follows that the community should provide Acts for each of these aspects, which, in line with Article 8 (4) of the Treaty, which states that “Community

21 *Rwengabo Sebastiano*, Consensus and the Future of the East African Community, <https://www.aco-de-u.org/uploadedFiles/PBP36.pdf> (accessed 15 December 2025).

22 *Daily Trust*, Another postponement of ECOWAS common currency, <https://dailytrust.com/another-postponement-of-ecowas-common-currency/> (accessed 15 December 2025).

23 *Ibid.*

organs, institutions and laws shall take precedence over similar national ones on matters pertaining to the implementation of this Treaty.”, should supersede Partner State laws on the same subjects. However, these Acts are mostly not in place.

C. The Legal Framework in Uganda

Uganda is a founding Partner State of the EAC. It has a robust legal framework, albeit criticised for poor implementation.²⁴ Uganda is a dualist country, and ideally, all community laws should be domesticated through enabling legislation before they are applicable in Uganda.²⁵ The constitution of Uganda 1995 predates the EAC Treaty and hence makes no express mention of the status of community laws and policies. As such, the implementation of community laws and policies by the courts of law in Uganda has been seldom and far in between.

Uganda was a beneficiary of the World Bank-funded modernisation of commercial law statutes to align them with the EAC standards.²⁶ As such, the contracts, insolvency, banking, employment, and procurement Acts were revised in the mid-2000s. These laws largely capture the thematic areas of harmonisation and approximation required under the Treaty and the EAMU Protocol. However, as we shall show shortly, these laws mirrored international standards dictated by the donors, but fell short of harmonizing and encouraging common practices among the Partner States of the EAC. The review process was another missed opportunity towards fast tracking integration stages including the monetary union.

I. Fiscal Policy: The Income Tax Act and National Budget

The Income Tax Act of Cap 338 is the primary taxation statute. Regarding EAC affairs the East African Customs Management Act and the East African Excise Management Act were enacted to actualise the provisions of the Customs Union Protocol.²⁷ This is complemented by the national budget through which the government indicates its taxation policy for the

24 Nakamwesi Dorothy, Government good at policy formulation, poor at implementation – Badagawa, <https://www.monitor.co.ug/uganda/business/prosper/government-good-at-policy-formulation-poor-at-implementation-badagawa-1634748> (accessed 15 December 2025).

25 *Jamil Ddamulira Mujuzi*, International human rights law and foreign case law in interpreting Constitutional rights: The Supreme Court of Uganda and the death penalty question, <https://scielo.org.za/pdf/ahrlj/v9n2/10.pdf> (accessed 15 December 2025).

26 *Mugasha Agasha*, The Reform and Harmonisation of Commercial Laws in the East African Community, https://repository.essex.ac.uk/21491/1/EJLR_Law%20Reform.pdf (accessed 15 December 2025).

27 *Dentons*, Taxation in Uganda, https://www.gtuganda.co.ug/globalassets/_markets_/uga/media/doin_g_business_in_uganda_taxation.pdf, (accessed 15 December 2025).

financial year, introduces new taxes, adjusts existing ones, and offers tax incentives.²⁸ Together, they form the backbone of the fiscal policy of Uganda. The EAC has introduced simultaneous reading of the national budgets of all Partner States, and all Partner States follow the same financial year cycle.²⁹ However, the role of coordination of the fiscal policies for the EAMI is still falling short. Other than the budgets being read on the same day, encouraging nations like Burundi to adjust their budget cycles, and comparisons as to budget amounts, there is little evidence of effort to align the budget provisions (hence the fiscal policies) towards the attainment of the convergence criteria. For instance, Kuteesa states that studies have largely found that there is no budget deficit convergence in the region.³⁰

Additionally, there is no indication in Uganda's taxation law that it is attempting harmonisation with the rest of the taxation laws in East Africa. Save for the coincidence that laws of the three British ex-territories of Tanzania, Uganda, and Kenya are almost in *pari materia* in terms of the tax laws, there is actually no guidance as to practice in modern times. This guidance is needed in matters that may result in economic shocks, such as tax holidays for non-EAC individuals and companies (so-called investors), issuance of supplementary budgets, wealth redistribution programmes, and distribution of bonuses to tax-collecting bodies from tax revenues. UNU-WIDER found that foreign firms in Uganda are overrepresented among the beneficiaries of tax incentives, with associated losses to Uganda peaking at \$42 million in 2020. On average, Uganda loses 0.12 of its GDP to these incentives, and these benefit the individual businesses at the expense of the wider economy.³¹ Some of these practices may not be sound, leading to scepticism among other Partner States to fiscally integrate with others orchestrating such practices.

II. Monetary Policy: Banking

The major law for bank regulation and prudential supervision in Uganda is the Financial Institutions Act, Cap 57. This Act provides for the Bank of Uganda (the Central Bank) as the single regulatory and prudential supervisory authority in Uganda. As such, the Central

- 28 *Ndagire Betty*, Hidden tax changes in the 2025/2026 Budget, <https://www.monitor.co.ug/uganda/business/prosper/hidden-tax-changes-in-the-2025-2026-budget-5105814>, (accessed 15 December 2025).
- 29 *Umidha Steve*, Why EAC Nations' Budget Reading is held on a Wednesday, <https://www.financialfortunemedias.com/why-this-years-budget-reading-is-on-wednesday/> (accessed 15 December 2025).
- 30 *Annete Kuteesa*, East African Regional Integration: Challenges in Meeting the Convergence Criteria for Monetary Union, <https://eprcug.org/publication/east-african-regional-integration-challenges-in-meeting-the-convergence-criteria-for-monetary-union-a-survey/?ind=1603362778069&filename=East%20African%20Regional%20Integration%20Challenges%20in%20Meeting%20the%20Convergence%20Criteria%20for%20Monetary%20Union%20A%20Survey.pdf&wpdmdl=11849&refresh=68d45a434dbdf1758747203> (accessed 15 December 2025).
- 31 *UNU-WIDER*, What is the impact of Corporate Tax Incentives in Uganda?, https://www.wider.unu.edu/sites/default/files/Publications/Research-brief/PDF/RB-2024-1-What-impact-corporate-tax-incentives-Uganda.pdf?utm_source=chatgpt.com, (accessed 15 December 2025).

Bank is the one that provides standard operating procedures for banks, and is at the same time responsible for monitoring, supervising, and punishing errant banks. This model has been widely criticised for overburdening the Central Bank, causing conflicts of interest, and discouraging specialisation of entities.³² Recent legislation, for example, the Kenya Banking Act Cap 488, has moved away from and adopted the twin peaks model, where the regulatory authority is separated from the supervisory authority. This avoids conflict of interest and concentrates the specialisation of capacity. In the absence of a guiding EAC law, this disparity has been allowed. It is therefore difficult for countries like Kenya and Uganda, with no structural similarity in the banking sector, to willingly enter into the monetary union.

The second important law is the Bank of Uganda Act, Cap 54. This establishes the Bank of Uganda and defines its roles to be performed independent of government interference. It is mandated to lend to the government and to control the flow of money in the economy through setting interest rates, selling bonds, and other measures. Mutebile opines that the effectiveness of Bank of Uganda (BoU) should be judged on its ability to control inflation.³³ Under the Protocol, the Central banks like BoU are supposed to cede some of their powers to the East African Central Bank (EACB). There is nothing in the letter of the BoU Act envisaging such a cessation of powers. Also, there is no indication under the Act that the Central bank should cooperate with other national central banks in the EAC as required under the Protocol.

III. Other Policies

In addition to the fiscal and monetary policies, Uganda has legislations that pertain to the requisite thematic harmonisation requirements already highlighted above. For example, the National Payment Systems Act Cap 59 regulates the efficiency and safety of payment systems in the country. In relation to regional integration, this Act does not refer to ongoing developments in regional payment systems. It does not provide for cross-border payment systems. This Act was enacted in 2020. The East African Payments System (EAPS), an initiative of the EAC Central Bank Governors, was launched in 2016, envisioning “a real-time gross settlement basis by utilising the linkage between the various Partner States’ Real Time Gross Settlement (RTGS) systems.”³⁴ This shows that the lack of integration of

32 *Donato Masciandaro*, Should Banks also be supervisors: A political economy perspective, https://www.suerf.org/publications/suerf-policy-notes-and-briefs/should-central-banks-also-be-supervisor-s-a-political-economy-perspective/?utm_source=chatgpt.com, (accessed 15 December 2025).

33 *Emmanuel Tumusiime-Mutebile*, The role of the central bank in the post-2015 era to promote local ownership of monetary and fiscal policies and processes, <https://www.bis.org/review/r141119f.htm>, (accessed 15 December 2025).

34 *Tralac*, Launch of the East African Payment System (EAPS), <https://www.tralac.org/news/article/5782-launch-of-the-east-african-payment-system-eaps.html>, (accessed 15 December 2025).

monetary union goals is not only reflected in the older pieces of legislation, but also in the post-2015 pieces of legislation.

D. Conclusions

From the foregoing, the following conclusions can be made about the legal framework for the EAMU:

There is a delayed enactment and implementation of critical pieces of legislation. All the legislation meant to actualise the EAMU is either non-existent or non-operational. As a result, there is no standard for the Partner States to follow in the enactment of their own domestic legislation, to harmonise with other partner States, or to approximate accordingly. This has led to differing legal and institutional setups in the Partner States, which limit real, nominal, and institutional convergence. This has led to this unconscionable delay in the operationalisation of the EAMU.

Secondly, the legal frameworks at both the Community and Partner State levels are inadequate to guarantee autonomy, especially of Central Banks. The BoU Act, for instance, does not provide adequate safeguards prohibiting government instructions to BoU. This has been exacerbated by the appointment procedures under the Act. For example, section 27 (1) of the BoU Act provides that the Governor and Deputy Governor shall be appointed by the President on the advice of the cabinet. This mode of appointment potentially affects the personal autonomy of the officials. As such, they may be susceptible to abiding by state instructions which are against sound Central Bank standards, undermining the autonomy that is required for the success of the EAMU.

Thirdly, there are sovereignty transfer issues that go to the root of the foundations of the Partner States. For example, BoU is created under Article 161 of the 1995 Constitution of Uganda. Its powers are enunciated thereunder; it is designated as the only authority to issue the currency of Uganda. As seen above, under the Treaty and EAMU Protocol, it is required that BoU and other national central banks should cede this sovereignty to the EACB. However, this process has not yet been streamlined. There are no guidelines as to how the central banks will cede this sovereignty, which aspects to be ceded, and the timeline thereof.

The legal frameworks for public finance management are divergent and poorly coordinated. This also suffers from a lack of standard setting at the community level through Acts of the Community. Reporting on data, tax policies, and financial institutions regulation is not yet harmonised. Some national laws and policies conflict with the monetary union objectives. It becomes extremely difficult to operationalise a region-wide fiscal policy. It should be noted that the Partner States favour independent fiscal policies for dealing with shocks. They are reluctant to cede this to the community.

The assessment of the legal framework has not revealed a formidable enforcement mechanism. For example, what are the consequences for non-compliance by Partner States? This question is neither raised nor answered in the Treaty, the Protocol, or the supporting

community Acts. For example, some countries have acted erroneously in ways that undermine the attainment of the convergence criteria. Some have enacted laws relevant to the EAMU and did not refer to it in their post-2015 legislation. The absence of clear sanctions mechanisms for non-compliance in the legal framework undermines the credibility of the EAMU.

E. Recommendations

Following the conclusions above, we make the following recommendations to ensure effective and timely implementation of the EAMU:

In addition to consideration of the economic factors, political factors should be considered and addressed. For example, decisions regarding ceding sovereignty of national central banks, ceding control over fiscal policy by national banks, and regulating government instructions to national central banks are almost entirely political decisions disguised as economic. These form the bedrock of resistance towards the actualisation of the EAMU. As such, there should be engagements with the top decision makers of each of the Partner States, they should be consulted on their reservations towards the EAMU, and these reservations should be transparently addressed.

From the previous point, it is discernible that the legal framework of the EAMU, greatly influenced by the OCA theory, ignores political factors. It also ignores the fact that nominal indicators are not as convincing as real indicators are, especially to Partner State decision makers. Kuteesa makes a clear distinction between the two thus:

Real convergence relates to the equalization of economic welfare and social structure. In this case, similarities in the level of competitiveness, labor and macroeconomic performance as measured by real economic outcomes of per capita incomes, productivity, industrial indicators, trade links, business cycle synchronization etc. reveal the extent real convergence. On the other hand, nominal convergence relates more to the movement of nominal variables including budget deficits, inflation, exchange rates etc.) directed to the achievement of macroeconomic stability and greater uniformity.

The indicators of real convergence criteria are more visible than those of nominal convergence. The protocol should be revised to make the real convergence criteria mandatory. We are of the view that the nominal criteria may be easy to attain on paper, but they cannot compel the political decision that gets monetary unions running. On the other hand, real convergence criteria may take a long time to achieve on paper, but even mere efforts directed towards their achievement force structural similarities of the economies of the countries in the union, and present better prospects of dealing with asymmetric shocks as a bloc. As pointed above, the ECOWAS single currency saga is a clear example of the failure of the easier route of nominal convergence. EAC should learn from that and opt for the more practical real convergence criteria.

Thirdly, the EAC should utilise its various decision-making institutions to set strict timelines for full implementation of prior stages of integration, including the customs union and the common market. The incomplete implementation of the stages has a negative ripple effect on the prospects of the EAMU. The EAMU should not be built on the weak foundations of an imperfect customs union and a weak common market. Thereafter, strict timelines should also be set for the attainment of milestones under the EAMU. Based on the analysis above, the current 2031 deadline announced by the Secretary-General appears to be a mere suggestion, rather than a binding deadline by which all parties concerned must work diligently to comply with. We desire the latter option for the effectiveness of the EAMU.

For the timelines to be effective, there must be clear enforcement mechanisms and sanctions for non-compliance among the Partner States. The East African Court of Justice (EACJ) is set up under the Treaty as the autonomous judicial arm of the EAC. It has not yet tried any cases of non-compliance by Partner States with the provisions of the EAMU. It is difficult to adjudicate on vague provisions, for instance, regarding timelines; state instructions to central banks, and failure to cede sovereignty to the EACB. These should first be designated as violations under a clear legal framework, and then they can be enforced through the relevant organs of the EAC.

F. Conclusion

The legal framework of the EAMU appeared robust and effective. However, upon trial with the real conditions on the ground, it has turned out ineffective to attain the commencement and implementation of the EAMU. The challenge is twofold, that is, embedded in the Community legal framework and the relevant Partner State laws. The Community Law consists of the Treaty, the Protocol, and the Acts of the Community is mostly composed of inactive instruments, with the exception of the Treaty. The Partner State laws on the other hand are divergent, some are against the goals of the EAMU, and others ignore the ideals of the EAMU despite being enacted post-2015. This causes a challenge that may compel revision of this legal framework, operationalisation of inactive instruments, and enforcement through sound institutions and sanctions for non-compliance.

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