

# BRIDGING BORDERS THROUGH LAW: TACKLING ENVIRONMENTAL CHALLENGES IN THE EAST AFRICAN COMMUNITY

Prepared by Rosette UMUTONIWASE\*

## Abstract

Environmental challenges rarely respect national boundaries, making regional cooperation essential. This paper examines how law serves as a bridge for addressing cross-border environmental issues within the East African Community (EAC), while situating these efforts within the wider framework of international environmental governance. It analyzes the EAC's key legal instruments, including the Treaty for the Establishment of the EAC, protocols, Acts, and policies, to assess their effectiveness in tackling regional environmental challenges such as deforestation, biodiversity loss, and transboundary pollution. Despite notable progress, persistent enforcement and capacity challenges continue to undermine the region's legal framework. The paper argues that deeper alignment with international obligations, improved institutional collaboration, and increased legal harmonization are essential for creating sustainable solutions by emphasizing both governance gaps and synergies with international law. Ultimately, it highlights how legislation can serve as a unifying force in protecting the EAC's shared natural resources.

**Keywords:** *East African Community, Environmental Law, Regional Integration, Trans-boundary Challenges, Sustainable Development.*

## A. Introduction

Environmental issues, including pollution, deforestation, and biodiversity loss, rarely respect national boundaries.<sup>1</sup> Although international legal frameworks offer valuable direction, actual development hinges on how nations and regions implement these standards.<sup>2</sup> In

\* **Ms. Rosette UMUTONIWASE**, is an Advocate of the High Court of Rwanda, accredited court mediator, and Lecturer at the Institute of Legal Practice and Development (ILPD), holds an LL.M. in Regional Integration and EAC Law (University of Dar es Salaam – Tanzanian-German Centre for Eastern African Legal Studies), an LL.B. (University of Kigali), a B.Sc. in Environmental Health Sciences (University of Rwanda), a Postgraduate Diploma in Legal Practice (ILPD), and certificates in Contract Law (Harvard University) and Mediation Skills (Edwards Mediation Academy, USA). Email: rosetteu55@gmail.com.

1 *Athanasios Valavanidis*, the 12 Most Pressing Global Environmental Issues: Environmental Problems Humanity Needs to Resolve Before 2050, 2022, p. 2.

2 *United Nations*, Sustainably Manage Forests, Combat Desertification, Halt and Reverse Land Degradation, Halt Biodiversity Loss, available at <<https://www.un.org/sustainabledevelopment/biodiversity/>>, (accessed on 17/9/2025).

this situation, the law acts as a bridge that facilitates coordination, collaboration, and the defense of common resources in addition to being a regulatory tool.

The East African Community (EAC) was established through the Treaty for the Establishment of the East African Community (EAC Treaty) and has since emerged as a leading example of successful regional integration in Africa.<sup>3</sup> Originally signed on 30<sup>th</sup> November 1999 and entering into force on 7<sup>th</sup> July 2000, the Treaty was ratified by the founding Partner States, Kenya, Tanzania, and Uganda.<sup>4</sup> Over time, EAC has expanded to include Rwanda and Burundi (2007), South Sudan (2016), the Democratic Republic of Congo (DRC) (2022),<sup>5</sup> and, most recently, Somalia, which joined as the eighth member in November 2023.<sup>6</sup> This gradual expansion reflects the EAC's growing ambition to foster cooperation, shared development, and regional unity across the EAC.

Partner States are expressly committed to working together on social and environmental issues in addition to political and economic ones. However, implementation of regional frameworks remains uneven due to varying national capacities. This paper examines the EAC's institutional and legislative framework for transboundary environmental issues, situates these initiatives in the international context, and identifies strategies for strengthening regional governance.

## B. Legal Foundations for Environmental Sustainability in the EAC

In the EAC, sustainability is a cornerstone of regional integration, and environmental governance is rooted in a strong legislative framework. The EAC Treaty obliges Partner States to pursue sustainable development and cooperate on environmental protection.<sup>7</sup> This foundation is reinforced by the Protocol on Environment and Natural Resources Management, which sets obligations on biodiversity, water, pollution control, and climate change.<sup>8</sup> These instruments reflect a shared commitment to environmental stewardship and regional cooperation, though their impact depends on consistent implementation across Partner States. The following subsections explore the core legal instruments, guiding principles, and institutional structures that define and drive environmental governance within the EAC.

<sup>3</sup> *East African Community*, History of the EAC, available at <<https://www.eac.int/eac-history>>, (accessed on 17/9/2025).

<sup>4</sup> *East African Community*, Overview of EAC, available at <<https://www.eac.int/overview-of-eac>>, (accessed on 17/9/2025).

<sup>5</sup> *East African Community*, History of the EAC, available at <<https://www.eac.int/eac-history>>, (accessed on 17/9/2025).

<sup>6</sup> *Victor Owino*, Somalia Officially Admitted into East African Community, The East African, available at <<https://www.theeastfrican.co.ke/tea/news/east-africa/somalia-officially-admitted-into-eac>>, (accessed on 18/9/2025).

<sup>7</sup> Treaty for the Establishment of the East African Community (adopted 30 November 1999, entered into force 7 July 2000), art. 111.

<sup>8</sup> Protocol on Environment and Natural Resources Management (adopted 3 April 2006, entered into force 3 May 2006).

### I. Progress and Challenges in Environmental Law

Environmental governance in the EAC has taken on growing significance as the region seeks to balance development with sustainability and align with global priorities. At the core of this framework is the EAC Treaty, which affirms that a clean and healthy environment is indispensable for sustainable development.<sup>9</sup> Partner States are obliged to cooperate in the conservation of natural resources, the prevention of pollution, the regulation of hazardous waste, and the integration of environmental considerations across all sectors of development.<sup>10</sup> Building on this foundation, the Protocol on Environment and Natural Resources Management<sup>11</sup> sets out more detailed obligations on biodiversity conservation, pollution control, and the management of transboundary ecosystems.

These commitments are further reinforced under Article 40 of the EAC Common Market Protocol, which obliges Partner States to uphold sound environmental and natural resources management for the proper functioning of the Common Market.<sup>12</sup> This includes preventing activities that are detrimental to the environment and ensuring consistency with existing community policies, strategies, and laws. Supporting these legal instruments, the EAC Climate Change Policy<sup>13</sup> advances regional adaptation, mitigation, and resilience, while the EAC Biodiversity Strategy<sup>14</sup> promotes the conservation and sustainable use of species and genetic resources.

Additionally, the EAC has actively embraced Multilateral Environmental Agreements (MEAs) as a key mechanism to address cross-border and global environmental challenges. MEAs are international agreements between states that may take the form of “soft law,” which establishes non-binding principles to guide national action, or “hard law,” which imposes legally binding obligations to achieve specific environmental objectives.<sup>15</sup> These agreements respond to a wide range of pressing global issues, including biodiversity loss, climate change, ozone depletion, hazardous and persistent organic pollutants, marine pollution, trade in endangered species, and wetland destruction.

9 Treaty for the Establishment of the East African Community (adopted 30 November 1999, entered into force 7 July 2000), art. 111.

10 *Id.* arts. 111–114.

11 Protocol on Environment and Natural Resources Management (adopted 3 April 2006, entered into force 3 May 2006).

12 Protocol on the Establishment of the East African Community Common Market (adopted 20 November 2009, entered into force 1 July 2010), art. 40.

13 *East African Community*, EAC Climate Change Policy, (EAC, 2011), available at <<https://www.eac.int/environment>>, (accessed on 20/9/2025).

14 *East African Community*, EAC Regional Biodiversity Strategy and Action Plan (2021–2031), 2021, available at <<https://www.eac.int/environment>>, (accessed on 20/9/2025).

15 *United Nations Environment Programme*, Auditing the Implementation of Multilateral Environmental Agreements (MEAs): A Primer for Auditors, UNON Publishing Services Section, 2010, p. 4.

Furthermore, the EAC Partner States have committed to the effective implementation of key MEAs, including the United Nations Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD), the United Nations Convention to Combat Desertification (UNCCD), the Ramsar Convention on Wetlands, the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), the Montreal Protocol on Ozone Depletion, the Stockholm Convention on Persistent Organic Pollutants, and the International Tropical Timber Agreement (ITTA). Through these commitments, the EAC not only strengthens regional cooperation but also aligns its environmental governance with global objectives, contributing to the achievement of the Sustainable Development Goals (SDGs) by 2030.<sup>16</sup>

Together, these instruments form a robust legal and policy framework for environmental governance. While gaps in implementation and coordination remain, they also present unique opportunities for reform, innovation, and deeper regional collaboration, positioning the EAC as a proactive leader in sustainable development and environmental protection.

## *II. Harmonization and Approximation of Environmental Laws*

One of the central challenges for cross-border environmental governance in the EAC is reconciling divergent national laws and policies.<sup>17</sup> While the EAC Treaty promotes harmonization, differences in national priorities and legal capacities can impede uniform implementation.<sup>18</sup> Harmonizing and approximating laws fosters consistent approaches to sustainable development, pollution control, and biodiversity conservation across Partner States.<sup>19</sup> It also strengthens compliance with international agreements, promotes best practices, and enhances the EAC's credibility in global environmental governance.

It is crucial to note that by aligning legal frameworks, the EAC can more effectively manage shared environmental resources, streamline cooperation among Partner States, and participate constructively in international environmental agreements.<sup>20</sup> This approach not only promotes uniformity in environmental management but also facilitates knowledge sharing and collaboration with neighboring regions and global partners, reinforcing the EAC's role as a proactive regional actor in sustainable development.

16 *East African Community*, Multilateral Environmental Agreements, 2025, available at <<https://www.eac.int/environment/multilateral-environmental-agreements>>, (accessed on 20/9/2025).

17 *Aleem Tharani*, Harmonization in the EAC, in Emmanuel Ugitashebuja, John Eudes Ruhangisa, Tom Ottervanger, and Armin Cuyvers (eds), *East African Community Law: Institutional, Substantive and Comparative EU Aspects*, Brill, 2017, p. 487.

18 *United Nations Development Programme*, *Regional Integration and Human Development: A Pathway for Africa*, UNDP, New York 2011, p. 31.

19 *World Trade Organization and United Nations Environment Programme*, *Making Trade Work for the Environment, Prosperity and Resilience*, UNEP, Nairobi, 2018, p. 59.

20 *Nicholas J. Mwabu*, *East African Community (EAC) Integration and Environmental Management*, Master of Arts dissertation, University of Nairobi, Institute of Diplomacy and International Studies, 2014, p. 51.

### III. Enforcement Challenges and Institutional Frameworks

The effectiveness of environmental laws depends on robust enforcement and institutional oversight.<sup>21</sup> The EAC has established mechanisms such as the East African Court of Justice (EACJ) and specialized committees on environment and natural resources to monitor compliance, adjudicate disputes, and ensure accountability.<sup>22</sup> These institutions provide the structure necessary for harmonized enforcement and foster transparency in cross-border environmental governance.

In addition to strengthening institutional frameworks and enforcement mechanisms, the EAC also contributes to larger global initiatives for environmental stewardship and sustainable development, making it more resilient to environmental issues.<sup>23</sup> However, the enforcement of these laws is often hindered by limited financial and technical capacity, which weakens the ability of institutions to monitor compliance effectively. Moreover, inconsistent commitment among Partner States and overlapping mandates across institutions create enforcement gaps and slow the implementation of agreed frameworks.

### IV. Regional Integration and Environmental Governance

Regional integration offers both opportunities and constraints for environmental governance. It enables Partner States to pool resources, coordinate policies, and respond collectively to transboundary threats, yet disparities in economic development and political priorities may hinder cohesive action.<sup>24</sup> For instance, while some Partner States may prioritize rapid industrialization, others place greater emphasis on conservation, creating tensions in policy alignment. In addition, variations in institutional capacity and enforcement mechanisms across the region can slow down the implementation of joint environmental commitments.

In addition, regional integration improves the uniformity and efficacy of environmental management by harmonizing environmental laws and standards.<sup>25</sup> It fosters mutual accountability, promotes collaborative conservation efforts, and facilitates joint strategies for climate change mitigation, pollution control, and biodiversity protection. Integration

21 *Willy Onzivu*, The Long Road to Integrating Public Health into Sustainable Development of Shared Freshwaters in International Environmental Law: Lessons from Lake Victoria in East Africa, 46(3), The International Lawyer, 2012, p. 868.

22 *East African Community Secretariat*, EAC Sub-Regional Input to the Eleventh Session of the United Nations Forum on Forests (UNFF), 2016, p. 5.

23 *RES4Africa, International Renewable Energy Agency and United Nations Economic Commission for Africa*, Towards a Prosperous and Sustainable Africa, RES4Africa Foundation, Rome, 2022, p. 130.

24 *Nicholas Kimani*, A Collaborative Approach to Environmental Governance in East Africa, 22(1), Journal of Environmental Law, 2010, p. 28.

25 *Kavita Khanna*, Regional Integration in Africa: A Study on the East African Community, Observer Research Foundation, 2013, p. 4.

also allows Partner States to share expertise, technology, and resources, ensuring more efficient responses to environmental crises. Moreover, it encourages green economic growth by promoting trade and investment practices that minimize ecological impact.<sup>26</sup> In this way, regional integration strengthens environmental protection, advances sustainable development, and amplifies the EAC's voice in international environmental negotiations.

### C. Environmental Governance Across Borders

Beyond the EAC, other regional economic communities and international organizations play crucial roles in global environmental governance. Drawing comparative insights from regions such as the European Union (EU) or the Association of Southeast Asian Nations (ASEAN),<sup>27</sup> this identifies best practices and lessons learned that could inform the EAC's approach to addressing cross-border environmental challenges. The EAC can improve its own methods for efficiently handling transboundary environmental concerns and managing shared natural resources by comprehending these international models and frameworks.

A comparative analysis of legal approaches to addressing cross-border environmental challenges within the EAC reveals both similarities and differences when viewed in a global context. One notable similarity is the emphasis on harmonizing environmental laws and regulations among Member States to foster cooperation and streamline the management of shared natural resources.<sup>28</sup> This approach mirrors efforts seen in other regional blocks worldwide, such as the EU, where harmonization aims to create a unified framework for addressing environmental issues across diverse national contexts.

However, a key difference lies in the enforcement mechanisms and institutional frameworks. Unlike the EU, where supranational bodies have significant authority in enforcing environmental regulations across member states, the EAC relies more on cooperative mechanisms and national enforcement agencies.<sup>29</sup> This difference reflects varying levels of integration and institutional maturity, with the EAC still developing its institutional capacity to effectively manage cross-border environmental challenges.

In the global context, regional integration in environmental governance within the EAC faces unique challenges related to socioeconomic disparities, infrastructure limitations, and

26 *Rwanda Environment Management Authority*, Revised Green Growth and Climate Resilience: National Strategy for Climate Change and Low Carbon Development, REMA, 2022, p. 5.

27 *I-Chun Xuechen*, The Role of ASEAN's Identities in Reshaping the ASEAN–EU Relationship, 40(2), Contemporary Southeast Asia, 2018, p. 223.

28 *Owen S. Njura*, A Comparative Analysis of the European Union (EU) and the East African Community (EAC) Economic Integration Models: Lessons for Africa, Master of Arts dissertation, University of Nairobi, 2016, p. 51.

29 *Piotr T. Milej*, What is Wrong about Supranational Laws? The Sources of East African Community Law in Light of the EU's Experience, 75, *ZaöRV*, 2015, p. 588.

political stability across Partner States.<sup>30</sup> These factors can impact the uniform application of environmental laws and the implementation of sustainable development strategies. By contrast, more established regional blocs often benefit from greater economic cohesion and institutional robustness, which facilitate more effective cross-border environmental management and resource allocation.

Moreover, global trends in environmental governance emphasize the importance of collaborative approaches and partnerships beyond regional borders. Both the EAC and other regional blocs engage in international agreements and partnerships to address transboundary environmental issues such as climate change, biodiversity conservation, and pollution control.<sup>31</sup> Strengthening these global partnerships and leveraging international cooperation frameworks can enhance the EAC's capacity to address its environmental challenges while contributing to global sustainability efforts.<sup>32</sup>

Furthermore, while the EAC's legal approaches to cross-border environmental challenges align with broader global trends in regional integration and environmental governance, contextual differences in enforcement mechanisms, institutional frameworks, and socioeconomic dynamics shape its effectiveness. To guarantee resilient environmental management and sustainable environmental management within the EAC, there is a need to customize policies that build on regional advantages while tackling particular problems.

#### **D. Cross-Border Environmental Challenges in the EAC**

Addressing cross-border environmental challenges within the EAC presents several significant legal and practical challenges in a global context. In the EAC, Partner States maintain control over integration policies. Decisions require approval from state representatives in the Council and endorsement from Heads of State at the Summit. Unlike the EU, where decisions rely on a simple or qualified majority, the EAC operates on consensus with veto power. The variable geometry principle enshrined in the EAC treaty allows flexibility in integration speed among Partner States but may limit broader participation due to challenges with consensus and veto power.<sup>33</sup>

- 30 *Center for Strategic and International Studies*, State of Eight: Challenges Facing the East Africa Community, available at <<https://www.csis.org/analysis/state-eight-challenges-facing-east-africa-community>>, (accessed on 21/9/2025).
- 31 *East African Community*, Conservation and Management of Natural Capital in East African Community Program under USAID/Kenya & East Africa Support, (2019–2022), available at <<https://www.eac.int/environment/programmes-and-projects/management-of-natural-capital>>, (accessed on 21/09/2025).
- 32 *Nicholas S. Chisika and Chan Yeom*, Enhancing Sustainable Development and Regional Integration through Electrification by Solar Power: The Case of Six East African States, available at <<https://www.mdpi.com/2071-1050/13/6/3275>>, (accessed on 22/09/2025).
- 33 *Edward F. Ssempebwa*, Brexit: Are there lessons for the East African Community?, 1(1), East African Community Law Journal, 2020, p. 7.

Additionally, in the EAC, there exists variability in legal frameworks and enforcement capacities among Partner States.<sup>34</sup> For instance, Rwanda has implemented stringent environmental laws and established effective enforcement mechanisms, contributing to better pollution control and environmental protection compared to some other Partner States. In contrast, Tanzania faces challenges in enforcing environmental regulations uniformly across its diverse regions, leading to disparities in environmental management practices. Despite efforts towards harmonization, disparities in environmental laws, regulations, and enforcement mechanisms hinder effective collaboration and coordination within a regional bloc. This diversity may lead to inconsistencies in environmental management practices and difficulties in achieving unified responses to transboundary environmental issues such as pollution, biodiversity loss, and climate change impacts.<sup>35</sup>

Moreover, the presence of limited institutional capacity and resources within the EAC poses an obstacle to effective environmental governance. While regional institutions like the EACJ and specialized committees exist, their effectiveness in enforcing environmental laws and resolving disputes across borders can be constrained by funding gaps, technical expertise shortages, and administrative bottlenecks.<sup>36</sup> Thus, strengthening institutional capacity-building efforts and enhancing resource mobilization are crucial for overcoming these challenges and ensuring robust environmental governance across the region.

Furthermore, political will and commitment from Partner States are essential for implementing and enforcing harmonized environmental laws effectively. Disparities in political priorities, competing national interests, and varying levels of commitment to environmental protection can undermine collective efforts within the EAC.<sup>37</sup> It is crucial to note that achieving consensus on environmental policies and initiatives requires continuous diplomatic efforts and mutual trust among Partner States, particularly in navigating complex issues where economic development goals may conflict with environmental sustainability objectives.<sup>38</sup> It is important to note that the complexity of managing transboundary environmental challenges necessitates enhanced cooperation with neighboring regions and international stakeholders.<sup>39</sup> While the EAC strives to address its environmental issues internally, collaborative efforts with external partners and organizations are often essential

34 *Omar J. A. Kaniki*, Examination of Security Challenges in the East African Community (EAC) Region, 1(2), International Diplomatic Review Journal, 2022, p. 2.

35 *Sylvie Maljean-Dubois*, The Effectiveness of Environmental Law, 3, European Environmental Law Forum Series, 2017, p. 2.

36 *East African Community*, Legal & Judicial Affairs, available at <<https://www.eac.int/press-releases/153-legal-judicial-affairs>>, (accessed on 22/9/2025).

37 *The Access Initiative*, The Road to Realizing Environmental Rights in Africa: Moving from Principles to Practice, 2022, p. 26.

38 *Ibid.*

39 *George C. Kaua*, Transboundary Natural Resource Management: Rationale, Challenges and Way Forward, Environment Management, 2018, p. 13.

for tackling global environmental threats that transcend national and regional boundaries; otherwise, if not addressed, challenges will persist.

## **E. Way Forward**

To effectively address cross-border environmental challenges, the EAC should prioritize coordinated action, clear policies, and robust institutional support. Key steps include:

Firstly, the EAC should prioritize harmonizing environmental laws across Partner States by aligning national legal frameworks and standards and establishing mechanisms for regular review to address evolving environmental concerns and international obligations.

Secondly, regional institutions such as the EACJ and specialized environmental committees should be strengthened through capacity-building, technical expertise, and administrative support to enhance enforcement, dispute resolution, and coordination of cross-border initiatives.

Thirdly, political commitment from national and regional leaders is essential to integrate environmental sustainability into development agendas and promote incentives for sustainable practices across key sectors, including agriculture, energy, and transportation.

Fourthly, regional and international partnerships should be leveraged to access additional resources, expertise, and opportunities for joint initiatives, facilitating knowledge exchange and alignment with global sustainable development goals.

Finally, public participation and environmental awareness programs should be promoted to engage communities in decision-making and support local conservation efforts, ensuring that environmental governance is inclusive and effective.

## **F. Conclusion**

The EAC exemplifies the potential of law as a unifying instrument in addressing environmental challenges that transcend national borders. Effectively confronting these complex issues requires the EAC to promote deeper regional cooperation, harmonize legal and policy frameworks, and facilitate inclusive public participation. While notable progress has been achieved, persistent obstacles, such as inconsistent enforcement, limited institutional capacity, divergent national priorities, and financial constraints, continue to undermine the region's collective efforts. These challenges underscore the need for stronger legal structures, more resilient institutions, and closer alignment with international environmental standards. By consolidating regional initiatives, fostering political commitment, forging strategic partnerships, and empowering local communities, the EAC can establish itself as a proactive regional leader. In doing so, it will not only safeguard shared natural resources and advance sustainable development but also strengthen its contribution to global environmental governance.