KENYA’S FOREIGN POLICY BEHAVIOR TOWARDS THE EAST AFRICAN COMMUNITY: THE ROLE OF PARLIAMENT

BY

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DECLARATION

I hereby declare that this is my original work and has not been submitted to any other college, institution or university other than the United States International University-Africa in Nairobi for academic credit. All materials herein from other sources are dully acknowledged.

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DEDICATION

This thesis is gratefully dedicated to my former beautiful girlfriend Evelyne Ntipeli Lenayapa. Your passion and interest in my studies since our undergraduate level in the University of Nairobi (UoN) and later in my graduate level in the United States International University-Africa (USIU) has been invaluable. Ntipe, what we shared was so special and thanks for being there.
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<thead>
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<th>Abbreviation</th>
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<tr>
<td>ACP</td>
<td>African Caribbean Pacific</td>
</tr>
<tr>
<td>APRM</td>
<td>African Peer Review Mechanism</td>
</tr>
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<td>CSOs</td>
<td>Civil Society Organizations</td>
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<td>EAC</td>
<td>East African Community</td>
</tr>
<tr>
<td>EAF</td>
<td>East African Federation</td>
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<tr>
<td>ECA</td>
<td>Economic Commission for Africa</td>
</tr>
<tr>
<td>HRM</td>
<td>House of Representatives</td>
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<tr>
<td>KANU</td>
<td>Kenya African National Union</td>
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<tr>
<td>KANUPG</td>
<td>Kenya African National Union Parliamentary Group</td>
</tr>
<tr>
<td>LEGCO</td>
<td>Legislative Council</td>
</tr>
<tr>
<td>MFA</td>
<td>Ministry of Foreign Affairs</td>
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<tr>
<td>NATO</td>
<td>Northern Atlantic Treaty Organization</td>
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<tr>
<td>NFD</td>
<td>Northern Frontier District</td>
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<tr>
<td>PAP</td>
<td>Pan African Parliament</td>
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<tr>
<td>TGNA</td>
<td>Turkish Grand National Assembly</td>
</tr>
<tr>
<td>UON</td>
<td>University of Nairobi</td>
</tr>
<tr>
<td>USA</td>
<td>United States of America</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<tr>
<td>EAC</td>
<td>East African Community</td>
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<tr>
<td>EAHC</td>
<td>East Africa High Commission</td>
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<tr>
<td>EACSO</td>
<td>East African Common Services Organization</td>
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<tr>
<td>EALA</td>
<td>East African Legislative Assembly</td>
</tr>
<tr>
<td>ECA</td>
<td>Economic Commission on Africa</td>
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<tr>
<td>ECOWAS</td>
<td>Economic Commission of West African States</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>Acronym</td>
<td>Full Form</td>
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<tr>
<td>KANU</td>
<td>Kenya African National Union</td>
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<tr>
<td>KADU</td>
<td>Kenya African Democratic Union</td>
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<tr>
<td>NAFTA</td>
<td>North American Free Trade Agreement</td>
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<tr>
<td>SAPTA</td>
<td>Southern Asian Preferential Trading Agreement</td>
</tr>
<tr>
<td>SADC</td>
<td>Southern Africa Development Community</td>
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<td>UN</td>
<td>United Nations</td>
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ABSTRACT

A look at existing research on foreign policy behavior of Kenya shows that the studies are far from conclusive on the role of Parliament in foreign policy decision-making processes. In particular, Parliament’s role in influencing the state’s foreign policy behavior towards the East African Community (EAC) has not been evaluated adequately. This study seeks to examine the role of the Kenyan Parliament in influencing foreign policy behavior of the state towards the EAC. While the constitution delegates power to Parliament with regards to participating in the formulation and implementation of foreign policy, in practice there appears to be a low level of the institution’s participation in influencing the foreign policy behavior of the state towards the EAC. This study further seeks to examine the challenges facing the state’s Parliament in the process of influencing foreign policy behavior towards the EAC. This study also examines the extent to which Parliament has been independent in influencing the state’s foreign policy behavior towards the EAC from 1967 through 1977, and during the period between 2002 and 2012, that is, during the EAC I and EAC II. The study examines the role of Parliament in foreign policy making processes within the organizational process model, while also incorporating other models within similar dimensions.
CHAPTER ONE

GENERAL INTRODUCTION

1.0 Background to the Study

Formulation of foreign policies emanates from multiple sources. Sovereign states create various institutions with specifications to make decisions on matters relating to international affairs. From a constitutional point of view, it is evident that the executive, the parliament and the judiciary arms of the government openly devise and set objectives of foreign policies of states around the world. This is in agreement with Charles de Montesquieu’s and John Locke’s thinking that was based on normative separation of power, conceptualizing the executive, the parliament and the judiciary as operating independently from each other in policy-making processes (Oloo, 1995; Labuschagne, 2004; Adar, 2008). Borne from the thinking of de Montesquieu and Locke, it is evident that the relationship between parliament and executive is meant to eliminate illegal misconducts during foreign policy decision-making processes. On the doctrine of separation of powers among the government institutions in foreign policy decision-making processes, Macharia Munene (2003:3),¹ is also of the same opinion and argues that the:

Emphasis is on the separation of powers amongst state organs that are supposed to be equal, that are jealous of each other, that check on each other, and they are supposed to work together in the interests of the state. In its belief that none of the two organs has a monopoly of wisdom or of knowing what is the interest of the society and so each need a constant check and reinforcement from the other. The executive to check on legislative excesses and abuses and the legislature to check on executive excesses and abuses.

Munene’s (2003) argument can also be interpreted to indicate that all main arms of the government should be involved in determining foreign policy behavior of a state. This is based on the argument that the government institutions check on each other during policy formulation and implementation.
Addressing the same concept of separation of powers among the three arms of the Kenyan government, Korwa G. Adar (2008) is of a similar view that the arms of the government are equally bestowed with constitutional powers for the purpose of checks and balances. The doctrine of separation of powers according to Adar (2008) lays the heart of power sharing among the Executive, the Parliament and the Judiciary branches of the Kenyan government. He further contends that separation of powers is intended to ensure the prevalence of good governance, and preservation of freedom and human rights in Kenya.

This study’s main goal is to examine the role the Kenyan Parliament played in influencing foreign policy behavior of the state towards the East African Community (EAC). The role of the institution in influencing the state’s foreign policy towards the EAC has not adequately been studied. The integration process of the EAC is viewed as mainly driven by the Heads of State and some elites working in the Executive branch of the government.

Robert H. Jackson and Carl G. Rosberg (1982) attribute uncertainty of the Kenyan Parliament in foreign policy decision-making process with the existence of a dominant Executive's branch of the government. The two scholars contend that:

Kenyatta’s pronouncement sometimes had the effect of “edicts” preempting the legislative role of Parliament and the policymaking role of the government ministries. Among other things, it was this supremacy and independence of Kenyatta that contributed a highly personal quality to his rule. In his relations with Parliament, he was free to decide whether enacted legislation would be applied or not; similarly, if he desired a law but found it inconvenient to secure from Parliament, then it would be secured by presidential decree . . . For example, there was no public law preventing foreigners from purchasing coastal land in Kenya, but the administration, on the private
instructions of Kenyatta, refused to accept transfers of title to foreigners . . .

It can be argued therefore, that the Kenyan Parliament had a role to play in the state’s foreign policy but was operating at the periphery of the decision making center. Writing against the background of the role of parliament in the regional integration process of Southern African states, Barney Karuuombe (2008) equates the role of parliaments in independent African states to that of executive rubber stamp in foreign policy decision-making process. The definite role of parliament in passing bills directed towards influencing foreign policy behavior of states, not just in Kenya but also in other states in the continent, appears wanting and in need of serious scrutiny. Arguing along the same lines is Adar (2008) who sees the Executive arm of the Kenyan government as domineering and therefore compromising the functions of separation of powers in the country.

John Howell (1968) and Adams Oloo (1995) further demonstrate that Kenya’s foreign policy has generally been conducted by the Executive branch of the government and a few individuals in the Ministry of Foreign Affairs (MFA). For example, Howell (1968) affirms that the personnel at the Ministry of External Affairs were directly involved in influencing radical foreign policy of Kenya during the Kenyatta administration. The core of these two scholars’ arguments is that the Kenyan Parliament rarely challenges the Executive in issues relating to foreign policy decision-making process.

The formation of the EAC was well articulated in the Kenya African National Union (KANU) Manifestos of 1960 and 1963. Raising awareness of the essence of the EAC, the KANU election Manifesto of 1960 pointed out among other things that:
It is time we give some serious thought to the question of an East African Federation, the means to strengthen the freedom of all East Africans in a larger unit. Am [sic] convinced that a federation of Kenya, Tanganyika and Uganda will bring great economic and political advantages to all the twenty three million people in East Africa.2

Subsequently, the KANU Parliamentary Group (KANUPG) set up a committee for purposes of forming the East African Federation (EAF) in April 1964.

The EAC was established in 1967 when Kenya, Tanzania and Uganda signed the Treaty of East African Cooperation (Adar & Ngunyi, 1994). By accepting the creation of the Community, the three member states were plainly expressing their desires to promote the region’s economic integration. This development was based on the principle of gradualism, as described by Bela Balasa (1961).3 Adar (2008) views the purpose of forming EAC as an approach that was intended to yield momentous gain towards the creation of a people-centered and market-driven region.

In his argument about Kenya’s foreign policy behavior towards the EAC, Samuel M. Makinda (1983) points out that the state had for many years ascertained vigorous foreign policy towards achievement of national strategic interests. Makinda (1983) further asserts that Kenya’s foreign policy behavior has been largely driven by the need to attract foreign capital and more so maintenance of commercial links with her neighboring states. It can therefore be argued that policies formulated were primarily driven by economic opportunities available in the East African region.

Other actors, particularly the Civil Society Organizations (CSOs), do play a role in influencing foreign policy behavior of Kenya towards the EAC (Kisinga, 2009). Due to the limited scope of this study, the role of CSOs and other actors such as the
Judiciary, the Executive, the private sectors and political parties in shaping the state’s foreign policy will not be discussed. The study mainly delves into the role the Kenyan Parliament played in influencing the foreign policy behavior. Of importance is exactly how the Kenya Parliament formulated and influenced foreign policy behavior of the state towards the EAC from 1967 to 1977, and from 2002 and 2012. The analysis is being framed within the broader organizational process model. The model is based on the premise that foreign policy decision-making process is a procedure of decision making that involves various individuals, departments and organizations.

1.1 Statement of Research Problem

The existing literature by scholars such as N. Ngunjiri (1977), Jackson and Rosberg (1982) Munene (2003) and Oloo (1995) does not provide comprehensive information on the role of the Parliament in influencing Kenya’s foreign policy behavior towards the EAC. A fresh look is needed for the purpose of filling the gaps in existing literature. To achieve this, the fundamental question this study hopes to answer is the following: What is the role of Parliament in influencing Kenya’s foreign policy behavior towards the East African Community?

Kenya’s Parliament is assumed to be an important institution that represents the people’s voice in the integration process of the EAC. The 2010 Constitution of Kenya states that sovereign power belongs to the people of Kenya (Kenya, 2010). In turn, the people delegate their sovereign power to Parliament in accordance to article 94 (1) of Constitution of Kenya (2010). Article 94 (1) stipulates that, “The legislative authority of the Republic is derived from the people and, at the national level, is exercised by Parliament.” Similarly, Bert A. Rockman (1984:414) points out that,
“The principle value of justifying ‘legislative monitoring’ of the executive is to ensure the triumph of representative government by lines of accountability running through the organ that embodies sovereignty.” It is therefore important to note that the Parliament enjoys constitutional power in its representational role on behalf of the Kenyan citizens. The same argument on the crucial basic rights of Kenyan citizens have also been highlighted by Adar (2008), who views electorates as having constitutional authority over the legislators in the process of running the government.

Article 1 (3) of the preamble of the 2010 Kenya Constitution also states that, “Sovereign power under this Constitution is delegated to the following State organs, which shall perform their functions in accordance with this Constitution (a) Parliament and the legislative assemblies in the county government (b) the national executive and the executive structures in the county government; and (c) the judiciary and independent tribunals.” (Kenya, 2010). In part, the collective voice of the people is transferred to the Parliament in the policy-making process, however, there is a question arising on the lack of definitive engagement of the institution with regards to influencing the foreign policy behavior of the state. As such, this study also seeks to understand the reasons behind the uncertainty of the role of Parliament in influencing foreign policy behavior of the state towards the EAC.

Munene (2004) and Karuuombe (2008) portray the institution of parliament as an essential instrument in a parliamentary democracy. Adar and Nthabiseng Nkosi (2004) also note that the institution of parliament as important in the sense of being vested with constitutional power to represent people in a democratic political system.
Parliament in this sense is viewed as an institution comprising elected members in a sovereign state.

The elected members of parliament have constitutional powers to participate in formulation, execution and monitoring of foreign policy. From the perspective of the constitutional mandate for members of parliament to participate in foreign policy process in political system, Munene (2004:48) opines that, “Given that policy formulation is an intellectual exercise and that implementation is functionary occupation, foreign policy formulation and implementation require that the legislature be involved at both levels to ensure that Kenya’s interests are not threatened by malfunction at any stage.” Herein, Munene (2004) rightly points out that the legislative institution is in reality an essential actor in far-reaching policy formulation and implementation.

The parliament is also as a symbol of law-making branch of government in parliamentary, semi presidential and presidential systems (Barrington et al, 2010). At times, the institution is variously referred to as the assembly, house, parliament or chamber. According to Kenneth Newton and Jan W. Van Deth (2005), the term legislature originated from the Latin words ‘legis’ [law] and ‘latio’ [bringing]. Historically, the establishment of the institution can be traced back to assemblies of medieval monarchs in Europe, where people were meeting regularly to discuss and pass legislation on taxations and wars (Newton & Deth, 2005).

Legislatures in parliamentary, semi presidential and presidential systems formulate and influence government policy-making processes. This view is based on the
assumption that the institution is autonomous from the executive and the judiciary branches of the government and works for the interests of the state and the nationals in democratic countries. As an institution, parliament ensures that elected representatives sit in the decision-making body in both public and foreign policy decision-making processes. In doing this, the institution ensures that the executive meets the citizens’ obligations in matters relating to public and foreign affairs essential to the state and the nationals.

Rod Hague, Martin Harrop and Shaun Breslin (1992) view parliament as an institution operating either in a unicameral or a bicameral house or chamber. In the bicameral system, the two chambers of the government provide checks and balances within the legislatures during policy-making process. The system of checks and balance is meant to ensure that the two chambers have equal constitutional powers although in practice this is not always the case.

There are also committee and sub-committee structures assisting foreign policy activities within parliament. Generally, a committee consists of small group of legislators whose work entails scrutinizing the financial budgets of various departments and other functions of public interest, such as influencing policy behavior of a state, the aspect that forms the basis of this study. Hague, Harrop and Breslin (1992) posit that parliaments also give committees power to investigate government activities and other policy-oriented issues.

Unlike in developed states, Third World countries’ political institutions such as parliaments rarely influence their state’s foreign policy behavior due to the element of
personal rule (Jackson & Rosberg, 1982; Pinkney, 2003). In these states, foreign policy agenda is mainly the prerogative of the executive branch of the government and specifically the president. For example, Karuuombe (2008:3) asserts that:

The institution of parliament was such reduced to making ‘rubber stamp’ decisions including regional and international treaties, protocols, and other instruments, often any parliamentary debate on these [sic]. In some legislatures, this practice continues as parliaments are constitutionally not mandated to ratify international instruments or because of executive manoeuvre which results in such instruments not being subjected to proper parliamentary scrutiny.

Karuuombe’s (2008) evidence shows parliament as playing a minimal role in foreign policy decision-making process of Third World countries. Using Kenya as a case study, Adar (2009) also notes that the administrations of Kenyatta and Moi as being characterized by the executive domination over the parliament and the judiciary. Adar’s (2009) argument shows the Executive branch as directly in control of the government activities, including Kenya’s foreign policy formulation and implementation. While on the same argument of overbearing Executive arm of Kenyan government in policy-making process, Fred Jonyo and Solomon Owuoche (2004) observe the Legislature and the Judiciary as two institutions with minimal authority in relation to government activities.

At the core of evaluation of EAC integration process, Adar (2008:66) further observes that, “The people of East Africa are concerned that the leaders did not involve them at any level prior to the formation of EAC.” Adar’s (2008) demonstrates that foreign policy decision-making process is supposed to be driven by the people who are in this end represented by parliaments, but the process is normally dominated by the executive branch of the government to the disappointment of the people. Bearing on this, this study also evaluates the
independence of the Kenya Parliament in influencing the state’s foreign policy behavior towards the EAC.

Kenya’s Parliament is an embodiment of liberal democracy. The institution, which is the main focus of the study, is also perceived to be an autonomous actor and representative of the people in policy-making process (Barkan & Matiangi, 2009). Nonetheless, the Executive branch has been the main influence on the foreign policy behavior of the state for a long period (Ngunjiri, 1977; Oloo, 1995; Munene, 2003; Jonyo & Owuoche, 20004; Adar, 2008). The study further explores challenges facing Parliament in its attempt to influence foreign policy behavior of the state towards the EAC.

The study examines the role of Parliament in influencing foreign policy behavior of Kenya towards the Community from 1967 to the period the organization collapsed in 1977. The study also analyzes the role of the institution of Kenya Parliament in the period after it was revived, from 2002 to 2012.

1.2 Research Questions

This study is informed by the following research questions:

1. To what extent has the Kenya Parliament influenced the state’s foreign policy behavior towards the East African Community?

2. What challenges did the Kenya Parliament face in foreign policy decision-making process towards the East African Community?
3. What are the measures that can be undertaken to ensure the Kenya Parliament is playing an independent role in influencing foreign policy behavior of the state towards the East African Community?

1.3 Objectives of the Study

This study analyzes the role of the Kenya Parliament in the state’s foreign policy behavior towards the East African Community (EAC). The study hinges on the premise that Parliament plays a critical role in the formulation of the state’s foreign policy.

Therefore, this study analyzes the following specific objectives:

1. To examine the extent to which the decision-making models can be utilized in explaining the role the Kenya Parliament plays in influencing foreign policy behavior of the state towards the East African Community.

2. To critically explore the role the Kenya Parliament played in influencing foreign policy behavior of the state towards the East African Community from 1967 to 1977.

3. To analyze the extent in which the Kenya Parliament influenced foreign policy behavior of the state towards the East African Community from 2002 to 2012.

4. To examine measures that can be undertaken in ensuring the Kenya Parliament is influencing foreign policy behavior of the state towards the East African Community.

1.4 Significance of the Study

Previous studies on Kenya foreign policy behavior have largely concentrated on the role of the Executive branch of the government and the Presidency (Okumu, 1977;
Adar, 1994; Orwa, 1994; Adar & Ajulu, 2002). D. Katete Orwa (1994) analyzes continuity and change of Kenya’s foreign policy behavior in both Kenyatta’s and Moi’s administrations. Within the study, the Executive arm of the government and the Presidency are depicted as independent variables influencing Kenya’s foreign policy behavior. The role of Parliament is hardly mentioned and therefore Orwa’s (1994) viewpoints are in this regard inadequate to use in the study.

On the other hand Adar’ (1994) argues that the scholars have ignored Kenya’s foreign policy behavior towards Somalia. The scholar points out participation of elected members of regional and National Assemblies in the debates concerning national security and protection of Kenya’s territorial integrity from the threat stemming from some parties within the government of Somalia who were claiming some parts of Northern Frontier District (NFD). He views the trigger of Kenya-Somalia tension as being necessitated by the spirit of irredentism or Pan-Somalism geared towards re-uniting individuals of Somalia origin residing within and without the Kenya boundaries. However, the role of the Kenyan Parliament in regards to influencing foreign policy behavior of the state towards the EAC is not mentioned. In addition, Adar (1994) work is mostly premised to explain the existence of security tension between Kenya and Somalia from the period between 1963 to 1983.

While a few scholars have addressed the role of Parliament in influencing Kenya’s foreign policy behavior, they have nevertheless failed to comprehensively address the institution’s role vis-à-vis the EAC. Such scholars include Ngunjiri (1977), Ol oo (1995) and Munene (2003). To our understanding, these are scholars who have critically analyzed the role the Kenyan Parliament plays in influencing foreign policy
behavior of the state. Ngunjiri’s (1977) thesis for instance has analyzed the Kenya National Assembly Hansards in attempt to explain how the parliament’s backbenchers struggled to influence the state’s foreign policy behavior in both pre-independence and post-independence periods. In addition, Ngunjiri (1977) compares the Kenyan Parliament foreign policy decision-making process in the pre-independence and post-independence era. Broadly, the scholar analyzes the role of the Kenyan Parliament in influencing general foreign policy behavior and not the specific role of the institution in influencing foreign policy behavior of the state towards the EAC.

On the other hand, Oloo’s (1995) study has a clear account regarding the participation of the Kenyan Parliament in foreign policy decision-making process from 1963 through 1993. The scholar examines the role of the institution in influencing foreign policy behavior of the state. In doing this, he also raises the fundamental question concerning lack of institutional sovereignty of the Kenyan Parliament within the realm of foreign policy decision-making process. Furthermore, the author provides a useful general contextual analysis of the role of Kenya Parliament in debating foreign policy bills geared towards the initial formation of the EAC in 1967. However, the study fails to contextualize the exact role the institution played with regard to influencing the state’s foreign policy behavior towards the EAC.

Munene’s (2003) study uses a wider historical trajectory to analyze the role of Parliament during the formulation and implementation of Kenyan foreign policy. In doing so, the scholar argues that Parliament role in foreign policy decision-making process has been suppressed and greatly hindered by the Executive branch of the government. While the scholar’s analysis sheds light on the role of Parliament in
foreign policy, it nevertheless fails to examine the role of the institution in influencing Kenyan foreign policy behavior towards the EAC. As a result of this, understanding and describing the role of the institution is critical for purpose of deepening the general understanding of the specific role of the institution in influencing the state’s foreign policy towards the EAC.

To fully appreciate the significance of the Kenyan Parliament as an actor in influencing foreign policy behavior of the state towards the EAC, the existing scholarly gap at a policy level analysis needs to be filled. Parliament in Kenya has exclusive constitutional power to exercise oversight role over other arms of the government in domestic and foreign policy decision-making process (Kenya, 2010). Considering this pivotal work of legislature, the legislators and other policy makers are supposed to be well-educated on matters relating to the state’s foreign policy behavior towards the EAC. This study therefore attempts to provide information aimed at assisting legislators to take a more active role in the formulation of policies geared towards realization of the state strategic interest within the EAC.

Munene (2003) argues that, in practice, foreign policy of Kenya remains the domain of the Executive arm of the government. The scholar also points out that the 1963 constitution was not explicit on what the legal role of Parliament was on matters relating to the state’s foreign policy decision-making process. It is imperative to take a closer look at the current constitutional role of Parliament in influencing Kenya’s foreign policy behavior towards the EAC. In doing so, this study will deepen the analysis of the legal legislative power of the institution as a policy-making body.
Lessons and information gathered from this study will be of importance to parliamentarians and other policy makers in Kenya.

1.5.0 Literature Review

Observations have been made in above section of the study on the role of parliament in foreign policy decision-making process. It is therefore imperative that we recapitulate the definitive role of the institution in foreign policy decision-making process in this section.

1.5.1 Parliament: An Overview

Muhammad Mustafizar Rahaman (2010) views the parliament as the nucleus of any liberal democratic state. The writer emphasizes that the institution is a branch of the government that represents the general and particular interests of the constituents and state in both domestic and foreign policy decision-making process (Rahaman, 2010). Parliament occupies a unique position in the sense of passing of government foreign policies and programs. As an important decision-making center, the institution also plays an oversight function during allocations of funds to other arms of government and institutions.

On other hand, Narender Kumar (2008) observes that parliament engages in foreign policy decision-making process at two levels. Firstly, parliamentarians can raise questions in the house. In doing so, parliamentarians have a legal mandate to scrutinize the foreign policies and programs of the government (Kumar, 2008). Secondly, parliamentarians can also participate in debates and finally pass or decline some resolutions.
Philip Norton (2012) on the other hand observes three categories in which parliaments can involve itself in foreign policy decision-making process. He observes that parliament can initiate debates that will culminate into members participating in active policy-making process, or the institution can influence executive foreign policy proposals (Norton, 2012). Alternatively, the institution can legislate policies with minimal or no impact at all on the policies formulated and implemented. To an extent these three categories provide a platform where parliament participates in foreign policy agenda of their states.

1.5.2 Parliament and Foreign Policy Decision-Making Process

Christopher Hill (2003) and Karuuumbe (2008) view the institution of parliament as an important player in making, influencing and modifying foreign policies of sovereign states. John McCormick (2007) also argues that legislatures or parliaments are institutions that make laws and government policies albeit they mostly follow the lead of the executive. McCormick’s (2007) argument shows that parliaments are not really ‘independent’ in foreign policy decision-making process.

John T. Rourke (2009) also notes that the ability of parliament to influence foreign policy behavior is not only determined by the institution’s formal power, but also by political system of state. Parliaments in democratic political systems have a degree of leverage in influencing foreign policy behavior of their states, while parliaments in nondemocratic systems are presumed to play an insignificant role in influencing foreign policy behavior of their states (Rourke, 2009). Rourke’s (2009) further cites China’s National People’s Congress (CNPC) as an example of a parliament that plays
a limited role in foreign policy decision-making process of the state. Nevertheless, the section below proceeds with a few examples that show the role of parliaments in influencing foreign behavior of their states.

In studying the role of parliament in influencing the foreign policy behavior of Canada, Paul Pross (1985) observes that the Canadian Parliament competes with the Executive branch of the government in the formulation and implementation of the state’s foreign policy. But the scholar argues that this was not the way traditional Canadian Parliament was operating in foreign policy decision-making process. He attributes change of parliament’s policy role to increased lobbying by the pressure groups and proper diffusion of power among the arms of the government in the state. Canadian Parliament in this sense engages the executive branch of the government at various stages of foreign policy formulation and implementation (Pross, 1985).

Another scholar who studied the role of Canadian Parliament in foreign policy decision-making process was Cathal J. Nolan (1985). The scholar was examining the role of Canadian Parliament on matters relating to adoption of the United Nations human rights agreements and limitation of aid to foreign states. The scholar noted that the Canadian members of parliament played an important part in influencing the state to ratify human rights agreements and later linking human rights with foreign aid policies.

Nolan (1985:383) comments that, “The consensus among the three parties in Parliament on aid and human rights linkages culminated in all party subcommittee report in 1982. This report argued that human right considerations should be at the
center of Canadian foreign policy,” In this study, the scholar shows that the Canadian Parliament influenced the state to adopt policy aimed at limiting foreign aid to states that were involved in gross violation of human rights.

Zdenka Mansfeldova (2005) notes that parliament in Czech Republic engages in decisions touching on the ratification of international agreement, declaration of war and deployment of armed troops outside the state. To this end, ratification of international agreements, declaration of war and deployment of troops outside the state are only legally binding when approved within the legislative institution in Czech Republic. Moreover, Czech Republic constitution bestows oversight power to parliament during allocation of funds to the executive branch of the government (Mansfeldova, 2005). The allocated funds are used by the executive to implement certain foreign policies and it is within this budgetary allocation that the role of parliament in Czech Republic is clearly observed.

Researching on Parliament of South Africa, A. K. Ahmed (2009) identifies that the institution participated in legislating and influencing policies geared towards the formation of African Peer Review Mechanism (APRM) and the establishment of Pan-African Parliament (PAP). In this study, Ahmed observes that Parliament of South African is normally viewed as not decisive in foreign policy decision-making process; however, members of parliament in the state played a role in the establishment of APRM and PAP. This example depicts the legislative branch of the government as a versatile institution irrespective of the executive domination in foreign policy decision making process in South Africa.
The US Congress also provides a good example concerning the crucial role the institution of parliament plays in influencing foreign policy behavior of United States of America (USA). The Congress is composed of the Senate and the House of Representatives. These two institutions are assigned duties by the USA constitution to either approve or disapprove the president’s foreign policy actions. For example, Martha Lieber Gibson (1994) observes that legislators follow the Executive in areas such as the declaration of war on a number of occasions. She asserts that (1994:451), “In crisis issue, the rally around the flag effect on public opinion and the perception that the national interest’s is at stake contribute to legislative reluctance to oppose the President.” This executive support was observed when the Senate and the House authorized the president to use military action against Iraq after September 11 attack (Wittkopf, Jones & Kegley, 2008; Rourke, 2009). However, Gibson (1994) points out that the Congress has constitutional veto power which sometimes forces the Executive to consult it on some decisions such as arms sale to Middle East countries.

The USA Constitution also grants the Congress direct mandate to shape the country foreign policy. One of the foremost sections of the USA Constitution that allows Congressmen to participate in foreign policy decision-making process is Article 1. The Article bestows power on the Congress to declare war and to regulate international commerce (Rossum & Tarr, 1995).

Still in the context of the pervasive role of Congress in foreign process, Ralph A. Rossum and G. Alan Tarr (1995:115) further outline that, “Article I of the Constitution grants Congress a broad range of legislative powers, including taxing and spending powers (which enable it to control the government’s purse strings), the
power to declare war, and the power to regulate commerce.” The rationale behind granting legislative power to the Congress is purposefully meant to ensure that the executive does not have dictatorial power in the process of foreign policy. For example, President W. Bush 2001 foreign policy issues on defense strategy and foreign spending were opposed on several occasions by members of the Congress (Wittkopf, Jones & Kegley, 2008).

Ahmed (2009) further points out that Congress has power over budgetary allocation and can therefore influence foreign policy decision making process of the USA. The Congress power of the purse authorizes the amount of funds that will be used in military and on foreign aid. In this case, the USA constitution recognizes the institutional role of the Congress in foreign policy decision making process. Rourke (2009) also point out that the USA Senate and the House of Representatives passed congressional resolution which allowed President Bush to use military force in fight against terrorism in 2001.

German Bundestag (Parliament) is another institution that plays a definitive role in influencing the state’s foreign policy behavior (Jagger et al, 2009). Thomas Jagger et al (2009) notes that the German Parliament is viewed as subordinate to the executive branch during foreign policy decision making process, but the members use their constitutional powers to influence the decisions on matters relating to foreign aid, international treaties, foreign deployment of troops and defense budget toward North Atlantic Treaty Organization (NATO). Specifically, Jagger et al (2009:419) observes that:

Quite to the contrary, members of the Bundestag are constantly involved in a number of foreign-policy decisions. The government
regularly consults with key members of the parliament and tries to anticipate the parliament’s reactions to those governmental moves which require parliamentary approval. Although the foreign policy process is executive-dominated, the Bundestag has some important powers which it may employ to influence German foreign policy. Some of these powers are universal in the sense that they cover all the fields of public policy, while others apply specifically to certain aspects of German foreign policy.

Along the lines of Jagger et al (2009), some might argue that German Parliament as well as many parliaments around the world plays an assertive role in influencing foreign policy behavior of their states.

The role of the parliament in influencing foreign policy behavior can also be viewed from activities of Parliament of Turkey, Turkish Grand National Assembly (TGNA) in 2003. In Turkey, the parliament opposed the state executive decision of allowing the United States of America (USA) to use the state as military base in 2003 Iraq intervention (Kesgin & Kaarbo, 2010). As a result of this, the government of Turkey was forced to seek parliamentary approval that would later allow the USA to use the state as base for re-supply and other logistics. This shows that parliament plays an important role in the foreign policy of a state irrespective of the many constraining factors.

Lutfullah Mangi (1995) also notes that all US foreign policy decisions that range from domestication of international agreements, appointment of ambassadors, military aid to foreign countries formulated by the executive are eventually approved by the Congress. Studying the role of the US Congress in foreign policy, James M. Lindsay and Randal B. Ripley (1992) also agree with Gibson (1994) and Mangi (1995) that the Senate and the House of Representatives have great responsibility in US foreign policy. Lindsay and Ripley (1992) comments that, “The 1970s and 1980s and saw a
flurry of legislative activity designed to advance Congress’s influence over foreign policy and defense matters.” This indicates that congressional approval is indeed important in US foreign policy decision making process.

Alex Mintz and Karl DeRouen (2010) give an example of the role the Israel parliament plays in foreign policy decision making. For a foreign policy to be binding, the coalition government comprising Knesset (Israel Parliament) members must be consulted. Mintz and DeRouen (2010) further point out that Israel coalition partners in parliament determine the foreign policy of the state on a number of occasions.

We had so far reviewed important literature that sheds light on the role of a few parliaments in foreign policy decision making process of their states. We will now examine the general role of the Kenyan Parliament in the context of filling the gap in our research on the role of the institution in influencing foreign policy behavior of the state. In the Kenyan context, there are several examples involving the participation of the institution of parliament in foreign policy decision making process, but we will only explore few general examples in this section. The exact role of the institution in influencing the foreign policy behavior of Kenya towards the EAC will be outlined in Chapter Three and Four of this study.

The Kenyan Parliament is a constitutional institution and a key player in formulation of both domestic and foreign policies. The institution was initially established in 1906 by the East African Order and held its first session on Friday, 16th August 1907 (Ndoria, 1976). It had gradually transformed from an arm of the government
composed of appointed individuals by colonial governors into the institution composed of members of parliament elected through universal adult suffrage. However, the section below mainly focuses on the role the Kenyan Parliament played in influencing general foreign policy behavior of the state.

The independence Kenya National Assembly was composed of two Houses: that is, the Senate (Upper House) and the House of Representative (Lower House). Charles Hornsby (2012) clearly notes that the state adopted the Westminster model (parliamentary system), with Prime Minister Kenyatta deriving power from the parliament. By contrast, the Westminster model was replaced by quasi-presidential system in 1964 amendment of the constitution (Hornsby, 2012). Scholars view the 1964 constitution amendment as means used by the Executive to centralize state power to the Presidency while weakening Parliament (Oloo, 1995; Munene, 2004; Hornsby, 2012).

The independence Kenyan Constitution bestowed National Assembly with some foreign policy responsibility such as entering and ratifying international agreements and conventions (Kenya, 1963, Section 68(I)). Similarly, members of parliaments had legislative power to participate in formulation of foreign policy and programs. This means that members of parliament had constitutional power to question the government on its conduct in foreign affairs albeit the President had more prerogative power in foreign policy matters than the Parliament.⁹ On this perspective, the power to accredit and receive members of diplomats, deployment of armed troops outside the state, declaration of war and annexation of territory were within the domain of the power of the institutional of the presidency (Kenya, 1963). However, the enactment of
Constitutional of Kenya, 2010 and in particular 94 (1) has given authority to the Kenyan Parliament in both public and foreign policy decision-making processes (Kenya, 2010).

There are several notable historical participations of Parliament in foreign policy decision making process before attainment of self-government on 1st June 1963. For example, the Parliamentary Secretary for Finance, Mr. Sheikh Alamoody moved a motion intended to authorize the government to borrow money from United States of America (USA) on Wednesday, 13th March 1963. Alamoody stated that:

> What I would like hon. Members to realize, Sir, is that whereas this Bill empowers this Government to borrow from the United States, the fact is that the money is not available to us to borrow from the United States. What has happened is that the government of the United States has agreed to lend us a sum not exceeding $ 18 million which is equivalent of $ 6.4 million Sterling, and this sum would only be available to this country if we produced suitable development programmes and put them up to the United States. But before we can go forward and negotiate for the borrowing of such money from the United States, we have to have the approval of this Council. Therefore, Sir, this Bill is to enable us to borrow from the United States Government for the purposes which we can put forward to them (Legislative Council Debates, Vol, XCI, 1963).

The House welcomed the above Bill and in particular Air Commodore Howards-Williams who opined that the loan can be more beneficial if it would be spent on capital work such as construction of the roads (Legislative Council Debates, Vol, XCI, 1963). However, Mr. Towett Member for Kipsigis questioned the efficacy of depending on foreign capital. Towett stated that “I would like to say, Sir, that it is not that we must depend on overseas capital. It is not that we must depend on it, we are forced by circumstances and we must escape depending on such capital.” (Legislative Council Debates, Vol, XCI, 1963: Col. 85). This shows that Parliament
was involved in attempt to shape and influence foreign policy in the state from an early stage.

Independent Kenya state was faced with the challenge of secessionist movements from inside the state and Somalia. This prompted members of parliament to move a motion demanding government to take action in combating secession movement in Northern Frontier District (NFD) in 1963. In particular, Hon M. M. Mutiso stated in the House that:

That this House, believing in Pan-Africanism and in the territorial integrity of Kenya, which form part of the East African Federation, takes a most serious view of the dangerous moves in certain areas calculated to encourage the dismemberment of Kenya and secessionists designs of a few ill-wishes, calls upon the newly formed African Government to take effective steps to stamp out these lawless and seditious activities of such secessionists group (National Assembly, House of Representatives Official Report, Vol 1, Part 11, 1963, Col:1368-1371).

The Somalia threat to national security and territorial integrity of Kenya and ethnic irredentism were debated by members of Parliament at length. This was in cognizant that among other things, the 1963 KANU election Manifesto had reaffirmed the principle of preserving the national integrity of independent Kenyan state from both internal and external threats.11

Adar (1994) in addition sees salience of Kenyan parliamentarian power to debate matters concerning territorial integrity and national security of the state during Kenya-Somalia conflict, that is, from 1963 to 1983. Kenya-Somalia territorial dispute and activities of pro-secessionists movements prompted Prime Minister Kenyatta to address legislators in the House of Representatives. President Kenyatta in particular addressed the legislators on the matter relating to the threat of national security and
territorial integrity of Kenya during the state opening of Parliament in 1967 (Adar, 1994). The president emphasized in the parliament that Kenya will not surrender even an inch of her territory to Somalia.

The role of Kenyan Parliament is further witnessed when the House of Representatives and Senate voted in regard of allowing the government to declare the state of emergency in 1963. As Adar (2008:61) puts it:

The post-independence opposition parties in the House of Representatives and the Senate played a key role in restraining the excesses of the executive. In 1963, for example, the Senate defeated the request by the Kenyatta administration to authorise emergency powers to be imposed in the Northern Frontier District (NFD), a region which involved Kenya in an internal war against Somalia *shiftas* (bandits).

The above example shows independent Kenyan Parliament playing a definitive role in foreign policy process.

The role of parliament in foreign policy decision-making of Kenya was further observed when a motion was moved in the House concerning the issue on trade experts from Socialists Countries on Wednesday, 17th June 1964. The motion stated that, “That this House calls upon the Government to invite experts from Socialist countries to examine Kenya’s economic conditions and to make recommendations for increasing the per capita output of the citizens of Kenya particularly in the spheres of land development and business enterprise.” (National Assembly Official Reports, House of Representative, Vol. III, Part I).

The process of ratification of foreign agreements was also questioned by members of parliament in 1964. Kenya African Democratic Union (KADU) leader, Hon. Ronald Ngala moved a motion that demanded the government to always ensure it seeks
parliament approval before ratifying foreign agreements. In this motion, Ngala stated that:

That in view of the national importance of pacts and agreements between our country and Britain and foreign countries such as Russia, China and the USA etc. [sic], this House urges the Government to ascertain that proposals for the agreements are fully debated in this House with the view to getting the mandate of the House, before the signing of any agreement (House of Representatives, Vol. III, Part II, 1964:Col. 2214).

Ngala motion is premised to explain the importance of the institution of the parliament on matters relating to signing of bilateral agreements.

Ngala further noted that the institution has constitutional rights to debate foreign issues before the government ratifies them. Ngala viewed the government’s action as strange when compared to other states which allow international agreements to be debated in their respective parliaments. The motion was supported by other two KADU members, that is, Hon Masinde Muliro and Hon. Daniel Moi (House of Representatives, Vol. III, Part II, 1964: Col. 2220-2228).

Against the historical backdrop of liberation struggle of South-West Africa in 1966, Howell (1968) for example observes that the members of House of Representatives as directly involved in appealing to the Kenyan government to assist South-West Africa freedom fighters with equipment among other essential support that was to bring to an end occupation of their territory by colonial authority. Howell (1968) has gone further to argue that members of the House of Representatives were also involved in debating matters affecting Kenya economy. Commerce and Industry Minister, Hon. Mwai Kibaki addressed the House of Representatives in October 1966 on matters relating to foreign capital and investment (Howell, 1968). It is still on the floor of the House that
Kibaki underlined the need to stabilize Kenya for the purpose of attracting foreign capital and investments.

As seen in the above examples, the doctrine of parliamentary sovereignty grants Kenya Parliament authority to participate in foreign policy decision-making process. It is within this premise that the role of the institution will be examined in the context of explaining how it influenced the foreign policy behavior of Kenya towards the EAC. Thus, this study in particular attempt to examine the role the Kenyan Parliament played in influencing foreign policy decision-making process of the state towards the EAC from 1967 to 1977 and from the period between 2002 to 2012.

1.6.0 Hypothesis

1) Kenya Parliament plays an important role in influencing foreign policy behavior of the state towards the East African Community.

1.7.0 Decision Making Models: A Conceptual Framework for Analysis

The concept of decision making revolves around the process of formulation and implementation of foreign policy of a state. Robinson and Snyder (1965) outline four components of foreign policy decision making. The four components ranged from identifying the decision problem, looking for other alternatives, selecting the alternative and finally executing the policy alternative. On the other hand, James Rosenau (1966) Kegley and Blanton (2013) and Smith, Amelia and Dunne (2012) postulate that there are a lot of determinants shaping foreign policy behavior of a state. The understanding is that foreign policy decision making process is determined
by a lot of factors that range from among others individual policy makers to a state’s institutions.

In this study, the conceptual framework for analysis will assist us to describe, explain and offer prediction among various variables involved in influencing foreign policy behavior of Kenya towards the East African Community (EAC). This study employs the decision making models which treat the formulation and implementation of foreign policy as a process that involves a plethora of actors. Kegley (1980) argues that, there are various approaches used in analyzing foreign policy decision making process of sovereign states. Kegley (1980) in addition provides a comparative interpretation on how actors influence foreign policy behavior of sovereign states. Foreign policy decision-making underscores the central importance if states have to survive in what Hedley Bull (2002) referred as anarchical society.

Decision making models used in this study provide the conceptual framework within which to analyze and understand the role of Kenya Parliament in influencing the state’s foreign policy behavior towards the EAC. The study examines different alternative models with reference to justifying why organizational process model have been adopted to explain the role of Parliament in influencing foreign policy behavior of Kenya towards the EAC and to test the study hypothesis. The four models include; rational actor model, bureaucratic politics model and organizational process model.

1.7.1 Groupthink Model

The foremost proponent of groupthink model is Irvin L. Janis (1972). The scholar was reviewing a number of key USA crisis foreign policy decisions during the Cold
War period. The model is normally associated with foreign policy decision-making involving a small number of people in a group setting (Jarnis, 1972; Tetlock, 1979; Burnstein & Berbaum, 1983; Anderson, 2011). Jarnis (1972) perspective also points out that, groupthink proceeds from the assumption that only few individuals are involved in identifying foreign policy goals, search for alternatives and thereafter arrive at the best choice.

Other scholars have observed that members of a group insulate themselves from other group decisions during foreign policy decision-making process (Schafer & Crichlow, 2002). That is why Jarnis (1972) refers to this as ‘group psychology.’ It is important to note that each individual in the group have perception that foreign policy formulated will achieve national interests of their states. In this circumstance, the group views are largely intended to promote consensus among the group members (Rourke, 2009).

Karen A. Mingst (2008) also equates groupthink as an approach associated with small groups of people who by and large avoid criticism on policy choice taken by the group during crisis situation. Mingst (2008:149) comments that “During the U.S. planning for the Bay of Pigs operation against Cuba in 1961, opponents were ostracized from the planning group . . .” It is apparent in Mingst’s (2008) example that implementation of foreign policy can sometimes involve few people and alternative option from outside the group is seen as misguided set of foreign policy. On this Rourke (2009:70) also summarizes that groups tend to isolate people who disagree with decisions made. This means that foreign policy choices are influenced by a few individuals at the highest government level.
This model will not be used in this study because it does not offer complete analysis on the role of Kenya’s Parliament in influencing foreign policy behavior of the state towards the EAC. The model emphasizes much on foreign policy decision making process during crisis period. It then suffers from lack of specification on what is the role the legislative assembly plays during non-crisis period.

1.7.2 Rational Actor Model

Reflecting on the 1962 Cuban Missile Crisis, Graham T. Allison and Phillip Zelikow (1999) widely acknowledge that, rational actor model operates on the underlying assumption that decision makers normally opt for the best preference among the available alternatives. The two scholars further observe that foreign policy decision making process is characterized by rationally selecting one policy among other several alternatives policies. Thus, decision is arrived at on what is best foreign policy that would result into the attainment of desirable interests.

Still reflecting on the model, Sidney Verba (1969) posits that there is an element of calculating the cost and benefits of each activity that a state wants to pursue outside her boundary. The activity with maximum benefits and minimum costs is finally selected and this is based on the best information available. Another key characteristic of this model is that goals are weighed and essential foreign policy choice is arrived at based on the logic consequence of the alternative selected.

In seeking to enhance the achievement of maximum interests, rational actor model also demands careful consideration of all alternatives and then selecting the best
option. This model is applicable in explaining parliament influences on foreign policy behavior of a state. This model will be further analyzed in detail in Chapter Two of this study.

1.7.3 Bureaucratic Model

Bureaucratic or Government bargaining model is based on the argument that foreign policy decision making process resembles competition among various and often diametrically opposed institutions within the government (Nester, 1995; Goldstein, 2003). The model also centers on the argument that, government institutions arrive on foreign policy decisions through contest and struggle. That is, the constitution assigns some responsibility of foreign policy decision-making process to various institutions; such institutions compete to influence foreign policy of states. Allison and Zelikow (1999) refer to this as ‘pulling and hauling’ that characterizes government institutions devising foreign policies.

Within the government large scale organizations, government institutions also oppose each other until there is a compromise among them. This illustrates the presence of a mixture of preferences among government bureaucracies in foreign policy decision making process. This backdrop shows that the formulation and implementation of foreign policy is a political process involving the scope of government actors who compete to shape the choice (Webber & Smith, 2002). The model emphasizes the existence of other actors in influencing foreign policy behavior of a state and has been used to guide this study.
1.7.4 Organizational Model

Drawing on the distinction between bureaucratic and organizational process model, Joshua S. Goldstein (2001) observes that the organization model avoids the exhaustive procedure of identifying goals and their alternatives in foreign policy decision-making process. Goldstein and Jon C. Pevehouse (2011:158) give an example that, “. . . the organizational process model, holds that government bureaucracies churn out policy in a manner, with only incremental change as political leaders come and go. ” This implies there is a uniform way decision makers in government organizations arrive at foreign policy decisions.13

The role of Kenya’s Parliament in influencing the foreign policy of the state towards the EAC will be explored in depth from the perspective of the organizational model. The model offers the best alternative model to the bureaucratic model. It offers a detailed explanation on the role of the institution in foreign policy decision-making process. It will also help interpret the findings of the study and test the study’s hypothesis. We will analyze further details of organizational process model in Chapter Two of this study.

1.8.0 Research Methodology

There are various methods of collecting data geared towards assessing the role of the Kenya Parliament in influencing the state’s foreign policy behavior towards the East African Community (EAC). For this study, qualitative and descriptive method of data collection will be used. This will involve reviewing of among other academic studies and other academic materials that will include; the East African Community Treaty,
party manifestoes, 1963 and 2010 Kenya Constitutions will be reviewed to establish the legal role of Parliament in formulating foreign policy of Kenya. The Hansard reports from the Kenya’s National Assembly will also be reviewed. Kenya Gazette Supplement and different discussion papers on EAC available at the main libraries in Kenya will also be reviewed. Furthermore, various journals that analyze the role of the Kenya’s Parliament in influencing foreign policy behavior towards the EAC will be reviewed.

1.9.0 Structure of the Thesis

There are five chapters in this study:

Chapter One: The chapter puts into proper perspective the general introduction of the thesis including the problem under investigation; the role of the Kenya Parliament in influencing the state’s foreign policy behavior towards the East African Community (EAC). The chapter further discusses the research questions, general and specific objectives of the study as well as the significance of the study. A brief analysis and review of literature under discussion necessary for identifying the gap the study intends to fill also features in the first chapter.

Chapter Two: This chapter engages with existing foreign policy decision-making models. The chapter analyzes the various models of decision-making including the rational actor model, bureaucratic politics model and organizational process model. The Organizational process model has been the main focus of the analysis in the attempt to explain the role of the Kenya Parliament in influencing the state’s foreign policy behavior towards the EAC.

Chapter Three: This chapter examines the rise of the idea of East African Community. The chapter also analyze the establishment of the EAC from a historical
trajectory. The role of the Kenya Parliament in influencing the state’s foreign policy behavior towards the EAC have also been examined from the years 1967 to 1977.

**Chapter Four:** This chapter critically evaluates the revival of the EAC by Kenya, Tanzania and Uganda in the1980’s and the ratification of the EAC treaty in 2002. The chapter further reviews the role of the Kenya Parliament in influencing the state’s foreign policy from 2002-2012.

**Chapter Five:** The last chapter deals with summary of the findings, and general conclusions of the study. The chapter also summarizes the achievement of Kenya Parliament in influencing the state foreign policy behavior towards the EAC. The chapter further gives recommendations of measures that should be taken in ensuring that the Parliament participates fully in influencing Kenya’s foreign policy behavior towards the EAC.
Endnotes


3 See, Balasa, B. (1961). The Theory of Economic Integration. London: George Allen and Unwin. Herein, Bela Balasa for example asserts that there are five stages of economic integration that include: Free trade area, customs union, common market, economic community and lastly political federations.


5 Presidential system has executive president, while the parliamentary has executive prime-minister. On the other hand, semi-presidential system is hybrid viewed as the system combining both elements of presidential and parliamentary systems. For comprehensive analysis presidential and parliamentary, see, Jonyo, F., & Owouche, S. (2004). Politics in Kenya: A Perspective. Nairobi: Azinger Limited.

6 Unicameral is conceptualized as single chamber that is normally chosen by direct election while bicameral which is composed of two chambers that are chosen through combination of indirect election or hereditary membership.


8 Ibid., p. 293

9 For more analysis on powers vested on the President in the newly independent Kenyan state, see the 1963 Constitution of Kenya, Article 23.

10 Ibid., p. 85.


12 For comprehensive detail on this, see also, Allison, T. G., & Zelikow, P. (1999), Essence of Decision: Explaining the Cuban Missile Crisis. New York: Longman.
References


CHAPTER TWO
FOREIGN POLICY DECISION-MAKING: THE CASE OF
ORGANIZATIONAL PROCESS MODEL AND KENYA’S FOREIGN POLICY

2.0 Introduction

An understanding of foreign policy decision-making process is important for any meaningful explanation on what influences a state’s foreign policy decisions. David Easton (1969) views decisions as an outcome of actions taken by people in a political system. Easton’s (1961) observation underlines presence of individuals, groups and organizations that are implicitly or explicitly involved in decision-making process. Joshua S. Goldstein and Jon C. Pevehouse (2011) observe decision-making as a process involving individuals and organizations carrying out actions on behalf of the government. Goldstein and Pevehouse (2011) further contend that the main purposes of government actions or foreign policies are to affect achievement of state interests at international level.¹

Before proceeding to discuss the essence of foreign policy decision-making models and Kenya’s foreign policy, it is imperative we offer a few definitions of the concept of foreign policy. This is because the definition of the concept varies considerably among scholars (Okoth, 1999, 2010; Orwa, 1994; Kegley, 2009). The concept has also been used in varied forms over the years. Furthermore, Chapter Three and Four of our study on large part focus on analyzing the role the Kenyan Parliament played in influencing foreign policy behavior of Kenya towards the East African Community (EAC).
Pontian Godfrey Okoth (1999) for instant defines foreign policy to mean actions that states take when interacting with other states and non-states actors at international level. Okoth (2010) further views foreign policy as goal or programs that policy-makers design and direct outside their states. Given this diverse definitions of foreign policy, Okoth (1999) argues that the foreign policy of Kenya has also attracted differing definitions, but they are nevertheless significant in the sense that foreign policy is characterized by a lot of dynamism.

Similarly, D. Katete Orwa (1994:298) observes that, “Foreign policy of a state is the sum total of its araved intentions via-a-vis [sic] its relations with other states and non-state actors in the international arena. It is influenced by national (domestic) and systemic variables or elements.” Generally, Okoth’s (1999; 2010) and Orwa’s (1994) view foreign policy as strategies that governments and states employ to guide their actions outside their territories.

Foreign policy choices of states can be influenced by either domestic or systemic variables (Orwa, 1994; Kegley, 2009). To Orwa (1994) and Charles W. Kegley (2009), the domestic variables influencing foreign policy choices of states include economic prowess, political system, military capability, ideology, size of the country, social system among others. Both domestic and systemic variables influencing foreign policy choices vary across states.

The external factors influencing foreign policy choices are for example provided by Orwa (1994), Okoth (1999) and Kegley (2009), to include polarity or distribution of power among states in international system, military alliances, international trade,
international organizations and geo-strategic location of country. In relation to this, Okoth (1999) explicitly argues that Kenya’s foreign policy has mainly been influenced by both domestic and systemic variables witnessed in many states in the whole world.

We had briefly mentioned a few examples of domestic and systemic variables that to our understanding may unequivocally impact on foreign policy choices and goals of Kenya. The concept of national interest is briefly examined in relation to the study for the purpose of supporting our chapter discussion on the organizational process model and Kenya’s foreign policy. Furthermore, Chapter Three and Four of our study attempts to examine the role the Kenyan Parliament played in foreign policy decision-making process of the state for the purpose of attaining national core interests within the EAC.

As a concept, national interest attracts differing meanings to different scholars. For example, realist scholars such as George F. Kennan (1957), Hans Morgenthau (1978), Kenneth Waltz (1979), Hedley Bull (2002) and John Mearsheimer (2004) define national interest as decisions and actions carried out in order to maximize state power at international level. In particular, Kennan (1957) views on national interest are based on historical analysis of United States of America (USA) diplomatic relations with European powers. In this regard, he argues that USA foreign policy behavior towards Europe was conducted to achieve the country’s national strategic interest and relative power.
To our understanding, Kennan (1957), Waltz (1979), Bull (2002) and Mearsheimer (2004) offer a valuable explanation of the concept national interest, however, Morgenthau (1978) remains one of the key realist scholars who provide a useful understanding to the meaning of the concept national interest and further connecting the concept with state power. He argues that foreign policy decisions and actions are strategically devised to achieve state’s national interest and power. National interest and power thus remain the two key variables that the scholar uses to offer explanation on what drives state’s actions in international politics (Morgenthau, 1978).

For Morgenthau (1978), the main objective of state’s quests for attainment of national interest and power is to survive in anarchical international system. Theodore A. Couloumbis and James H. Wolfe (1990) also consider the concept national interest to mean goals and objectives states pursue for the purpose of survival. So the concept national interest can be systematically interpreted to mean actions carried out for the reason of preservation of states in the international system.

Among other things, national interests may include territorial integrity, national security, ideology, sovereignty, and economic prosperity (Morgenthau, 1978; Orwa, 1994; Couloumbis & Wolfe, 1990). For example, territorial integrity, sustenance of sovereignty and national security were the three core values of Kenya’s national interests in the first two decades of the state’s independent (Adar, 1994). Orwa (1994), however, points out that economic interest was equally influencing foreign policy of Kenya as well as territorial integrity, national security and sovereignty.
The territorial integrity and national security of Kenya were under constant threat from individuals of Somali origin demanding some part of Northern Frontier District (NFD) (Adar, 1994). Samuel Makinda (1982) cited in Korwa G. Adar (1994) further views the threat of territorial integrity and national security as being necessitated by campaign of some individuals struggling to unify all Somalia speaking people in one state.

Attainment of national economic interest as will be cited in Chapter four of this study has also been among the core interest that was guiding members of parliaments in Kenya in foreign policy decision-making and implementation towards the EAC. Take for example a bill that was introduced and debated in the National Assembly during official opening of the House by then President Daniel Arap Moi on 3rd March 1987 (National Assembly Official Report, Vol. LXXI, 1987: Col. 6). Moi remarks in the House dwelt on asking over the members of parliament to pass legislation that was to facilitate division of assets and liabilities of the defunct EAC as earlier agreed by the three Presidents of the East African region. The bill was read and debated again on the floor of the House and subsequently members of parliament passed the bill for presidential assent (National Assembly Official Report, Vol. LXXII, 1987: Col. 33-35). This then provide answer to one of our research question that was attempting to examine the extent to which the Kenyan Parliament influenced foreign policy behavior of the state towards the EAC.

For purposes of this chapter, organizational process model is used to explain the role the Kenya’s Parliament has and continues to play in influencing the state’s foreign policy behavior towards the EAC. It is also important we provide a general overview
of Kenya’s foreign policy and its orientation. Kenya’s foreign policy orientation has largely reflected on some international norms and values. Among this values include, respect for sovereignty and territorial integrity of other states, non-alignment, good neighbourliness, peaceful co-existence and adherence to the Charter of the United Nations (UN) and the African Union (AU).

Before examining the model that explains the role Kenya Parliament plays in influencing foreign policy behavior of EAC, it is also important to point out what is foreign policy decision-making. Alex Mintz and Karl DeRouben (2010) conceptualize foreign policy decision-making (FPDM) as the alternative choices individuals, groups and coalitions select for their states. These choices have capacity to influence foreign policy behavior of states at international level. A few other scholars see foreign policy decision-making as a process where available alternatives of foreign policy choices are carefully selected by decision-makers (Dougherty & Pfaltzgraff, 1990). These choices are presumed to be selected in a rational way for the purpose of achieving national strategic interests of states in the international arena.

This chapter focuses on three contending decision-making models that delineate the key logics and rationale of the role the Kenyan Parliament plays in influencing the state’s foreign policy behavior towards the EAC. The three decision-making conceptual models include; rational actor model, bureaucratic politics model and organizational process model.
2.1 Foreign Policy Decision-Making Process: Conceptual Approaches

The analysis of rational actor model, bureaucratic politics model and organizational process model assist in testing our study hypothesis that; Kenya Parliament plays an important role in influencing foreign policy behavior of the state towards the EAC.

2.2 Rational Actor Model

We will first use rational actor model in an attempt to explain the role the Kenya Parliament plays in influencing the state’s foreign behavior towards the EAC. Mintz and DeRouen (2010) trace the origin of the model to macro-economic discipline. The model is founded on the assumption that actors are rational and purposefully engage into various activities with the main purpose being attainment of maximum utility. In foreign policy, the model is commonly associated with the writings of Graham T. Allison (1971). Allison (1971) was motivated to explain the risk of nuclear war confrontation between the United States of America (USA) and the Union of Soviet Socialist Republics (USSR) in 1962.

There are other two leading approaches built around the tenets of rational actor model. The two approaches include; expected utility theory (EUT) and game theory. Expected utility theory was initially propounded by John von Neumann and Oskar Morgenstern (1947), while game theory was coined by Thomas Schelling (1966). In policy deliberation, Neumann and Morgenstern (1947) view the expected utility theory as fundamentally founded on a key proposition that portrays policy-makers as having capability to rank all the preferences. In making this argument, the two scholars assume that policy-makers will make rational choices from ranked
preferences. This view is further founded on another broader view that policy-makers will ensure maximum satisfaction is achieved (Neuman & Morgenstern, 1947).

On the other hand, scholars employ game theory and conclude that the theory can be used in research to explain foreign policy decision-making process of states (Schelling, 1966; de Mesquita, 1981; Mintz & DeRouen, 2010). Schelling (1966) and Mintz and DeRouen (2010) moreover point out that the theory emphasizes that decision-makers are mindful of the national strategic interests of their state when dealing with other states and non-state actors at international level. Goldstein and Pevehouse (2011) assert that game theory is also based on assumption that actors engage in activities with intention of exercising power over others.

J. Morrow (1994) in addition views game theory as based on a universal principle that sees states as mainly involved in zero-sum competition due to unequal distribution of power among them. Another explanation shows states as having strategies where there are rules of the game which they can decide to follow or not (Morrow, 1994). In the game, each player is assumed to be strategic and select rational alternative for the purpose of achieving respective interest (Mintz & DeRouen, 2010).

Taken together, expected utility theory and game theory assume that decision-makers are rational actors who carefully analyze consequences of each alternative. As a result, the selected course of action is presumed to lead to maximization of a state’s goals or achievement of national strategic interests (Holsti, 1992). Expected utility theory and game theory assist scholars in formulation and implementation of foreign policies in situations of prevailing international conflicts and thus provide a limited
scope on the exact roles parliaments play in influencing foreign policy behavior of states towards regional organizations or in peaceful period. We will therefore not examine both the expected utility theory and game theory in this section and instead we will mainly focus on the rational actor model in our attempt to explain the role of parliaments in influencing foreign policy behavior of states with a specific focus on Kenya.

**Figure 2.0: Rational Actor Model**

![Rational Actor Model Diagram]


Figure 2.0 summarises how foreign decisions are preferably made using rational actor model. The first primary focus of the model is at individual policy-maker level or actor. The policy-maker evaluates a broad range of problems and opportunities available outside the state. The broad scope of the figure further shows that policy-makers have to consider policy goals and objectives of their states. The rational decision-makers have finally to make decisions geared towards maximum achievement of utility.

Scholars have outlined a number of intellectual steps in regard to the explanation of the tenets of rational actor model in relation to foreign policy decision-making.
process. These steps include among others identifying the problem or opportunity, setting the objective, collection of relevant information, selection for alternatives that are value-maximizing, execution of the decision and eventually monitoring the effects of decision made (Robinson & Snyder, 1965; Veil, 1975; Cashman, 1993; Allison, 1971; MacDonald, 2003; Kegley, 2009; Kinsella, Russett & Starr, 2013).

The model is premised on the assumption that decision-makers are rational actors. For Shyama Kuruvilla and Philip Dorstewitz (2010), the concept rational actor means policy-makers who make well-informed decisions. Kuruvilla and Dorstewitz (2010) further contend that the traditional theoretical meaning of rationality entails proper reasoning that is geared towards achieving political interests of state and her nationals. This view is also shared by Goldstein and Pevehouse (2010) who also view rationality as entailing the priorities states take to advance their national strategic interests in anarchical international system. The cardinal objective of rational actors is therefore to formulate and implement foreign policies geared towards the achievement of national strategic interest (Morgenthau, 1978; Kuruvilla & Dorstewitz, 2010).

There are a few concepts associated with rationality that include among others bounded rationality, linear rationality and incremental rationality. The bounded rationality recognizes that foreign decisions are made to satisfy rather than to attain maximum utility (Simon, 1997). Herbert Simon’s (1997) bounded rationality further sees decision-makers as being faced with a lot of contextual constraints that limit harmonization of knowledge and policy formulation. This leads to limitation of achievement of maximum utility (Simon, 1997).
 Scholars therefore view the validity and relevance of linear rationality in explaining foreign policy decision-making process because of the view conceptualizing policy making process as pre-mediated procedure (Kuruvilla & Dorstewitz, 2010). Incrementalism rationality on the other hand is based on the thinking which views policy-making policy as continues process. A more significant assumption on incrementalism rationality denotes that policy-makers rarely formulate radical policies but instead adjust on existing one (Kuruvilla & Dorstewitz, 2010).

Furthermore, there are a group of scholars who observe rationality as complex and relative concept. These scholars view rationality as a concept that is subject to multiple interpretations. In particular, Kegley (2009), Mintz and DeRouen (2009) as well as David Kinsella, Bruce Russet and Harvey Starr (2013) found out that rationality as a concept lacks clear-cut definition. The scholars conceptualize rationality as a contested concept, but, they agree that the concept denotes adopting decisions that are intended to maximize a state’s benefits.

Decision-makers are assumed to operate rationally that requires them to work in the best interests of the state (Goldstein & Pevehouse, 2011). Based on this, the model envisages foreign policy as an act of unified government pursuing national strategic interest. The unitary actor analyses the cost and benefits of each probable alternative that can be selected from a wide range of other alternatives (Kinsella, Russett, & Starr, 2013). In so doing, the rational actor is assumed to be working for the best interests of the state and her nationals at international stage. Kegley (2009:58) asserts that:

Because realists believe that leaders’ goals and their corresponding approach to foreign policy choices are the same, the decision-making
processes of each actor can be studied as though each was a unitary actor—a homogeneous or monolithic unit with few or no important internal difference that affect its choices. From this assumption, it can be derived that the expectation that transnational actors can and do make decisions by rational calculations of the actors and benefits of different choices.

Based on Kegley (2009) argument, it can be asserted that the main intention of foreign policy decision makers is to formulate and implement policies that maximize national strategic interests.

In addition, the model provides an assumption that a unitary actor must from the onset establish the availability of opportunities or the source of the problem (Allison & Zelikow, 1999). This is followed by accurate definition of the opportunities available and the problem facing state decision-makers must adequately analyze the cause of the problems. The establishment of available opportunities or source of a problem requires evaluation of relevant information. Evaluation of sufficient information is further intended to ensure that decision-makers will have ability to analyze actions and capabilities of other actors possessing leverage to influence foreign policy behavior.

Possession of comprehensive relevant information among foreign policy-makers is also assumed to result into proper understanding of the strategic national interest of the state. In analyzing how states select their foreign policy goals, Kinsella, Russet and Starr (2013:130) observe that, “The rational actor model assumes that the decision-maker identifies all options available for achieving nation’s goals and then evaluates the consequences of these alternative courses.” Foreign policies are henceforth selected from the identified alternative actions.
The actions are ranked according to their significance and preferred alternative in relation to a state’s national interests. Foreign policy-makers are also supposed to consider the consequences of all selected courses of action. The selected course of action is assumed to result to the highest expected utility or desired goal of the state is ultimately attained (Verba, 1969; Allison & Zelikow, 1999; Snidal, 2002). Analyzing the foreign policy decision making of Vietnam in the context of the rational actor model, Herman M. Veil (1975:446) furthermore states that:

Policies are generated by selecting from the alternative actions, each of which has some set of consequences expressed in the same language as the goals and the objectives. Thus, the consequences of alternative actions, and the alternative themselves, can be ranked with respect to the actors’ goals. Choice, then involves selecting the alternative that produces the most desirable consequences.

From the above argument, it can be denoted that foreign policy-makers act in reference to clear-cut preference of the alternative that leads to the attainment of the highest gain for the state.

Rational actor model contains some useful assumptions that can assist in analyzing what influences foreign policy behavior of any state. However, some scholars raise fundamental questions on what rationality is and how rational are foreign policy-makers (Steiner, 1983; Simon, 1997). Herbert Simon (1997) and Kegley (2009) also question the extent to which decision makers are perceived to be rational when making foreign policy decisions. In particular, Simon (1997) argues that decision makers do not exhaustively evaluate alternatives and they at times select convenient alternatives as opposed to the most advantageous outcome. It is then difficulty to use the model to explain the role the Kenya Parliament plays in influencing the foreign policy foreign behavior of the state’s towards the EAC.
The model also depicts state as a unit of analysis and indispensable actor in international arena and in foreign policy decision-making process (Mintz & DeRouen, 2010). However, the assumption has potential disadvantages in that it neglects the role the institution of parliament plays in influencing foreign policy behavior of states around the world. This is furthermore a fundamental problem that confronts the model in that it mainly focuses on the abstract entity of state in foreign policy. It is therefore hard to use the model in analyzing the role Kenyan Parliament plays in influencing the foreign policy behavior of the state towards the EAC.

Harold Sprout and Margaret Sprout (1957) theory of psychomilieu also view the rational actor model as not parsimonious in regards to not offering clear explanation to the milieu of decision making and its impact in influencing foreign policy behavior. Sprout and Sprout (1957) contend that decision-makers’ perception vis-a-vis the environment are important variables in foreign policy decision-making process. Because of this, man-miliu hypothesis offers essential explanation on some factors that influence foreign policy behavior of states.

To the understanding of the impact of leaders in foreign policy decision-making process, Kegley (2009:54) further writes that, “The characteristics of leaders of transnational actors making decisions are always important, because their individuals values, intelligence, personalities, beliefs, and prior experiences can always be assumed to not only define the kind of people they are but also to predispose them to take certain kinds of positions on global issues.” This shows that foreign policy behavior can be analyzed from the point of view of individual decision-makers such as members of the Kenya Parliament. Hence the model is insufficient to provide clear
analysis of the role the institution plays in influencing foreign policy behavior of Kenya towards the EAC in that it does not consider values and other personality traits of leaders can as well influence foreign behavior of countries.

The model is also premised on the assumption that foreign policy-makers select an alternative that maximizes expected utility. This assumption is somehow insufficient in our attempt to explain the role Parliament plays in influencing foreign policy of Kenya towards the EAC. The Constitution of Kenya, 2010 clearly points out that Parliament comprises of elected leaders, therefore the power and authority are derived from the sovereignty of the people, that is, the electorate. Because of this, sovereign power is constitutionally vested on the people of Kenya who have constitutional mandate to control the activities of Parliament. For example, in 1964, a Member of Parliament, Hon. Martin Shikuku reminded the Executive branch of Kenyan government that it has been given power by the House to accelerate the formation of a political federation within the East African region, but, the leaders have failed the people. (House of Representative, Vol. III, Part I, 1964: Col. 257). It can therefore be assumed that the Kenyan parliamentarians have constitutional mandate to influence foreign policy behavior of the state in accordance with the satisfaction of the sovereign people.

The model also places organizations such as executive branch of the government as the only actors involved in the formulation and implementation of foreign policy agenda. The principle of separation of powers as a model of Kenyan government ensures that no arm of the government can have absolute power in its activities of
either formulating or implementing government policies and programmes as presumed in the rational actor model. As Adar (2008:56) rightly notes that:

The doctrine of separation of powers presupposes the existence of three main branches of the government, namely, executive, legislature, and judiciary, each of them vested with constitutional powers. Specifically, the doctrine provides for a system of checks and balances, with powers clearly vested in each institution by the Constitution.

Among other things, the institution of parliament is henceforth constitutionally required to coordinate its activities in conjunction with other arms of the Kenyan government. Parliament has then to play a role that is acceptable across the other arms of the Kenyan government during the process of formulation and implementation of foreign policies. It is therefore doubtful that Parliament will have capability to calculate the value costs and the value outcomes of some decisions essential in influencing the state foreign policy behavior towards the EAC.

It can be argued that the rational actor model succeeds in explaining general foreign policy decision-making processes; nevertheless, the model has limitations in that neither of its assumptions clearly provides adequate explanation of the exact role parliament can play in influencing the state’s foreign policy behavior.

2.3 Bureaucratic Politics Model

The bureaucratic model is at times referred to as government politics model (Allison, 2012). Inherent in the model is the assumption that foreign policy decision-making process is largely conducted by agencies or departments working within bureaucratic organizations. The concept bureaucracy is mainly associated with works of Max Weber (1947) in his attempt to explain how complex hierarchical organizations were to increase productivity. As far as the controlling of workers, Weber’s notes that
bureaucratic organizations must have well written rules to be followed by individuals working within the organizations. Martin Holborn and Mike Haralambos (2000) further point out that complex bureaucratic organizations adopt rules to be followed by the workers.

The bureaucratic politics model rests on its capability to explain foreign policy decision-making as a process involving many actors operating within large government organizations. The model goes further and describes foreign policy decision-making as decentralized process conducted in hierarchical organization (Mintz & DeRouen, 2010). Hierarchical organization is viewed to comprise individuals and departments that are further presumed to be working under the executive branch of the government (Rosati, 1981).

Hierarchical organizations are also assumed to be composed of agencies that bargain among themselves during foreign policy decision-making process. Samuel P. Huntington (1961), Warner Schilling (1962) and Roger Hilsman (1967) cited in Jerel A. Rosati (1981) view government policies as derived from the process of bargaining and negotiation among various agencies or participants within hierarchy of bureaucratic organizations.

Allison and Zelikow (1999:6) further point out that, “. . . events in foreign affairs are characterized neither as unitary choice nor as organizational outputs. Rather, what happens is understood as a resultant of bargaining games among players in the national government.” Thus, foreign policy-decision-making process is viewed as a process of pulling and hauling among various broken departments within the
governments. The process of pulling and hauling results into implementation of compromised foreign policy decisions.⁸

The model further holds that foreign policy behavior is better discerned from the perspective of interrelation of many actors with diverse interests. Similarly, Kinsella, Russet and Starr (2013:141) contend that, “. . , members of different organizations see different sides of a situation, depending on how the situation affects (and perhaps threaten) their organization.” It can then be argued that government departments are driven to achieve differing interests during formulation and implementation of foreign policy. Hence, the differing interests make the government departments not to agree on the method the state will use to pursue its foreign policy goals and objectives.

The bureaucratic interests among various foreign policy departments make Allison and Zelikow (1999) to state that, “where you stand depends on where you sit.” The proposition denotes that various groups within government have differing interests directed towards influencing foreign policy behavior of their states. This is despite the existence of single national interests. Allison and Zelikow (1999) also opine that bureaucratic politics is undertaken to advance relative interests of some agencies within the government organizations.

The model further portrays foreign policy decision-making process as an activity involving various actors within government departments. But, these departments within government are portrayed as semi-autonomous and therefore have a limited scope during formulation and implementation of policy. Lack of departmental independence coupled with limited scope in the process of foreign policy is further
assumed to result into decisions being implemented through standardized organization method or in the best interest of the department implementing the decisions earlier formulated (Rosati, 1981). In reference to this, Mintz and DeRouen (2009:71) also note that, “When an issue comes along that straddles more than one agency, personalities and agency clout become deciding factors.” Mintz and DeRouen (2009) argument portrays actors with more political power as having leeway to influence foreign policy behavior.

However, it is difficult to analyze the role of the Kenya Parliament in terms of the bureaucratic politics model. For example, the fundamental proposition focusing on the way departments within government compete among themselves appears to provide insufficient evidence that can be used to explain the exact role the Kenya Parliament plays in influencing the state’s foreign policy behavior towards the EAC. The model lacks useful explanatory value associated with the role of parliament as an independent law-making.

In addition, the Kenyan Parliament has power to facilitate debate on foreign policy bills that the state should formulate and adopt and thus committees within the institution don’t compete against each as assumed in the bureaucratic politics model. For example, in 1968 members of parliament debated motion and approved the proposal of loan repayment guarantee that the member states of the EAC were borrowing from the Republic of Zambia for the use by the East African Railways and Harbors Administration (National Assembly, Official Report, Vol. XIII, Part III, 1968:Col. 3776). Article 109 (1) of the 2010 Kenya Constitution also bestow power on Parliament in regard to debating and passing bills. The Article 109 (1) states that,
“Parliament shall exercise its legislative power through the Bills passed by Parliament and assented by the President.” (Kenya, 2010). The Constitution has then succinctly recognized the powerful elected legislatures as independent actors in foreign policy decision-making process. The assumption denoting that competition of departments during foreign policy decision-making process cannot therefore be used in this study.

There is also another assumption that portray foreign policy decision-making process as a game characterized by the quest for power among various departments within government. And herein lays a problem. This is because the institutional design of the Kenya Parliament eliminates such bureaucratic politics and quest for power. Within the institution itself are members of parliament who are constitutionally mandated to offer detailed scrutiny of foreign policy bills before matters are passed by the House. For instant, in 1970, the then Minister for Finance, Hon. Mwai Kibaki introduced a Bill directed towards economic cooperation between the EAC and the European Economic Community (EEC) in the House (National Assembly Official Reports, Vol. XX, 1970:Col. 43). But, Hon. Mark Mwithaga while welcoming the Bill requested Kibaki to prepare papers in simple language for the purpose of ensuring that the members were to be in a position of understanding and supporting the government Bill. This shows that the institution of Kenyan Parliament offers clear scrutiny of the bills before passing them. On this basis, the bureaucratic politics model helps us to see how various actors participate in foreign process, but leaves us unable to adequately understand the specific role the Kenya Parliament plays in influencing the state’s foreign policy behavior towards the EAC.
The model also focuses on the competition among various actors representing various departments involved in foreign policy decision-making process. As such, the model views foreign policy decision-making as a process characterized by political struggle among various agencies or departments within the government. Foreign policy decision-making process in Kenya involves many institutions such as the Parliament, the Executive and the Judiciary. This model therefore does not recognize the organizational role of other institutions in foreign policy decision-making processes. The bureaucratic politics model in particular show influence of foreign policy to be dependent on the executive branch of the government and therefore the model is inadequate in texting the study hypothesis and in explaining the role the Kenya Parliament plays in influencing the foreign policy behavior of the state’s towards the EAC.

2.4 Organizational Process Model

The third model appears to provide useful explanatory value in our understanding of the institutional role Parliament plays in influencing the foreign policy behavior of Kenya towards the EAC. The model primarily makes reference that connects influence of foreign policy behavior to the seminal work of independent organizations within a government. In relation to this, Allison and Zelikow (1999) see government organizations as mandated to deal with specific functions. It is then assumed that these organizations coordinate activities leading to formulation and implementation of a state foreign policy (Kinsella, Russett, & Starr, 2013).

Government organizations are also assumed to be a set of individuals working systemically together within a formal structure for the purpose of benefitting the
whole government. Individuals are therefore assumed to be adhering to standard operating procedures (SOPs) of the organization. This argument also rests on the assumption that individuals work in accordance to the expected role of the organization as opposed to their conviction or desires (Allison, 1969).

Organizations within government are also assumed to operate in the same order of behavior. Allison and Zelikow (1999:144) clearly points out that “... at any given time, a government consists of existing organizations, each with a fixed set of standard operating procedures and programs. The behavior of these organizations-and consequently of the government-relevant to any particular instance is, therefore, determined primarily by routines established prior to that instance.” Government organizations in this case make routine decisions that end up shaping foreign policy behavior of countries. However, these decisions are pre-determined by earlier organizational behavioral patterns established by previous policy makers in the same government organization (Kinsella, Russett, & Starr, 2013). For example, in 1970, members of Kenyan Parliament debated and approved the Bill allowing the three Members state of the EAC to guarantee loan borrowed for the use by the East African Common Service Organizations (EACSO) (The National Assembly Official Report, Vol. XIX, Cols. 1642-1643, 1970). A similar bill authorizing the three governments to borrow on behalf of the EACSO was debated and passed by the House in 1966 (House of Representatives, Vol. X. Part I, 1966:Col. 410). It can be argued that the Kenyan Parliament more or less operates in standardized manner when debating and passing foreign policy bills.
The model further serves to buttress the point that places foreign policy decision-making process as activities conducted within decentralized governments. Decentralized government organizations are presumably bestowed with power to affect foreign policy decisions. Government organizations are presumed to follow standard operating procedures (SOPs) during foreign policy decision-making process. Allison and Zelikow (1999:144) also observe that:

At any given time, a government consists of existing organizations, each with a fixed set of standard operating procedures and programs. The behavior of these organizations and consequently of the government-relevant to an issue in any particular instances is, therefore, determined primarily by routines established prior to that instance. Explanation of a government action starts from this baseline, noting incremental deviations. But organizations do change. . . Both learning and changes are influenced by existing organizational capabilities and procedure.

From the inception of standard operating procedure, Allison and Zelikow (1999) viewpoint is based on the assumption that foreign policy behavior emerge as a product of similar organizational process. The behavior of individuals within an organization work in a predictable manner because of the set procedures.

It is also assumed that the policy-makers implement foreign policies in a standardized method (Dougherty & Pfaltzgraff, 1990; Goldstein & Pevehouse 2009). Accordingly, standardized method of operation promotes organizational culture that end up preventing policy makers from implementing radical foreign policy but instead they delve on incrementalism policy. Members of organization are then forced to conform to the standardized expectation that normally end up affecting formulation and implementation of decisions.
There is also general assumption among scholars that political leaders create organizations to purposively achieve certain goals and objectives (Allison & Zelikow, 1999). We can then assume that Kenya governments’ organs such as the Parliament, the Executive and the Judiciary were legitimately created for the reason of performing a number of functions and key among them is affecting foreign policy decisions, enacting laws, budgetary allocation, enforcement and interpretation of laws.⁹

Each arm of the Kenya government has separate and independent powers. The rationale of being separate entities is to minimize organizational conflict as noted in Chapter One of this study. The existence of these three arms of government further allows each branch to exercise power and authority as conferred by the principle and philosophy of Kenyan Constitution.¹⁰

Central to understanding of the organization model is also the assumption showing distribution of governmental powers and roles among various organs. The Constitution of Kenya, 2010 shows value, vision and principle of distributing power among government organizations. For example, Article 152 (1) (2) empowers Parliament to vet and approve presidential nominees such as cabinet secretaries and diplomats (Kenya, 2010). The exact wording of Article 152 (6) stipulates that, “A member of the National Assembly, supported by at least one-quarter of all the members of the Assembly, may propose a motion requiring the President to dismiss a Cabinet Secretary.”¹¹ The significance of this article is that Parliament has the constitutional mandate to formulate policies intended to influence Kenya foreign policy behavior.
A clear assessment of the model also reveals an assumption that depicts the organizations to be working in accordance with their specialities as provided for within the Constitution. The thinking here is that speciality enhances the organization to perform duties in regular pattern. With regard to this, it can be argued that the Kenyan government is composed of institutions having well defined constitutional role to participate independently in foreign policy decision-making process. For this reason, Kenya Parliament is therefore understood to function in accordance with its constitutional mandate. In analyzing organizational process model, Goldstein and Pevehouse (2011) assert that decision-makers in foreign policy follow regular pattern and therefore avoid labour intensive process of classifying goals and options. Kinsella, Russett and Starr (2013) are of the view that organizations generally follow standard operating procedure when carrying out foreign policy decisions.

### 2.5 Conclusion

This chapter has offered a variety of ways of using conceptual models of decision making to explain the role Parliament plays in influencing the Kenya foreign policy behavior towards the EAC. Unlike the rational actor model, bureaucratic politic and organization process models observe foreign policy behavior of a state as manly influenced by numerous individuals and organizations working within a government. The bureaucratic politics model is founded on the assumption that the executive arm of the government influences foreign policy decision making and does not satisfactorily address the role Parliament plays in influencing the Kenya foreign policy behavior towards the EAC. The model in addition depicts foreign policy process as an activity characterized by individuals and organizations with conflicting interests on various issues. Organizational process model, it is argued in this chapter,
has more relevant explanatory value on the role the Kenya Parliament plays in influencing the foreign policy behavior of the state towards the EAC.
Endnotes


2 For similar view, see, Makinda, S. M. (1983). From Quite Diplomacy to Cold War Politics. *Third World Quarterly*, 5(2), pp. 301-319. Makinda made it clear that economic interest was very essential in influencing Kenya’s foreign policy and thus the economic policy was primarily formulated in order to attract foreign investment in the country.


4 Game theory is borrowed from mathematic approach that analyzes, explains and predicts the kind of interaction among actors or bargaining outcomes among various players. For more details on game theory, see, Goldstein J. S., & Pevehouse, J. C. (2011). *International Relations*. Boston: Longman.


7 National interests are the strategic goals that countries pursue abroad. It is assumed that state main objective is to maximize attainment of national interests. On this perspective, see for example, Kegley, C., W. (2009). *World Politics: Trend and Transformation*. Australia: Wadsworth Cengage Learning.


9 The Legislative Assembly, the Judiciary and the Executive are among institutions that largely defines Kenya as a state.


References


CHAPTER THREE

3.0 Introduction

This chapter explores the role the Kenyan Parliament played in influencing foreign policy behavior of the state towards the East African Community (EAC). The assertion here is that the Kenyan Parliament participated in the ratification of the Treaty establishing the EAC in 1967 and later participated in influencing foreign policy behavior of the state towards the EAC.

The first section of the chapter provides the general historical background of the formation of the EAC from the period Kenya, Tanganyika (Tanzania) and Uganda were still under the colonial administration. The argument here is that the formation of the EAC was primarily meant to accrue benefits to the colonial administration and settlers at the expense of the African people living in the East African region. The organizations discussed in the section include the East Africa High Commission (EAHC), the East African Common Services Organization (EACSO) and the EAC. In the second section of the chapter, the role the Kenyan Parliament played towards the formation of the EAC has also been critically analyzed.

Section two of this chapter has provided examples showing how the Kenyan Parliament played a critical role in influencing the foreign behavior of Kenya towards the EAC. The challenges that faced Parliament in its role of formulating and debating matters related to EAC have also been analyzed. An analysis of the factors that
contributed the collapse of the EAC in 1977 have been examined in the third section of this chapter.

3.1. East African Community: The Historical Background

Ioannis N. Kessides (2012) observes regional integration and cooperation among states as essential in economic and political development for states in African continent. Kessides’ (2012) argument rests on the assumption that formation of regional economic organizations in Africa should be given priority because they propel economic development and improve welfare of the member states. Correspondingly, Karl Sauvant (1977) and Parbati Kumar Sircar (1990) also view regional integration as a means of achieving economic end in the Third World countries and in particular the African continent. The African scholars see regional integration as an impetus for enhancing economic development in the African continent.1

Kwame Nkrumah of Ghana, cited in Peter Anyang’ Nyong’o (1990), called for the integration of African states into one unit. Nkrumah’s ardent call for African unity was stimulated by the need for having an influential political and economic power base for the continent. The promotion of economic integration has also been emphasized by the United Nations (UN) and the Economic Commission for Africa (ECA) for a long period. The ECA, for example, put emphasis on economic integration with a development agenda as a means of influencing the African states to follow this.
Before proceeding further with this section, the concept regional integration needs to be defined. Definition of the concept is fundamental in our attempt to analyze the historical background of the integration process of the East African region and the role the Kenyan Parliament played in influencing foreign policy behavior of the state towards the EAC from 1967 to 1977. Ernest Haas (1971) defines regional integration as the process whereby states create a larger political unit. Similarly, Michael Hodges (1972), William Wallace (1990), Joshua S. Goldstein and Jon C. Pevehouse (2011) define regional integration as a process that results in the formation of a new political system from earlier autonomous units or states. In sum, the definition of the concept regional integration may be broad ranging but it is taken together in this chapter to mean the creation of a supranational organization uniting a number of single states.

As a concept, regional integration can be analyzed from both economic and political perspectives (Rosamond, 2000). From an economic perspective, regional integration is examined from the level of economic interdependence between member states. This implies that a certain number of states have a common custom union or common market or there is a monetary union in the integrated region (Rosamond, 2000). Political integration starts from the proposition that states forming a federation will by extension form a new political community (Haas, 1968). As such, the process of political integration begins with the establishment of central institutions having authority to make binding decisions. The process of political integration also entails ceding some parts of a state’s sovereignty to the newly formed supranational institution with central authority.
The reason behind the establishment of regional organizations is founded on the assumption that the economic integration of states will facilitate the achievement of economic development among member states. It is therefore assumed that the origin of the European Union (EU), the North American Free Trade Agreement (NAFTA), the Association of Southeast Asian Nations (ASEAN), the Southern Asian Preferential Trading Agreement (SAPTA), the Economic Commission of West African States (ECOWAS), the Southern Africa Development Community (SADC) and the EAC, which is the focal point of this section, were created for the purpose of expanding markets for the integrating member states.

It must be emphasized from the onset that the attempt of unifying the East African region through the formation of political federalism was by no means started in the 1960s. Rather, economic and social integration of Kenya, Tanzania and Uganda has existed as far back as the early twentieth century (Nye, 1963; Adar, 2008; Okello & Kirungi, 2011).

The early twentieth century was the period when the East Africa region was under the German East Africa and the British East Africa Protectorate. Initial effort to commercially connect Kenya and Uganda was established with the construction of railway road (1897-1901) run jointly by the administrations of the two countries. This was followed by the formation of a customs collection center in 1905 and establishment of the East African Currency Board Postal Union in 1905 (Mullei, 2003; Ng’eno et al, 2002).
Arthur Hazlewood (1975) and Sircar (1990) trace the formation of the customs union between Kenya and Uganda from 1917, when the two territories signed an agreement. The agreement allowed free trade in locally produced commodities and the two countries also had a common external tax (Kennedy, 1959). The economic cooperation arrangements were mainly meant to assist the colonial government in the administration of the two territories.

At the beginning of 1923, Kenya-Uganda and Tanganyika started allowing conduction of free trade on locally produced goods in the region. Tanganyika, which was under the League of Nations mandate to Britain, was allowed to participate in trade but under some conditions. However, according to Hazlewood (1975), the barrier to the establishment of a full customs union among the three territories was removed from 1927 and Tanganyika was incorporated into a full customs union with Kenya and Uganda.³ Imported commodities were henceforth allowed to move freely within the three territories. The custom administration was extended to Tanganyika in 1949 (Hazlewood, 1975; Sircar, 1990). Under single union, free capital and labor were also allowed to move within these three territories administered by the British government.

The Court of Appeal, postal services, transport and communication services, and use of a common currency were among other common services that brought together Kenya, Tanganyika and Uganda during colonial government. In regard to the use of a common currency among the three East African countries, Hazlewood (1975:27) notes that:

The issue of currency for all three territories was put on a new basis with the establishment of the East African Currency Board at the end
of 1917. The Board completed the conversion of the existing coinage into East African shillings by 1925, and continued to provide the currency of the three territories, issuing shilling on an automatic sterling-exchange basis at the rate of E.A shs. 20/- to the pound sterling until the establishment of central banks in 1966.

The use of common currency provided proper overlap needed for the integration of the three colonial territories.\(^4\)

Apart from economic amalgamation, the political federation of the East African territories was also being discussed around 1920s (Rothchild, 1968; Sircar, 1990). The *raison d’être* of forming a political federation system was viewed as a step in the direction of integrating the entire East African region into one administrative bloc. John McCormick (1999) examines political federation as a system where nations and local administrative units are formed with a common and an autonomous supreme authority.\(^5\) Equally, Rosamond (2000) views political federation as a system constituting two or more levels of government that exist to accommodate each other. So we can argue that the desire to form a political federation in the East African region was geared towards formation of a supranational organization comprising Kenya, Tanganyika and Uganda.

Settlers in Kenya in particular were advocating for the unification of the three territories, on the assumption that the larger East African region would be under their administration. Within the same context, Donald Rothchild (1968) argues that Indians and Africans spearheaded the opposition to forming political federation on the basis that settlers would be influencing the affairs of the East Africa federation. Both the W. G. Ormsby-Gore and the Hilton Young Commissions were formed for the
purpose of examining the matter of forming a federation comprising the three East African territories (Hazlewood, 1975).6

The Ormsby-Gore Commission viewed the formation of a federation within the East African region as unnecessary in that it was expensive to manage, and that it was equally opposed by the Indians and African who viewed the federation agenda to be at variance with the Indians’ and Africans’ agenda, and in alignment with the European settlers’ (1925). The Ormsby-Gore Commission advocated for increased economic coordination among the three East African territories but not for a full political federation of the territories (Ormsby-Gore, 1925). The Hilton Young Commission on the flipside called for the formation of the federation, but on the condition that settlers’ influence would be reduced (Young, 1929). In order to find the best way of fulfilling the settlers’, Indians’ and Africans’ interests, the British Government eventually recommended the formation of High Commission administration that was to coordinate common services within the East African region (Rothchild, 1968; Hazlewood, 1975; Sircar, 1990).

The East Africa High Commission (EAHC) or the High Commission was inaugurated in 1948 (Sircar, 1990; Tordoff, 2002). Like many international institutions, the High Commission had an organizational framework which bestowed power on the three governors of the East African territories and the Central Legislative Assembly (CLA). The High Commission laid down legal foundations for inter-territorial services in the East African region. Among other functions, the High Commission enacted laws that gave life to the East African Railway and the East African Harbor, the East African Post and Telecommunications and the establishment of Makerere University College.
Adar & Ngunyi, 1994). The High Commission was later restructured into the East Africa Common Services Organization (EACSO) in 1961 (Hornsby, 2012).

Sircar (1990) views the EACSO as an organization formed by Kenya, Tanganyika and Uganda for the purpose of facilitating services between the three East African countries in 1961. Joseph S. Nye (1963) and Adar (2008) also view the treaty that created the EACSO in 1961 as having salience in that it led to closer formation of federalism in the East African region. The institutional authority of the EACSO comprised three Prime Ministers who had power to make unanimous decisions, and a small Legislative Assembly. The establishment of the EACSO laid down legal foundations upon which the three member states were to centralize their economic and social activities.

The clear concern to unite the three post-independence East African states was witnessed in June 1963 when Presidents Jomo Kenyatta of Kenya, Julius K. Nyerere of Tanganyika and Milton Obote of Uganda met to discuss measures that were to be undertaken for the purpose of establishing a political federation within the region (Adar, 2008). The three East African leaders stated categorically that “We, leaders of the people and governments of East Africa, assembled in Nairobi on June 5, 1963, pledge ourselves to the political federation of East Africa. Our meeting today is motivated by the spirit of pan-Africanism, and not by mere selfish regional interest.” (Rothchild, 1968:76). It is important to note that Nyerere had earlier asserted that his country was ready to delay attainment of her independence so that all territories within the East Africa region would gain freedom as a combined political unit. This
was based on the perception that the united three East African sovereign states would subsequently become a global economic force.

The attempt to form an East African federation was faced with a lot of challenges emanating from within the region. While the Kenya African National Union (KANU) campaign manifesto was advocating for East African federalism as noted in Chapter One, the Kenya African Democratic Union (KADU) on the other hand campaign manifesto was against the formation of a federation that would be above the Majimbo within Kenya. Adar and Mutahi Ngunyi (1994:399) offer a systematic contextualization on this issue, and in so doing the two scholars state that “KANU elected on the pledge of East African federation, emphasized the need for a unified Kenya. Its leadership argued that personal ambitions and territorial constitutions must not hamper the vital step towards the unity of East Africa.” However, between the three top leaders of East African states, it was only Nyerere of Tanganyika who consistently supported the formation of the East African federation (Proctor, 1966).

On a number of occasions from 1964 to 1966, the members of parliament in Kenya debated a variety of foreign policy issues and other related matters that subsequently led to the formation of a federation within the East African region. Nevertheless, effort to form the East African federation was particularly hampered by Uganda. The Treaty establishing the institutional structure of East Africa cooperation was finally signed on 6th June 1967 on behalf of governments of Republic of Kenya, United Republic of Tanzania and the sovereign state of Uganda (The Treaty for East African Cooperation Act, 1968). This Treaty provided an avenue for economic cooperation between the three partner states.
The Treaty led to the signing of the EAC was adopted later in 1967. Once the Treaty was adopted by the three member states, the organization by this implication was conferred status of legal personality at international level. On attainment of legal personality of the EAC, Adar and Ngunyi (1994) delve a little deeper by arguing that the EAC was legally allowed to enter into agreements and contracts like any other international organization.

The EAC Treaty led to the establishment of the East African Development Bank with wide powers to promote investment within the region. Thee partner states of the EAC also agreed to jointly manage the railroad, harbors, postal services and telecommunications (Hornsby, 2012).

Power within the EAC rested primarily with the three presidents of the partner states while the Central Legislative Assembly (CLA) was restructured into the East African Legislative Assembly (EALA). However, there was a lack of clear efforts directed towards the creation of a political federation or formation of common policy between the three EAC partner states and also the Treaty failed to provide a clear mechanism for conflict resolution.

We have so far discussed inter-territorial social and politico-economic arrangements of the East African region in the period proceeding colonization of the region by Germany and Britain. We will now trace the role of the Kenyan Parliament in working towards the establishment of the EAC from 1963 to 1967. If we successfully trace the efforts of creating the EAC from 1963 to 1967, then it will become clearer to
also understand the role the Kenyan Parliament played in influencing the foreign policy behavior of the state towards the EAC from 1967 to 1977.

3.2 The Kenyan Parliament and Foreign Policy Decision-Making Process towards the East African Community.

While the Executive branch of the Kenyan government appeared to have been domineering on matters of foreign affairs, this section argues that Parliament played a crucial role in foreign policy decision-making towards the EAC. The section lays some of the few groundwork of the role the Kenyan Parliament played in influencing the foreign policy behavior of the country towards the EAC from 1967 to 1977. It is important to note that the role the Kenyan Parliament plays in foreign policy decision-making can include among others debating private member motions, cabinet papers or bills can be presented on the floor of the House.

A private member motion, a cabinet paper or a bill are normally introduced in the House for the debate through first reading then seconding reading. If there is no rejection of a motion, a cabinet paper or a bill by the House from first reading to second reading, the issue is then taken to the House committee or a select committee for open discussion among the members of parliament. After discussing the issue, House or select committee may write a report to allow third reading to take place. After the bill’s approval by the House, the speaker of the House may then present the bill to the president for assent, and thereafter the bill become a law.

The role the Kenyan Parliament played in foreign policy decision-making towards the East African region predates the formation of the EAC in 1967. Notably, Hon
Ronald Ngala of KADU moved a motion in 1963 that emphasized the importance of forming a federation that would be an instrument for crystallization of the interest of the people within the East African region (House of Representative Official Report Vol. I, Part I, 1963:Col. 403). Ngala’s motion was moved on the understanding that the formation of a federation would not result in the end of Majimbo which was a key stand of the KADU’s Manifesto, rather, the formation of a federation would be a rallying point for African people in the integration process of East African region.

In response to the motion moved by Ngala, the then Minister for Justice and Constitutional Affairs, Hon. Tom Mboya, stated in the House that it was the desire of the KANU government above all other things to facilitate the formation of a political federation envisaged in the spirit of Pan-Africanism (House of Representative Official Report, 1963:Col. 670). Mboya further told the House that President Nyerere of Tanganyika as well as Prime Minister Obote of Uganda had both committed themselves to uniting the East African region into a federation (Rothchild, 1968; Ngunjiri, 1977; Adar & Ngunyi, 1994).8

The House, particularly the backbenchers and members of the opposition, resolved to form a political federation, and requested the government to negotiate the formation of one East African nation that would embrace, among other things, one flag and one head of state (House of Representative Official Report, Vol. I, Part I, 1963: Col. 403). In as much as the House agreed and adopted a resolution geared towards the formation of a political federation, the process was marred by lack of political goodwill between the leaders of the three East African states, and formation of a political federation was not realized one year after adoption of the resolution by the
House. This shows the resolutions from the House were not binding. We will recall one of our research questions in Chapter One of this study that inquired about the challenges that faced Parliament in foreign policy-making. The failure by the House to make binding decisions can itself be established as a challenge that faced Parliament in foreign policy decision-making process.

The need to form a federation emerged again in the House in 1964. Hon. Martin Shikuku told the KANU government to hasten the process of the formation of a political federation within the East African region (House of Representative Official Report, Vol. III, Part I, 1964: Col. 254). Shikuku stated in the House that the people of the Republic of Kenya were promised that there would be a formation of a federation within the East African region by the government soon after the attainment of the country’s independence in 1963. His statement was based on the promise made by the three leaders of the East African governments to the people on 5th June 1963 that they would accelerate the formation of a political federation (Rothchild, 1968; Adar & Ngunyi, 1994). In spite of this promise, the need to fast track the establishment of a political federation within the East African region was flimsier in 1964 than it had seem to be in 1963.

In 1964, Shikuku also raised concern about the role the three leaders of the East Africa governments were to play towards the formation of a federation. He systematically stated that the House had given the leaders power to facilitate the quick formation of a federation, but the leaders had totally failed the people (House of Representative Official Report, Vol. III, Part I, 1964: Col. 257). He concluded that it was upon the House to take the power back from the Executive branch of the
government and proceed with the process of forming a federation in accordance with the will of the people. Shikuku further stated that the House would agree on the time and date of the formation of a federation, to which the Ministers and other people concerned would have to adhere (House of Representative Official Report, Vol. III, Part I, 1964: Col. 257). One clear outcome of this motion was a response by Prime Minister Kenyatta, who reminded the House that the government was still committed to forming a federation as it was promised to the people of the East African region in 1963. While in the same breath rejecting Kenyan and Tanganyikan backbenchers’ resolutions concerning the formation of a federation, Kenyatta argued that the three leaders of the East African region had been working harmoniously for the formation of a federation (House of Representative Official Report, Vol. III, Part I, 1964: Col. 131).

The fact that Shikuku had noted that the House had power to spearhead the process of forming the EAC is a clear indication that the legislators were influential in foreign policy matters. However, Kenyatta’s utterance in the House was a key reminder that the Executive branch of the government was largely in charge of foreign policy, and thus the role of Parliament was only to inquire about what the government was doing and why.

As it was noted in Chapters One and Two of this study, Members of parliament have constitutional mandate to participate independently in foreign policy process. In doing this, parliamentarians ensure that people’s needs are met by the Executive in foreign policy matters. Thus, Kenyatta’s statement on the floor of the House provides a clear example showing the independent role of Parliament in foreign affairs being
interfered with by the presidency, and thus making formation of the East African federation to suffer considerable setback. This also coincides with what was echoed by Ngunjiri N. (1977:66) that “The negotiations for the East African Federation went on but without being made public. The Government did not think it even fit to tell its Parliamentary Members the extent of the negotiations and the difficulties involved.”

The backbenchers in the House were not impressed by Kenyatta and his government’s attitude towards the formation of a federation. Nevertheless, Mboya told the House that a gradual process in the formation of a federation was essential in that it allowed the government to take into account possible political and economic implications of a federation. Mboya stated that “It is necessary to take a little more time to consider the implications and avoid possible mistakes and weaknesses rather than to rush in then find that it cannot work and then disintegrate. We would rather that we spent a little more time.” (House of Representative Official Reports, Vol. III, Part I, 1964: Cols. 277-280). This assertion may be taken as an important precaution, but it must also be noted that the government was not effectively accelerating the process of the formation of a federation as expected by her people.

As a result of the above frustrations among members of the Kenyan Parliament and particularly the backbenchers, the members of Parliamentary Group Committee mainly drawn from KANU were henceforth sent to Uganda and Tanganyika to persuade Obote and Nyerere to hasten the process of the formation of a federation (Rothchild, 1968). It was evident from this trip that Uganda was not ready for the formation of a federation, while on the other hand Tanganyika’s position was for the quick formation of a federation. For example, Nyerere told the Kenyan delegates that:
Gentlemen, I know that Kenya is ready. We are also ready, but we know that Uganda is not ready; so go back to Nairobi and tell Mzee Kenyatta that I’m ready for Federation. If he wants let him phone [sic] me at any time he wishes. I’ II come to Nairobi and we shall sign these documents and we shall federate (House of Representative Official Report, Vol. III, Part II, 1964: Col. 285).⁹

This begs the question of whether the Kenyan government was considering forming the East African federation without membership of Uganda. This question is highly relevant in the context that Uganda was to a larger extent a strategic market of Kenyan goods and services than Tanzania.¹⁰

Members of Parliament continued to move motions in the House calling the government to accelerate the process of the formation of a political federation within the East African region. For example, Shikuku told the House that it was the right time for the governments of East African states to abolish imperialists’ borders and retain the borders that were there before imperialists came to the East African region (House of Representative Official Report, Vol. III, 1964: Cols. 254-352). This motion was supported by many KANU backbenchers and members of the Opposition party KADU.

Shikuku further stated in the House that there was a plan by the government to postpone the date destined to ratify resolution for the formation of a federation (House of Representative, Vol. III, Part I, 1964: Col 352). The push by the House to fast track formation of federation suffered setbacks when Hon. Jaramogi Oginga Odinga moved a motion to adjourn the Parliament until 1st September 1964. According to Oginga, the adjournment was essential in that the Central Legislative Assembly (CLA) was meeting to deliberate the formation of the East African Federation (EAF) (House of Representative Official Report, Vol. III, Part II, 1964:Col. 1740). At the epicenter of
this adjournment, the members of parliament viewed the move as a government ploy meant to avoid the ratification of the Federation of East Africa article.

It is imperative to note that Kenyatta’s reluctance to facilitate a quick formation of a federation necessitated Hon. Oduya to contribute into the debate calling Kenyatta to be in the forefront of accelerating the process of formation of the federation within the East African region in 1965. Oduya stated that Nyerere had declared openly the immediate need of forming a federation but Kenyatta was on the other hand quite and adamant to the idea of formation of the federation (House of Representatives Official Reports, Vol. VI, 1965:Col 280). Members of the parliament, especially the backbenchers and the opposition party KADU, were in agreement that Kenyatta’s support for the formation of the federation was mere rhetoric, while Nyerere, in contrast, was practical in his clarion call for the formation of a federation.

The members of parliament participated also in the motion directing the government of Kenya to guarantee repayment of the loan amounting to $ 13,000,000 (thirteen million dollars) borrowed on behalf of the East African Common Service Authority (EACSA) for use by the East African Posts and Telecommunication on 5th October 1966 (House of Representatives Official Reports, Vol. X. Part I, 1966:Col. 410). The Assistant Minister for Finance, Hon. Mwai Kibaki appealed to the House to support the motion on the basis that the loan would facilitate the expansion of postal and telecommunication services within the East African region. Hon. Odinga, Leader of the Opposition, in cahoot with a clique of opposition parliamentarians, opposed the motion with the view that the government was only supposed to take loans which it has the ability to pay back.
In agreement with Oginga’s statement, Hon. Okelo-Odongo asserted that the amount of loans being guaranteed exceeded the annual budget, and thus the government should take some precaution in order to protect the state from global financial magnates. Further, Odinga told the House that the government of Kenya was supposed to first consult Tanzania and Uganda, who were members of EACSO, before engaging in a program of such magnitude. The House eventually approved the government proposal bill to repay the loan after taking into account that the loan should be guaranteed by the three East African states and it should not exceed £30 million.

Participation of the House in authorizing government proposal bill to repay loan agree with what we hypothezed in Chapter One that Parliament plays a role in Kenya foreign policy decision-making towards the EAC. This is because parliament as Christopher Hill (2003), Narender Kumar (2008) and Philip Norton (2012) note participate in foreign policy decision-making processes in either passing or rejecting bills.

The Minister for Information and Broadcasting, Hon. Osogo, provided an interesting response to the members of the opposition who were inquiring why the Kenyan government was delaying the formation of a federation within the East African region. On this issue, Osogo made the following comments in the House:

Mr. Speaker, coming to the federation, I am very sorry I have to speak on this one, but I am bound to speak on it since it looks as if the hon. Members of the Opposition are hitting on this one very much. [sic] I will tell this House and the country that the conditions that have been given to us, as Kenya, nobody in Kenya would accept. Even [sic] there was a referendum, if these conditions were explained to them, nobody in this country would accept political federation and it is upon the country to know which are these conditions. We have been battling
privately as a Government, negotiating with our brothers’ States to reach an agreement . . . Mr. Speaker the Opposition should know we are here for the improvement and welfare of and the care of our people, and we are not going to force our people to enter into a political federation . . . (National Assembly Official Report, Vol. XI, 1966: Cols. 78-79).

Given the above, Hon. Mbogo requested the Minister to provide papers indicating that the federation would be detrimental to Kenya’s economy. Nevertheless, the Minister told the House that the papers were confidential and thus they cannot be presented on the floor of the House.

The House also discussed the matter pertaining to the trade between the three states in the year ending June 1967. Herein, the then Minister for Commerce and Industry, Kibaki, told the House that there had been signs of improvement in trade between the three states, albeit the free trade was facing a lot of restriction and challenges (National Assembly Official Report, Vol. XIII, Part I, 1967:Col. 510). Kibaki stated that the House had facilitated the signing of the East African Treaty of Cooperation which instituted the Common Market and Common Market Institutions that were in extension meant to culminate into the formation of the EAC.14

Thus far, we have examined the role Parliament played towards the establishment of a federation within the East African region prior to 1967. We have also seen the challenges that faced Parliament in its role as representative of the people in the process of formation of the EAC. It remains to examine the role Parliament played in influencing foreign policy behavior of Kenya towards the EAC from 1967 to 1977.

There were a number of activities before the National Assembly touching on the EAC, but we will examine only a few numbers of motions and debates which to our
understanding will assist us to evaluate the role the Kenyan Parliament played in foreign policy decision-making process towards the EAC from 1967 to 1977. Among the most important activities conducted on the floor of the House was motion moved with intention of approving government proposal of a loan repayment guarantee that the EAC member states had taken from the Republic of Zambia for the use by the East African Railways and Harbors Administration (National Assembly Official Report, Vol. XIII, Part III, 1968:Col. 3776). The Minister for Power and Communications, Hon. Nyamweya, told the House that there was an immediate need for expansion of the Dar es Salaam and Mtwara harbors which were property of the East African Railways and Harbors. Nyamweya stated that:

Under the circumstance, the Government of the Republic of Zambia have generously agreed to make the East African Common Services Authority the loan mentioned in this Motion. They have agreed to advance this loan on very good, generous terms and I do commend this Motion to the House (National Assembly, Official Report, Vol. XIII, Part III, 1968:Col. 3776).

However, while responding on the Motion on Loan Repayment Guarantee, Hon. Okelo-Odongo from the Opposition told the House it was actually the member states of the EAC who were supposed to be raising funds to assist Zambia, a state that was struggling to acquire outlets to pass its commodities to the market. Okelo-Odongo further asserted that member states of the EAC, and in particular Kenya, were therefore involved in an unfriendly act towards a neighboring state.

In supporting the motion, Hon. Mathenge and Hon. Arap Biy stated that the relationship between Zambia and EAC was not based on a ‘beggar-donor basis’ and it was the right time for the House to approve the proposal guaranteeing the money for use by East African Railways and Harbors. The House eventually approved the proposal of the EAC member states to guarantee repayment of the loan in Zambian
Currency amounting six thousand sterling pounds (£1,706,000) at the interest rate of 6% per annum (National Assembly, Official Report, Vol. XIII, Part III, 1968: Col. 3786).

In Chapter One, we hypothesized that the Kenyan Parliament plays a role in foreign policy issues towards the EAC. We were also trying to find the extent in which Parliament influenced foreign policy behavior of Kenya towards the EAC. Among other roles of parliament as noted in this chapter include participation of the institution in debating and passing of government bills and motions on the floor of the House, thus passing of the motion authorizing the government to guarantee repayment of the loan borrowed on behalf of the three partner states of EAC made the institution to live-up to one of its core functions of participation in ratifying international agreements. This agrees with our study hypothesis that the Kenya Parliament plays significant role in foreign policy decision-making process of the state towards the EAC.

The issue concerning the stand of the Kenyan government towards the formation of a political federation of the East African region was raised again in 1969. Hon. Odero-Sar asked the then Minister of State Hon. Argwings-Kodhek to offer a clear explanation to the House as to Kenyatta’s position on the establishment of a political federation between the three member states of EAC (National Assembly Official Report, Vol. XVI, 1969: Col 3490). Hon. Odero-Sar’s question was raised against the background of the meeting between Nyerere and Obote concerning the means that was to be used to expedite the formation of a political federation within East Africa.
In response, Argwings-Kodhek told the House that the government was committed to strengthening the relations between the three states Hon. Wario, Hon. Wariithi and Hon Odinga, however, further insisted that the Minister should explain to the House what were the measures the government was taking to ensure that there were no impediments blocking the formation of a political federation within the East African region. In response, Argwings-Kodhek told the House that Kenyatta was committed to the formation of a political federation within the East African region. Most of the members of parliament and in particular backbenchers and members of the Opposition felt that Kenyatta was not committed to fast tracking the formation of a political federation within the East African region.

The Bill on economic cooperation between the EAC and the European Economic Community (EEC) was introduced in the House in 1970 by then Minister for Finance Mwai Kibaki. The bill was geared towards providing small concessions or altering the amount of tax levied to goods originating from the member states of the EEC and destined to the East African region (National Assembly Official Reports, Vol. XX, 1970:Col. 43). In justifying the need for economic cooperation between the EAC and the EEC, Kibaki told the House that:

The reason why this has become necessary is that last year the East African countries, Kenya, Uganda and Tanzania, signed an association agreement with the countries of Europe, the European Economic Community, the six, which provided that we shall give small concessions on their imports to East Africa in return for them giving us free entry for our goods to Europe (Kenya National Assembly, Official Records, Vol. XX, 1970:Col. 43).

Kibaki therefore requested the House to accelerate the implementation of the agreement between the EAC and the EEC in respect to the relationship between the two organizations based on what he referred in economic language as *quid pro quo*.
The House welcomed the Bill but Hon. Mark Mwithaga, while supporting the Bill, told Kibaki to prepare the papers in a simple language for the purpose of ensuring that the members were in a position to understand and competently contribute to the matters that were in the Bill.

Parliament, as Muhammad Mustafizar Rahaman (2010) and Macharia Munene (2003) note, is at the heart of any liberal democratic culture, and therefore plays an oversight role over the other arms of the government during policy formulation and implementation processes. The fact that Mwithaga requested the drafting of the paper to be done in a simple language shows that there was need for members of parliament to be conversant with the wording of the bills and motions before they were presented to the floor of the House to debate their passage as legislation. This implies that the quality of debates in the House is improved when foreign policy bills are presented in simple language. Preparation of bills in a complex language by either the government or private members can then be viewed as among the challenges that limiting parliamentarians to play adequate role in foreign policy matters.

Members of the House revisited the issue of loans guaranteed by the three EAC member states in 1966 on behalf of EACSA. Introducing the Guarantee Loans Bill, the then Minister for Finance Kibaki told the House that:

In 1966 this House passed this Loan Guarantee Act which authorized the Government of Kenya to guarantee up to $ 30 million of loans which are borrowed by the East African Common Services Organizations. These are the Railways, the Airways, the Posts and Telecommunications, and now the Harbours Corporation . . . This is a formality because we jointly guarantee these loans between Uganda, Kenya and Tanzania (National Assembly Official Report, Vol. XIX, 1970:Cols. 1642-1643).
Following this, Kibaki requested the House to approve to raise the ceiling of the amount of loan that can be borrowed from £30 million to £60 million by the three members of EAC from international financial institution on behalf of the Railways, the Airways, the Posts and Telecommunication and the Harbours Corporations (National Assembly Official Report, Vol. XIX, 1970:Cols. 1642-1643).

Kibaki furthermore requested authority from the House to permit the Government of Kenya to guarantee the loan borrowed on behalf of the four common services of the East African region (National Assembly Official Report, Vol. XIX, 1970:Cols.1643). The Guarantee Loans Bill was passed by the honorable members after the first, the second and the third reading.

We used organizational process model in our conceptual framework to analyze the role the Kenyan Parliament played in decision-making process towards the EAC in Chapter Two. We can then argue that the passing of the above bill shows that the Kenyan Parliament was a key institution in foreign policy decision-making processes of the state towards the EAC, irrespective of the constant dominance of the Executive branch of the government in foreign policy process. This therefore conform to one of our study objectives that was advanced to examine the extent to which the Kenyan Parliament played a role in influencing foreign policy behavior of the state towards the EAC from 1967 to 1977.

The future of the EAC was widely discussed in the House following political upheaval in Uganda and the ouster of Obote from power by General Idi Amin. In addressing the political situation in Uganda, Hon. Ole Leken inquired from the House
what the exact government stand was on the future of the EAC (National Assembly Official Report, Vol. XXII, 1971:Col. 127). In response to this question, the then Minister for Foreign Affairs Njoroge Mungai told the members of parliament that the government of Kenya had a policy of not making any formal statements geared towards recognizing the newly installed government. Mungai maintained that the common services were running smoothly and the government was ready to take any necessary action if anybody disrupted the normal activities of the EAC.

Concern about financial crisis in the East African Railway Corporation was raised in the House in May 1974. The then Minister for Power and Communication, Hon. Okero, was asked by Hon. Amayo to explain causes of the financial crisis that was facing the East African Railway Corporation (National Assembly Official Report, Vol. XXXIII, 1974:Col. 462). Okero told the House that financial crisis was caused by shortage of funds that were being remitted by the three EAC member states of EAC to the Headquarters. The members of the House, particularly Hon. Nthenge, asked the Minister to explain what was causing the other two members of the corporation not to remit funds to the Headquarters. The Minister responded that the financial problem facing the corporation was being solved gradually by the three member states.

3.3 A Brief History of Factors that Led to the Demise of the East African Community

This section seeks to deepen our historical understanding of the factors that led to the breakup of the EAC in June 1977. The understanding of these factors is imperative in laying the foundation for on chapter four of this thesis, which delves into the role the
Kenyan Parliament played in the revival of the EAC, and in subsequently influencing the foreign policy behavior of the country towards the EAC from 2002 to 2012. Notably, this section seeks to briefly examine only three interacting and overlapping factors that to our understanding facilitated the disintegration of the EAC. These factors are; inequitable economic growth and imbalance of trade between the three member states of the EAC, ideological differences and personality differences between leaders, and in particular political animosity between President Nyerere and President Amin.

William Tordoff (2002), Okello and Kirungi (2011) identify the imbalance of trade between Kenya, Tanzania and Uganda as the main factor that led to the demise of the EAC. At the center of this imbalance of trade was the fact that Kenya was traditionally the industrial and economic power base of the East African region. Kenya’s capital city, Nairobi, was a commercial and administrative center of many Multinational Corporations (MNCs) operating in the East African region (Nzomo, 1994). Given this, economic activities and development were persistently skewed to work for Kenya at the expense of Tanzania and Uganda.

Tordoff further (2002:243) contends that:

At the root of its increasing difficulties was the fact that the benefits of membership went disproportionately to Kenya, which dominated the intra-regional trade in manufacturing products. Attempts to redress this imbalance made little headway, but the little Treaty for East African Co-Operation of 6 June 1967 kept hopes alive by establishing an East African Economic Community and an East African common market, thereby confirming and supplementing the EACSO and arrangements. However, the benefits of membership continued to be skewed in Kenya’s favour and, mainly on this account, the Community finally broke up in 1977.
Along the lines of Tordoff (2002) are Adar and Ngunyi (1994), who explicitly contend that Kenya occupied a dominant position in intra-EAC trade when compared with Tanzania and Uganda. Within the years 1969 to 1978, the two scholars clearly point out that Kenya controlled 48.7% of intra-EAC trade. Not surprisingly, Tanzania and Uganda were not comfortable with the disparities in industrial growth and imbalance of trade, and this, among other factors, fuelled differences and the subsequent collapse of the EAC in 1977.

**TABLE 3.0: Volume in Percentage of Annual Averages Trade between Kenya, Tanzania and Uganda from 1969 to 1978.**

<table>
<thead>
<tr>
<th>TOTAL INTRA-EAC</th>
<th>TOTAL INTRA-EAC</th>
<th>TOTAL INTRA-EAC</th>
<th>INDIV COUNTRY’S EAC TRADE</th>
</tr>
</thead>
<tbody>
<tr>
<td>KENYA 113.2</td>
<td>31.0</td>
<td>144.2</td>
<td>48.7 %</td>
</tr>
<tr>
<td>UGANDA 14.64</td>
<td>74.51</td>
<td>89.15</td>
<td>30.0 %</td>
</tr>
<tr>
<td>TANZANIA 19.9</td>
<td>43.7</td>
<td>63.6</td>
<td>21.4 %</td>
</tr>
<tr>
<td>TOTALS 147.74</td>
<td>149.21</td>
<td>296.95</td>
<td>100.0 %</td>
</tr>
</tbody>
</table>


Table 3.0 above shows a comparison of Trade volumes between the three EAC member states. It is evident from this table that Kenya controlled much of intra-EAC
trade. This trade disparity was viewed by scholars as a significant factor that led to the collapse of the EAC (Adar & Ngunyi, 1994).

Ideological differences between the three leaders are also a salient factor that contributed to the collapse of the EAC. According to Charles Hornsby (2012), Tanzania observed Kenya as a puppet of the West, and Kenya was conversely worried about the involvement of China in Tanzania. By way of example, Adar and Ngunyi (1994:411) note that:

The ideological difference between Kenya and Tanzania were probably most pronounced, when it came to dealing with foreign investments. Kenya on the one hand singled out the role of foreign investments in her development process as a *sine qua non*. This was contained in *Sessional paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya* and several other government papers. To the contrary, Tanzania’s *Arusha Declaration* of 1967 explicitly de-emphasized the role of foreign capital in her economy’s development. The result was that capital influx especially in the manufacturing sector grew asymmetrical in the two EAC member states.

The ideological difference between the three EAC member states was noted when Uganda adopted the *Common Man Charter* of 1969. The ideologies of Tanzania’s *Arusha Declaration* as well as Uganda’s *Common Man Charter* were in sharp contrast with *Sessional paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya*. Differences in ideology of development were noted in particular by Tanzanian in reflection of the intra-EAC trade that was to a large extent benefiting some Kenyans and foreign MNCs operating in the state (Adar & Ngunyi, 1995). Lack of clear policy to address this ideological differences coupled by grounding of the Community-owned East African Airways by Kenya led to war of words between Kenya and Tanzania, and Tanzania responded by closing her border with Kenya.
The issue of political instability in East Africa region following the removal of socialist regime of President Obote from power by Major-General Idi Amin on January 25, 1971 is also viewed as factor that led to collapse of the EAC. Faced with this problem of political stability in the region, members of the Kenyan Parliament raised questions in the House that centered on the uncertainty of the future of the EAC (National Assembly Official Report, Vol. XXII, 1971:Col. 127).

The uncertainty of the EAC’s future was compounded further when Nyerere refused to recognize Amin as the President of Uganda. In doing so, Nyerere refused to attend any East African Authority meeting as long as Amin was the President of Uganda. In contrast, there was no openly hostile relationship between Kenya and Uganda following the ouster of Obote from power. Indeed, scholars argue that Kenya made economic capital out of Uganda’s political jinx during the Amin regime (Chemonge, 1984; Sircar, 1990; Adar & Ngunyi, 1994). Because of this, there were few meetings between the three leaders, and this led to the gradual disintegration of the EAC.

Lack of political commitment between leaders within the EAC has been cited as a factor that led to the disintegration of the EAC (Rothchild, 1968; Adar & Ngunyi, 1994). The members of the Kenyan Parliament called for top leadership commitment to the development of the EAC on several occasions, but the top leaders of the EAC’s three member states were not willing to cede political and economic power to the newly-established EAC. This problem could have been avoided if Nyerere’s advice to the political leaders of pre-independence East African territories was followed. Nyerere contended that, “There is one way to ensure that the present unity of
opposition should become a unity of construction. The unity and freedom movements should be combined, and the East African territories achieve independence as one unit at the earliest possible moment.” (Rothchild, 1968:68). Cognizant of this problem, Hon. Nthenge inquired in the Kenyan Parliament as to why the East African federation was not materializing and what was to be done to solve the impasse (National Assembly Official Report, Vol. XIX, 1970: Col. 266).

It is instructive that this ambitious goal to unite Africa was torn apart by nationalistic internecine differences among some of the founding fathers at the time of independence. In other words, many African leaders at time of their countries’ independence were more interested in the trappings of political power such as national flags, national sovereignty and personal aggrandizement than in the clarion call for continental unity or regional integration. As mentioned elsewhere in this chapter, the internecine nationalistic and self interest and differences among leaders were some of the factors associated with the collapse the EAC in 1977.

3.4 Conclusion

Using specific examples from the Hansards, we have outlined some accounts depicting the role the Kenya Parliament played in the establishment of EAC, and later in influencing the foreign policy behavior of the state towards the institution from 1967 to 1977. We have also established that although Parliament played a role in foreign policy decision-making process towards the EAC, it did so while being heavily undermined by the institution of the presidency and the Executive. This as we noted interfered to an extent with parliamentary role of checking the Executive in policy making processes.
It was evident in the chapter that the failure to hold together the EAC and its subsequent collapse in 1977 was mainly caused by trade imbalance between the partner states, differing ideologies and personality differences between President Julius Nyerere and President Idi Amin.
Endnotes


7 Majimbo is a Swahili term loosely translated to mean region. KADU’s manifesto advocated that different regions within Kenya should be allowed to remain autonomous. For more analysis on this, see, for example, Adar, G. K., & Ngunyi, M. (1994). The Politics of Integration in East Africa since Independence. In Walter O. Oyugi (ed), Politics and Administration in East Africa. pp. 395-425.


11 Ibid., Col. 414.

References


CHAPTER FOUR

THE ROLE OF KENYAN PARLIAMENT IN FOREIGN POLICY-MAKING TOWARDS THE EAST AFRICAN COMMUNITY

4.0 Introduction

Chapter Three of this study has highlighted the role the Kenyan Parliament played towards the process of establishing the East African Community (EAC) in 1967 and the role it played later in foreign policy making towards the EAC from 1967 to 1977. As explained in Chapter Three, there were very few foreign policy motions relating to the EAC that were debated in the National Assembly in the period. Parliament role in foreign policy decision-making process of the state towards the EAC was also faced with numerous impediments and key among them was domination by the Executive branch of the government and the institution of the presidency in foreign policy matters.

Chapter Four seeks to examine the role the Kenyan Parliament played in foreign policy decision-making process towards the EAC from 2002 to 2012. The first section of the chapter focuses on general historical background to the revival of the EAC, while the second section analyses the role the Kenyan Parliament played between 2002 to 2012.

4.1 THE REVIVAL OF THE EAST AFRICAN COMMUNITY

There are various factors associated with the collapse and official dissolution of the EAC in 1977. Among the key factors discussed in Chapter Three included unequal distribution of benefits between the three partner states, differing ideologies and
personality differences between President Julius Nyerere of Tanzania and President Idi Amin of Uganda.

The 1999 Treaty establishing the EAC has some provisions appropriately premised to ensure there is adequate policy measures geared towards addressing some problems that beleaguered integration process of the defunct EAC. Article 5 (3) (a) of the Treaty for example states that the EAC will ensure there is adequate promotion of equal and harmonious economic development between the partner states forming the EAC (EAC Secretariat, 2002).¹ This is in recognition that unequal economic development and uneven sharing of benefits of the Community between the partner states as explained in Chapter three of this study was among the main factors that led to collapse of the EAC in 1977.²

Whereas the establishment of the EAC was mainly based on achievement of political federation within the East African region, the United Nations Economic Commission for Africa (ECA) and the Organization for African Unity (OAU) however advocated for the revival of the EAC and other sub-regional organizations to be directed towards attainment of economic cooperation among states (Adar & Ngunyi, 1994). Scholars such as Duncan Okello and Gladys Kirungi (2011) view the radical departure of the EAC adopting economic cooperation as opposed to political federation as being dictated by principles of neo-liberal economic.

Following the collapse of the EAC in 1977, a number of motions were moved in the National Assembly in Kenya in an attempt to revive the East African cooperation. For example, after the break-up of the EAC and the eventual closure of the
Kenya/Tanzania border, a motion was moved in Parliament asking the government to foster the emergence of cooperation between the three former partners states of the EAC. Hon. Oloo-Aringo in particular moved a motion that dwelt on the need for the search of cooperation between Kenya, Tanzania and Uganda (National Assembly Official Report, Vol. LXI, 1983: Col. 347).

According to Oloo-Aringo, the need for fostering cooperation and re-opening of Kenya/Tanzania border was based on the policy of good neighborliness. Good neighborliness as elucidated in Chapter Two of this study was among the founding principles around which Kenya’s foreign policy has been largely based since the attainment of independence in 1963. Underlying this founding principle of good neighborliness is the assumption that good relationships between neighboring states will furthermore facilitate increase in trade and economic development among states in Africa. This therefore implies that members of parliament were expected to participate in the debate and either support or decline to support the motion. This is so because parliament is vested with constitution power to represent the people in a political system.

In moving the motion on Agreement on Re-opening of Kenya/Tanzania Border, Oloo-Aringo acknowledged the effort of President Daniel Arap Moi, the Presidents of Tanzania and Uganda in the signing of Arusha Settlement which was premised on fostering unity and future cooperation between the three former partners of the EAC (National Assembly Official Report, Vol. LXI, 1983: Col. 348). Oloo-Aringo further told the House that it was a few individuals with selfish motives who had facilitated the collapse of the EAC. In supporting the motion on behalf of the government, then
Minister for Energy and Regional Development Hon. Nicholas Biwott, the then Vice-President and Minister for Home Affairs Hon. Mwai Kibaki and the then Assistant Minister for Education, Science and Technology Hon. Kanindo acknowledged President Daniel Arap Moi’s efforts towards the re-opening of the Kenya-Tanzania border and the renewal of cooperation between Kenya, Tanzania and Uganda (National Assembly Official Report, Vol. LXI, 1983: Cols. 351-357).

The debate on the Bill touching on the re-opening of Kenya/Tanzania border and the revival of EAC was largely dominated by government ministers and assistance ministers who took a lot of time praising Moi and the Presidents of Tanzania and Uganda for their initiative in reviving the EAC. This, for example coincided with what was captured in the Inter-Parliament Union guide book (2006:133) which observes that:

> In parliamentary systems and others where ministers are also members of the legislature, the parliamentary questioning of ministers on a regular basis, both orally and writing, forms an important mechanism of oversight. Oral questions in plenary sessions can often turn into a party dogfight generating more heat than light, with questioning by ruling party members bordering on sycophancy, and replies degenerating into point-scoring against the opposition.

This development shows a clear reflection of domination of the executive branch of government in foreign policy matters as was noted in Chapters One and Three of this study. It is however important to note that participation of members of parliament in debating motions and passing laws touching on foreign policy affairs is a legal requirement of the constitutional governments in Kenya. Parliament, as discussed in the Chapters One and Two, represents the will of the sovereign people. We therefore argue that for any law and foreign policy decision to be binding, members of parliament must be either implicitly or explicitly involved in the process as seen when
members that included Oluoch Kanindo, Martin Shikuku, and Fred Omido participated in the immense discussion on issues touching on the re-opening of the Kenya/Tanzania border and the revival of the EAC. As Korwa G. Adar (2008) argues, philosophical foundation of separation of powers bestows on the executive, the judiciary and parliament with constitutional authorities and responsibilities. This study therefore examines the role of Parliament in foreign policy process towards the EAC from a constitutional perspective.

In 1983, the then Assistant Minister for Finance and Planning, Hon. Echakara moved a motion that was requiring the House to re-enact the Charter of the East African Development Bank. Seconding the motion on behalf of the government, the then Minister for Labor Hon. Robert Ouko called upon the members of the House to support the motion (National Assembly Official Report, Vol. LXII, 1983:Col. 530-533). This motion was supported and passed by the House after much discussion on how the Bank was to assist in the development of the former partners of the EAC. It is imperative to note that motions on the revival of the EAC were viewed as central to the extent that almost every member of parliament was in agreement although most of the bills and motions on cooperation and the re-establishment of EAC had originated from the government.

The 1984 motion on the East African Community Mediation Agreement (hereinafter referred as the Mediation Agreement) was debated in the House during official opening of Parliament on 3rd March 1987 (National Assembly Official Reports, Vol. LXXI, 1987: Col. 6). The then President of Kenya, Daniel Arap Moi told the House that:
Mr. Speaker, following the break-up of the East African Community, the three Governments have entered into discussions to establish useful forms of co-operation. The 1967 treaty or East African Co-operation formally ceased to exist on the 14th of May, 1984, when the Presidents of Tanzania and Uganda and myself signed the East African Community Mediation Agreement. The remaining issues of the mediation exercise were concluded at the last meeting of the ministers from the three countries. The pensions funds of the former East African Community, which had been invested for the crown agents, have now been remitted to the partner states in proportion to each country’s pension liability. I am glad to inform honorable members of this House that Kenya’s share of 19 million pounds sterling has already been received by the Central Bank (National Assembly Official Reports, Vol. LXXI, 1987: Col. 6).

Having stated the above, Moi further told the members of parliament that the Mediation Agreement Bill was to be referred to the House for the purpose of giving the Bill legal effect and in extension repealing the Treaty for East African Co-operation Act (National Assembly Official Reports, Vol. LXXI, 1987: Col. 6). The Mediation Agreement resolution signed by the Presidents of Kenya, Tanzania and Uganda on 14th May 1984 was later ratified by members of parliament in Kenya. We can argue on the other hand that Moi request to the House to give the Bill a legal effect shows that Parliament holds a central place in foreign policy decision-making process in Kenya.

The Mediation Agreement Bill was read in the House again on 9th June 1987 by then Minister for Planning and National Development Hon. Andrew Omanga. Given the number of assets that were jointly owned by the three partner states of the Community, Omanga asked the House to pass a law that will make the government to assume ownership of some of the assets that previously belonged to the collapsed EAC (National Assembly Official Report, Vol. LXXII, 1987:Col. 37). This mean that the president can sign international agreements as evident when Moi signed the Mediation Agreement but it is parliament which has the constitutional mandate to
either ratify or reject earlier agreements made at both regional and international levels.

Among the key functions of legislative power of parliament as it was discussed in Chapter One of this study included ratification of international agreements and treaties. In regard to Kenya, the legislative power of Parliament was furthermore stipulated in Article 46 (5) [a] [b] of 1963 of the state constitution which provided that:

The National Assembly shall reconsider a Bill referred to it by the President taking into account the comments of the President and shall either (a) approve the recommendations proposed by the President with or without amendment and resubmit the Bill to the President for assent; or (b) refuse to accept the recommendations and approve the Bill in its original form by a resolution in that behalf supported by votes of not less than sixty-five per cent of all the Members of the National Assembly (excluding ex officio members) in which case the President shall assent to the Bill within fourteen of the passing of the resolution (Kenya, 1963).

The above provisions of the 1963 Kenya Constitution therefore provided Parliament with a leeway to play an effective role in foreign policy process.

The Mediation Agreement Bill was therefore debated and the House passed a legislation authorizing the government to own some of the defunct EAC assets allocated in Kenya. Members of the House also debated and agreed with some of the provisions of the Mediation Agreement that was advocating for future cooperation between the three former partners states of the EAC. This therefore made parliament an important constitutional body on issues pertaining to foreign policy and foreign policy-making process.
The spread of globalization, the proliferation of non-state actors in both domestic and foreign policy process of states and the end of Cold War necessitated more desire of deepening regional integration in many parts of the world. While globalization has been used by scholars such as John McCormick (1999) and Michele Cini (2003) to advance intellectual discourses geared towards explaining the rationale behind integration process of the European Union (EU), we can also argue here that the revival of the EAC as well as other regional organizations are an expression of the effect. Okello and Kirungi (2011) also argue that regional integration assist the states to manage challenges emanating from the effect of globalization. States therefore take decisions collectively while still enjoying benefits of enlarged markets at both regional and global levels.

In clarifying and explaining the meaning of the concept globalization, Ian Bache and Stephen George (2006:48) argue that:

On some definitions, it is no more than a contemporary term to describe a set of processes that have a long history; but more commonly globalization is taken to refer to a new phenomenon of linkages transcending territorial boundaries. Although globalization has cultural and social aspects, the view of globalization as an observable economic phenomenon is an influential one.

Thus, the historical need to integrate the East African region from the East African High Commission (EAHC) to the East African Common Service (EACS) and then from the EAC I to the EAC II have been mainly driven by effects of globalization which is further viewed as a permanent phenomenon by Bache and George (2006).

We therefore argue that globalization is a continuous process and it has played a significant role in the integration process of the East African region and subsequent revival of the EAC. Scholars such as Andrew Gamble and Antony Payne (1996) are
also of the same view that globalization promote economic development among states in the sense of eliminating previous existing tariffs and non-tariff barriers (Cf, Holland, 1980). Elimination of barriers among integrating states further offers far-reaching positive implications for the way in which capital and labor move freely across borders.

The intention of the re-establishment of the East African cooperation was captured in the 1984 East African Community Mediation Agreement cited in 1999 Treaty for the Establishment of the East African Community (EAC Secretariat, 2002). EAC Treaty of 1999 stipulates that, “AND WHEREAS pursuant to Article 14 02 of the Mediation Agreement the said countries agreed to explore and identify areas for future co-operation and to make arrangements for such co-operation." Dan Nabudere (2009) also views Article 14 of the Mediation Agreement as among the initial documents that spelt out the possibility of future cooperation between the three former partners of the EAC.

Another important effort to revive the EAC was observed when the Permanent Tripartite Commission was signed by the governments of Kenya, Tanzania and Uganda on 30th November 1993 (EAC Secretariat, 2002). The three Heads of States advocated for the harmonization of among other economic, social, cultural and political activities. The Formation of the Permanent Tripartite was followed by the signing of the protocol that subsequently created the EAC Secretariat.\(^5\)

What has emerged from the discussion above is that numerous agreements surrounding the re-establishment of cooperation between the formal partner states
were signed but the Treaty establishing the EAC II was signed on the 30th November 1999 on behalf of the Governments of Kenya, Tanzania and Uganda at Arusha (EAC Secretariat, 2002). The formal constitution of the EAC II entered into force on 7th July 2000 when the Kenya’s Parliament ratified the treaty. Rwanda and Burundi signed the EAC Treaty and became full time members of the EAC on 1st July (Okello & Kirungi, 2011).

Among the main organs and institutions provided for in Article 9 of the revived EAC II Treaty include, “the Summit, the Council, the Co-ordination Committee, Sectoral Committees, the East African Court of Justice, the East African Legislative Assembly, the Secretariat.” (EAC Secretariat, 2002). While the mandate to facilitate further integration process of the East African region is bestowed on all the above organs and institutions, Ahmed Mohiddin (2005) views the Summit, the Council and East African Legislative Assembly (EALA) as the main political pillars of the EAC.

The objective of the EAC is provided for in Article 5 of the Treaty. The Article states that, “The objectives of the Community shall be to develop policies and programmes aimed at widening and deepening co-operation among the Partner States’ political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs, for their mutual benefit.” (EAC Secretariat, 2002). The article specifies a wide range of areas which the partner states of the EAC II are expected to follow as guideline for integration of the East African region. This also suggests that the EAC II is formally obliged to facilitate deeper integration of East African region.
Article 5 (2) of the Treaty establishes four pillars upon which the integration process of the EAC II is to follow (EAC Secretariat, 2002). The pillars include a Custom Union, a Common Market, a Monetary Union and a Political Federation. Much of the details on the roadmap to achieve the four pillars of the EAC II were elaborated in Parliament in 3rd May 2005 by then Minister for East African Regional Co-operation Hon. J. K. Koech. The Minister had this to say:

Mr. Speaker, the East African Community Treaty encompasses the coming up of a Customs Union which would bring free trade among East African countries, a common market, which would free labour and other factors of production to be moving among the borders of East Africa. Finally, there is the coming up of a monetary union which would finally usher in a common Central Bank and a common currency. After that is expected that would be a political federation (National Assembly Official Report, 2005:Col. 1117).

As noted below, the custom union protocol was signed by the Presidents of Kenya, Tanzania and Uganda on March 2004 and the protocol implemented in January 2005, while the East African Common Market Protocol was ratified on 1st July 2010 (National Assembly Official Report, 2010:Col. 7; Okello & Kirungi, 2011). An agreement on the adoption of common EAC currency and the ultimate formation of political federation has not been finalized at the time of writing this thesis in July 2014 but the five states of the EAC are still trying to find ways of fast tracking the adoption of a monetary union and finally the establishment of a political federation within the East African region.

4.2 RE-ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY II

The parliamentary debates domination by Kenya African National Union (KANU) came to an end in 2002 when the National Rainbow Coalition (NARC) captured power in 2002. Arising from this arrangement of transfer of power from President Moi to President Mwai Kibaki, many people expected Parliament to play a robust role
in foreign policy matters relating to the integration process of the East African region. In general, however, the role of Parliament in foreign policy in particularly in relation to the EAC II remained minimal.

Most of the motions, questions and debates introduced by the government in the House during this period mainly touched on how some of the objectives stipulated within the EAC II Treaty will be achieved. The key objectives of the EAC II as mentioned elsewhere in the chapter included establishment of a custom union, a common market, use of a common currency among the partner states and finally formation of a political federation within the East African region.

There were a number of motions moved and questions raised in the House in the period between 2002 to 2012. One of the main issues raised in Parliament focused on the question of fast tracking the formation of common market between the partner states of the EAC II. For example, Minister for Finance Hon. Chris Obure told the House that there were some developments in regards to advancement of achieving a single market within the EAC (National Assembly Official Report, 2002: Col. 1125).

Obure told the House that the Summit of the Heads of State had authorized the Council of Ministers to take some decisions meant to facilitate the increase in trade between the three partner states of the EAC II. This according to the Minister was to be achieved mainly through the harmonization of the EAC II currency and the eradication of double taxation within the EAC region.
It is of essence to note that parliamentary autonomy allows the members to raise questions on the floor of the House with regard to government’s activities. In this case, Obure was answering the question raised while at the same time guaranteeing members that the NARC government was committed to inform the parliament about the integration process of the East African region.

The renegotiations on the utilization of Lake Victoria waters between the three partner states of EAC II and Egypt was also another matter discussed at length on the floor of House on 10th December 2003. In moving a private member motion, Hon. Oburu told the House that:

THAT, in view of the fact that the Treaty signed between the colonial authorities on behalf of the East African states and Egypt regarding the utilization of Lake Victoria waters is outdated and inimical to the social-economic interests of the people living around the lake; and taking cognizance of the importance of the lake as a source of livelihood of our people, this House urges the Government, in consultation with other East African governments, to re-negotiate the Treaty with all the states which are signatories. (National Assembly Official Report, 2003, Col. 4393)

The signing of 1929 Nile River Agreement between Egypt and Great Britain on behalf of the three East African states accorded Egypt absolute right of using Nile waters at the expense of other riparian states and therefore violating International Law and in particular the United Nations Conventions, Article 5 and 6 of 1997 that delves on the principle of equitable utilization of shared waters (National Assembly Official Report, 2003: Col. 4393; Lumumba, 2011; Adar & Check, 2011). Hence, Oburu’s motion that sought explanation from the government on the renegotiation of the Egypto-British treaty is among the ways in which both foreign and public policies are formulated by parliament.
In view of 1929 Nile River Agreement which Britain signed on behalf of the three East African states, Adar (2011:168) argues that, “The 1929 Nile River agreement entered into between Britain (the colonial power at the time) and Egypt on behalf of Kenya, Uganda and Tanzania, for example, remain a contentious issue for the riparian states.” The motion was therefore moved in the House for purposes of ensuring that there was attainment of Kenya’s foreign policy interest as well as the interests of other riparian partner states of EAC II in matter relating to utilization of waters of Lake Victoria and in particular the River Nile waters.

In seconding the motion, Hon. Chris Okemo stated that, “The Government of Kenya has the legitimate right, acting in unison with Uganda and Tanzania, particularly as the East African Community is now in place. We will be able to come up as a force to make sure that our sovereign interests are taken care of.” (National Assembly Official Report, 2003, Col. 4393). The motion for the renegotiation of the treaty was also supported by Hon. Moses Wetangula on behalf of the government and Hon. Twahib Twaha.

In supporting the motion for the renegotiation of Egypto-British agreement, members of parliament observed that the treaty was no longer binding on Tanzania as upon the achievement of independence Tanzania adopted the Nyerere Doctrine which nullified all agreements and treaties signed under the colonial. Members of parliament, through parliamentary debates, in many respects influence foreign policy. Suffice it to say, foreign policy making in this regard does not remain the domain of the Executive. This view conforms to one of the objectives of the study which stipulates
that parliament has a role to play in influencing foreign policy behavior towards the EAC.

The motion on fast tracking the formation of East African Federation (EAF) and ratification of custom union was moved by then Minister for Education Science and Technology Hon. George Saitoti on 22nd 2005 March. While moving the motion, Saitoti stated that:

Mr. Speaker, Sir, His Excellency the President also reminded us of the importance of East African integration and, indeed, the need to establish the East African Federation (EAF). A Sessional Paper will be brought here to fast-track the EAF. Also, there will be a Bill to domesticate the Custom Union. What is so fundamental about this? We, as a country, know very well that our country is small, by the sheer size of our population we cannot generate sufficient resources to create more employment opportunities for our people. We require a bigger market; a regional market. That is why, if we start with the East African Community (EAC) and then we can dream that one day there will be an EAF, that will give Kenyans and the people of East Africa the opportunity to reap the resources and more employment opportunities. That is important. If we pass this important legislation, we will have done a great deal of services to the people of East Africa and Africa. (National Assembly Official Report, 2005: Col. 29).

We examined in Chapter Three that domestication of custom union is premised on the assumption that regional integrating will permit movement of capital and labor across the borders. We also argued in this chapter that ratification of custom union is one of the major goals of the EAC as stipulated in Article 5 (2) of the Treaty (EAC Secretariat, 2002). Hence, fast tracking the emergence of custom union was meant to ensure that all tariffs and non-tariffs barrier were substantially eliminated within the East African region. In doing this, it was assumed that economies of Kenya, Tanzania, Uganda, Rwanda would be integrated through the reduction of trade restrictions. It is therefore important to note that the call for parliament by Saitoti to expedite the ratification of the custom union shows that parliament was involved in the foreign
policy decision-making process towards the EAC. This is in line with our study hypothesis; that the Kenya Parliament plays an important role in influencing foreign policy behavior of the state towards the EAC.

A motion on the adoption of the Report of the Committee on Fast Tracking of the East African Federation was moved in the House by the then Minister for East African and Regional Co-operation Hon. J. K. Koech on May 3, 2005 (National Assembly Official Report, 2005:Col. 1116). Koech told the House that the three Heads of East African States had earlier met in Nairobi from 27th-28th August 2004 with the intention of examining the best ways of accelerating the formation of political federation within the East African region. Formation of a committee to fast track the formation of a political federation within the East African region was among the key recommendations the Heads of States agreed on (Nabudere, 2009).

As noted in Chapter Three of this study, the formation of political federation within the East African region was one of the main goals advocated by President Julius Nyerere of Tanzania in 1960s. In general, the idea for the formation of a political federation was also driven by the desire to eliminate borders within the East African region. The committee formed to fast track establishment of a political federation submitted their findings to the Heads of State on 23rd November 2004 (Adar, 2008a; Adar, 2008b; Nabudere, 2009). Among the major recommendation was formation of a political federation between 2010 and 2012.
The importance of parliament in fast tracking the formation of a political federation within the East African region is also captured by Dan Nabudere (2009:68) who rightly notes that:

In our memorandum, we suggested that the three Heads of States [sic], having decided to expedite the mechanisms to fast track the creation of the federation, should have gone headlong to make a bold political decision and recommend to their Parliaments to pass binding and irrevocable resolutions abolishing the existing boundaries between the countries and then ask the people of East Africa to reconstitute themselves into new cultural-linguistic states that would be the basis of a political federation.

Parliament is an autonomous institution that represents the vital interests of the people in a polity. Hence the idea to fast track the formation of a political federation within the East African region was not meant to bypass parliament as emphasized by Nabudere (2009).

While moving the motion on custom union on 3rd May 2005, Koech told the House that the achievement of the custom union, the common market and the monetary union will be followed by a referendum where people within the East African region will be required to vote for or against the formation of political federation (National Assembly Official Report, 2005:Col. 1118). On the question of trade imbalance between the three members states of the EAC, the Minister further told the House that the Kenyan goods passing through Uganda and Tanzania borders were to be subjected to taxation for five years. As indicated in Chapter Three of this study, trade imbalance was among the three main factors that led to the collapse of the EAC in 1977. The minister was therefore trying to enlighten the members about the avenue which the EAC II partner states were taking for purposes of avoiding conflicts within the region.
The motion on fast tracking the formation of political federation within the East African region was seconded on behalf of the government by then Minister for Planning and National Development Anyang’ Nyong’o. He told members of parliament to assist the government in fast-tracking the formation of a federation within the East African region.

The motion was supported by then Minister for Roads and Public Works Hon. Raila Odinga who in addition advocated for a bottom up or people driven approach of forming East African federation (National Assembly Official Report, 2005:Col.1123). This according to Raila, would avoid the collapse of the EAC II. Given the economic benefits that was to be accrued through the formation of EAF, many members of parliament contributed and supported the idea of the formation of EAF, but participation of backbenchers and members of opposition in the debate was not robust as was expected.

The matter dwelling on the facilitation of further deepening of East Africa integration was again raised in 3rd April 2007. The then Minister for Trade and Industry Hon. Mukhisa Kituyi stated in the House that:

Mr. Speaker, Sir, in the lives of the past two Parliaments, this House has been a very important catalyst of Kenyan public approval and support for the East African integration. Without the singular united leadership and encouragement of this House, I do not think the momentum, again, in moving from the East African Co-operation to East African Community, to the step of a Customs Union Protocol Agreement, would have been done in the record period it has taken. Today, we are at a stage when, perhaps, the most critical decision since the Custom Union, is to be made; a decision of a road map towards greater political integration of East Africa. (National Assembly Official Report, 2007: Col. 296)
Kituyi moreover told the House that the country had benefited a lot from the initial phase the East African Custom Union had been established and hence the members of parliament were expected to offer political leadership in redefining the integration process of the East Africa region (National Assembly Official Report, 2007: Col. 296). The premise in which the above matter was raised in the House shows that Parliament had a critical role to play in deepening the integration process of the EAC which conforms to the hypothesis of this study.

On 18th February 2009, Hon. Musikari Kombo asked by then Assistant Minister for Trade Hon. Omingo Magara to offer explanation to the House the position of government in regard to the Economic Partnership Agreement (EPAs) between European Community (EC) and EAC (National Assembly Official Report, 2009: Col.5). In answering the question Hon. Magara told the House that Kenya supported the economic cooperation between the European Union and EAC.10 From Magara’s response to the House, it is clear that Parliament was involved in matters concerning foreign policy decision-making process of the state towards the EAC. This corresponds with what was observed by Narender Kumar (2008) that members of parliament can raise questions and scrutinize the foreign policies on the floor of the House. The institution of parliament as we have also pointed out in Chapter One occupies a unique position in that its members are constitutionally mandated to question government activities both within and outside the states.

The issue on direct election of members of East African Legislative Assembly (EALA) was raised on 17th April 2008. The then Assistant Minister for Medical Services Danston Mungatana while supporting the motion on adoption of the report
Mr. Temporary Deputy Speaker, Sir, the EAC is a great economic partnership. It is now integrating even other countries like Burundi and Rwanda. I like the recommendation contained here, that there is need for us to mix political reality on the ground with the economic partnership. I like the recommendation from the leader of the delegation in particular. She pointed out that it would be necessary that when we are choosing Members to represent us in the East African Legislative Assembly (EALA), it is time we started to think seriously about direct elections. This will give them the mandate to properly speak for us, both in the political and economic partnership (National Assembly Official Report, 2008: Col.538).

It must be pointed out that Article 50 (1) of the EAC treaty stipulates the members of the Assembly should be elected in the House through assistance of parliamentary political parties (EAC Secretariat, 2002). Article 50 (1) provides that:

The National Assembly of each Partner State shall elect, not from amongst its members, nine members of the Assembly, who shall represent as much as it is feasible, the various political parties represented in the National Assembly, shades of opinion, gender and other special interest groups in that Partner State, in accordance with such procedure as the National Assembly of each Partner State may determine.

By this implication, Mungatana sought an amendment to be made in the House to ensure that the general populous within Kenya was involved in choosing members of the EALA.

Among other issues discussed in Parliament with regard to the integration process of the East African region in 2009 included the creation of common market and the harmonization of police force among the partner states of the EAC II. Regarding the questions asked by Hon. John Mututho and Hon. Boniface Khalwale concerning negotiations of trade agreements and the creation of common market within the East African region in 2009. The then Minister for Trade Hon. Amos Kimunya responded that Kenya had entered in regional economic agreement as stipulated within the legal
framework of the East Africa Custom and Management Act (National Assembly Official Report, 2009: Col. 16-18). Kimunya further told the House that the partner states of the EAC II were in support of negotiations geared towards the establishment of common market.

Focusing our attention on the role the Kenyan Parliament played in foreign policy decision-making towards the EAC we can argue that Mututho and Khalwale represented particular interest of the people and the state in foreign policy decision-making process towards the EAC. This however may not provide a definitive role the Kenyan Parliament played in foreign policy decision-making towards the EAC but parliament as noted by Muhammad Mustafizar Rahaman (2010) is a nucleus of any liberal democratic state and it may hence participate in decision-making process through raising questions on the floor of the House on government activities. In doing this, parliament may decline or accept government response and demand further clarification.

The issue for harmonization of police force between Kenya, Uganda and Tanzania was raised by Hon. Kathuri on 2 December 2009. In response to the question on behalf of the government, the then Prime Minister Raila Odinga said that:

Mr. Speaker, Sir, hon. [sic] Kathuri asked about what are we going to do with our police as a result of the signing of the agreement to transform the East African Community into a common market. Already, an agreement has been reached and signed to harmonise the operations of the police forces across the common borders. So, what hon. [sic] Kathuri is asking has already been taken care of (National Assembly Official Report, 2009: Col. 19).

Raila further told the House that the government was fully committed in the process of deepening the East Africa integration.
The importance of the ratification of the Common Market Protocol was highlighted by then Kenya President Mwai Kibaki during official opening of the Fourth Session of Tenth Parliament on 23rd February 2010 (National Assembly Official Report, 2010: Cols. 8-9). Kibaki told the House that the protocol will facilitate among other things free movement of goods and services which were essential in economic growth of the state and the East African region. He further told the House that the government will in future present financial plan for approval by the House for the construction of new infrastructure which include standard gauge railway to Uganda (National Assembly Official Report, 2010: Col. 9).

In concluding his official opening of the Fourth Session of the Tenth Parliament speech, Kibaki stated that:

Mr. Speaker, Sir, all the business and economy related Bills, policies and projects that I have mentioned are important. They are critical to reducing poverty, achieving equitable development throughout the country and creating numerous jobs and decent income for our youth, I, therefore, urge the House to give them priority in the discussion and passage during this Session (National Assembly Official Reports, 2010: Col. 9).

The National Assembly was supposed to debate and pass legislation pertaining to the ratification of common market protocol as observed in Kibaki’s speech. It can be argued therefore that the Kenyan Parliament was an important determining factor in the ratification of international agreement and this include among others domestication of the EAC Common Market Protocol.

The motion on tax approval measures stipulated in the East African Customs Management Act and the Common External Tariffs was moved by the then Deputy Prime Minister and Minister for Finance Hon. Uhuru Muigai Kenyatta on 16th June
2010 (National Assembly Official Report, 2010: Col. 17). It was seconded by then the Assistant Minister, Ministry of State for Defence Hon. David Musila who was of the view that tax approval by the House will be of assistance to the East African region when the Common Market would come into force on 1st July 2010 (National Assembly Official Report, 2010: Col. 20).

In supporting the motion Hons. Bahari and Charles Onyancha argued that the manufacturing industry in Kenya should take advantage of the existence of a larger East African Common Market. However, Hon. Onyancha also said that:

> The East African Community (EAC) or the common market for East Africa comes into being essentially on 1st July. This is an opportunity that, again, has not been well addressed by this Budget. I do not know how we will take advantage of the larger market. I also did not feel that there was any move towards harmonization of the rates of tax of the various members of the Community. This is because without rationalization and harmonization of the taxes and the rates of taxation of these Community members, we will have disparities in terms of capital flight and market preferences. That is an issue that needs to be addressed rather urgently (National Assembly Official Report, 2010: Col. 17).

Parliament as noted in the Inter-Parliamentary Union guide book (2006) provides budgetary oversight role of the government on behalf of the people in a state, Kenya included.

The Ministerial Statement on EAC Common Market Protocol was issued in the House by Amazon Kingi on 30th June, 2010 (National Assembly official Report, 2010: Cols. 15-16). The Minister’s statement dwelt on the benefits that will be accrued by partner states of the EAC after ratification of common market protocol and liberalization of the market within the East African region. While issuing the statement Kingi told the
House that the right of the establishment of the protocol and liberation of the market will facilitate free movement of citizens within the East African region.

The move towards the establishment of the common market was supported by a number of members of parliament that included Eugene Wamalwa, Khalwale and Mungatana. However while supporting the ministerial position; members sought answers on a number of issues that included some clarification on security and freedom of movement of people after the establishment of the common market, monetary union and political federation within the East African region. Responding on behalf of the government, Kingi told the House that the government was committed to ensuring that the region was politically integrated. Kingi while still commenting on the common market protocol had this say:

. . . work has already begun to prepare the East Africans to embrace a political integration. This started way back immediately the Treaty was signed in 1999, where a committee of experts was mandated to go around East African to ask East Africans two questions. One of the questions was whether East Africans are for a political federation. The second question was whether East Africans would wish to attain the political federation through a fast-tracking mechanism. I can confirm to this House that the score that was obtained from the three original countries was well beyond 60 cent on the question as to whether East Africans want a political federation. On the question as to whether the political federation should be fast-tracked, Uganda and Kenya scored well above 50 per cent. It is only Tanzania that scored below 50 per cent (National Assembly Official Report, 2010: Cols. 20-21).

Political integration of the East African region has been faced by a plethora of problems and key among them was lack of political good will from the leaders. Yet the Kenyan Parliament has moved a number of motions and raised questions on the floor of the House in spite of the opposition mounted by the government as has been observed in Chapter Three and Four of this study.
On the question of election of EALA members, the then Speaker of National Assembly Kenneth Marende told the members that the process of election will be conducted in accordance with Article 50 of the EAC Treaty (National Assembly Official Reports, 2012: Col. 23). He further said that the election of members to serve in the EALA was to be conducted in the House through assistance of parliamentary political parties. The most salient aspect of this shows that election of EALA members was only duly legal when conducted in the House in accordance to Article 50 (1) of the Treaty establishing the EAC. The issue on the adoption of the report on election of EALA was raised again on the floor of the House on 2nd May 2012 by Hon. Aden Keynan and Hon. Ogindo who supported the adoption of the rules on election of EALA members (National Assembly Official Reports, 2012: Col. 30-36).

4.3 Conclusion

In the chapter, we have advanced the argument that the Kenyan Parliament plays an important role in foreign policy decision making of the state towards the EAC. Using specific examples from the Hansards which are official reports of Parliament, we have demonstrated that it was the government ministers and assistant minister who introduced most of the motions and the Bills in the House. The backbenchers also participated in moving private motions, raising questions and supporting motions tabled on the floor of the House by cabinet ministers.

We have outlined the general role the members of parliament played with regard to the revival of the EAC. We have pointed out that parliamentarians participated in debates relating to division of the assets and liabilities of the defunct EAC. We have observed that it was the three Presidents of the partner states within the East African
region who specifically spearheaded the revival of the EAC, however, behind all negotiations and signing of the agreements between the three Presidents, it was the members of the National Assemblies who had the constitutional mandate to legalize the agreement pertaining to the establishment of the EAC II. It is against this backdrop that we also examined the constitution provision of the role of the Parliament in foreign policy decision-making process.

We also observed the role of Parliament in foreign policy decision-making process towards the EAC from the period between 2002 and 2012. As we saw in the chapter, the trend of debates of members of parliament on motions relating to foreign policy towards the EAC somehow changed. The motions and debates on foreign policy touching on the EAC did not generate robust participation by the backbenchers and members of opposition. Regardless of whether it was a government minister or just a member of parliament who moved or raised a motion on matters relating to the EAC, the debate was nevertheless done within the confines of parliament. This gives credence to our hypotheses that parliament did indeed play a role in shaping the foreign policy behavior of the state, this in spite of the uncoordinated and inconsistent nature of the EAC debate within the parliament.
Endnotes


3 For details on promotion of good neighborliness, see also, National Assembly Official Report, Vol. LXII, 1984:Col. 532.


6 Ibid., Col. 1125.


9 Ibid., Col. 1118.
10 Ibid., Col. 5.

11 Ibid., Cols. 23-33.

12 Ibid., Col. 24.
References


National Assembly Official Report, 2005: Col. 1116


National Assembly Official Reports, 2012: Col. 23.

National Assembly Official Reports, 2012: Col. 30-36.


CHAPTER FIVE
CONCLUSION AND RECOMMENDATIONS

5.0 Conclusion

Parliament is viewed as one of the essential institutions that represent the popular will of the people in a state (Oloo, 1995; Munene, 2003; Inter-Parliamentary Union, 2006; Adar, 2008). As an institution mainly composed of elected legislators, parliament among other things scrutinizes how the government spends taxes, ratifies international treaties and agreements, participate in declaration of wars, declaration of state of emergencies and in making laws. In carrying out these activities, parliament provides a crucial linkage between sovereign people and government in decision-making process.

The main purpose of the study was to examine the role the Kenyan Parliament plays in foreign policy decision-making towards the East African Community (EAC). It was advanced in Chapter One of the responsibilities bestowed on Kenyan Parliament like any other parliament is constitutional powers in foreign policy decision-making processes. In advancing this argument, various scholarly works were examined in the attempt to analyze how independent the Kenyan Parliament was in foreign policy decision making-processes of the state towards the EAC. Our main argument as noted in the chapter was that the constitution of Kenya has vested Parliament with prerogative powers to play an oversight role over the Executive and the Judiciary in foreign policy decision-making process.

We have noted in Chapter One that the Kenya Parliament played a role in influencing foreign policy behavior of the state in foreign policy matter. This was despite
interference by the presidency during the administrations of Presidents Jomo Kenyatta and Daniel Arap Moi. Against this background, we established one of the challenges that hindered the effectiveness of the Kenyan Parliament in its role in foreign policy decision-making process towards the EAC.

In an attempt to contextualize the impact of parliament in foreign policy this thesis proceeded from the hypothesis that Kenya Parliament plays an important role in foreign policy decision-making process towards the EAC. Decision-making models were adopted as our conceptual frameworks for analysis and for testing the hypothesis. The models were employed because they focus on institutions that have constitutional mandates on foreign policy decision-making. Our major argument here is that government institutions make decisions that are reflections of the national interests of the states and their nationals.

Graham T. Allison (1971) rational actor model, bureaucratic politics model and organizational process model have been used in Chapter Two in an attempt to test the hypothesis and conform to one of the study objectives. We ascertained that compared to rational actor model and bureaucratic politics, the organizational process model offers a clear explanation in establishing the exact role the Kenyan Parliament plays in influencing foreign policy behavior of the state towards the EAC. The model is largely appropriate because it is based on the assumption that depicts foreign policy decision-making as a process composed of numerous individuals and organizations working within a government with the desire to achieve national interests of the state. For the purpose of providing a general affirmation of the hypothesis and in conformity to one of our study objective, Chapter Three of the study sought to put
into proper perspective the role of Parliament between 1967 and 1977. We have noted that Parliament was indeed undermined by the executive in foreign policy matters in the case when Kenyatta declined to accept members of parliament resolutions to fast track formation of a federation within the East African region. From analyzing National Assembly Official Reports (Hansards), it was established that members of parliament participated in moving motions, raising questions and passing some legislations towards the EAC. Although Parliament did play a role in foreign policy decision-making process towards the EAC, it did so while being heavily overshadowed by the office of the president.

It was also observed in the chapter, that the failure to hold together the EAC and its subsequent collapse in 1977 was mainly caused by unequal sharing of benefits between the partner states, differing ideologies and personality differences between President Julius Nyerere and President Idi Amin.

Further assessment of the role of the Kenyan Parliament played in influencing foreign policy behavior of the states towards the EAC has been provided in Chapter Four. More specifically, the chapter assessed the role Parliament played in foreign policy decision-making process towards the EAC from the period between 2002 and 2012. As examined in the chapter, Parliament played a robust role towards the re-establishment of the EAC. For example, in 1987 members of parliament debated and reached an agreement with some of the provisions of the 1984 Mediation Agreement Bill that was advocating for the future cooperation between Kenya, Tanzania and Uganda and the modality of sharing of assets and liabilities of the defunct EAC (National Assembly Official Report, Vol. LXXII, 1987:Col. 37).
As argued further in Chapter Four, matters on ratification of the Custom Union Protocol and the formation of the Common Market Protocol were introduced on the floor of the House where members of parliament participated in the domestication process of the above two protocols. Members of parliament participated in debates geared towards the process of fast tracking the establishment of monetary union and the formation of a political federation within the East African region. We can therefore conclude that albeit the interference by the executive on the role of parliament in foreign decision-making process, parliament did however play a significant and recognizable role in shaping the state’s foreign policy behavior towards the EAC.

5.1 Policy Recommendations

The study has shown in great depth and provided an account of the role of the Kenyan Parliament in foreign policy decision-making process towards the EAC. The study has however observed several shortcomings that will need to be addressed for purposes of empowering and increasing the effectiveness of the Kenyan Parliament in its foreign policy decision-making process, in particular towards the EAC II. The following recommendations, based on the findings of the study, are highly recommended in order to achieve a more robust and effective institution in carrying out this critical mandate:

1. It has been noted in the study how the legal framework of the East African Legislative Assembly (EALA) confer legislative powers on parliaments and parliamentary political parties of the EAC partner states in the process of electing the EALA members. This is in accordance to Article 50 (1) of the EAC Treaty that provides that the EALA political party’s nominees should be
approved by parliaments of respective partner states of the EAC (EAC Secretariat, 2002). The electoral process of the EALA representatives therefore denies the people of East African region the democratic right to participate in election of the EALA members. There is therefore a need to ensure among other things that the EAC II Treaty legal framework is amended so that people of the East African region are allowed to participate directly in electing EALA members.

Historically within the EAC region, political parties among the partner states and in particular Kenya have largely been personally driven and at the same time not democratically managed (Wanyande, 2005; Adar, 2014). Many political parties don’t involve rank and file in party decision-making and this make the process of nominating the EALA members to be susceptible to abuse.

One of the key challenges facing the East African region is the practice of buying party certificates and bribery during political party nominations. This means that many individuals who are elected as members of parliament are mostly driven by the desire to achieve private benefits as opposed to collective interests of the East Africans. As a result, there is no genuine linkage between the EAC, in particular the EALA and the Kenyan people let alone the East African region in general. Peter Wanyande (2005) and Korwa G. Adar (2008a) further argue that election process bestow legitimacy on political institution. Direct involvement of the East African people in electing EALA members also constitute an important potential of legitimizing the integration process of the EAC II. In this regard, we recommend that
electorates within the East African region should be involved at the grass roots level in direct voting for the EALA members.

2. Our findings in the study shows there is no protocol dealing with foreign policy matters among the partner states. The EAC II Treaty does not also provide a provision for the establishment of such protocol that can act as liaison between Parliament and EAC II. This shows that there is need to establish a link between EALA and the Kenyan Parliament using the protocol. We therefore recommend that the Kenya Ministry of East African Affairs, Commerce and Tourism and other related ministries with responsibilities for regional cooperation among the partner states to be based in Arusha. This will ensure a direct link between EALA and the Kenyan Parliament during foreign policy decision-making process.

3. The evidence available in the study shows that the idea of the formation of a political federation have faced many impediments during the period of the EAC I and also in the EAC II. There is therefore a need for the establishment of an Office of Deputy Secretary General, Fast Tracking Political Federation, to be directly in charge of political federation within the East African region. What is desirable is also to give the Deputy Secretary General a legal mandate to fast track the formation of a political federation through the involvement of the people of the East African region in the integration process. As Adar (2008a) argues that lack of the involvement of the people of East Africa is one of the main challenges facing political integration of the East African region. The Deputy Secretary General will therefore ensure that popular participation of the people in the East African region in political integration process is institutionalized. This is because popular participation according to Joel D.
Barkan and John O. Okumu (1980) acts as the basis for decision-making in a political system.

4. To minimize conflict of interests that can emanate from the problem of domination of the Executive and the institution of the presidency in foreign policy matters towards the EAC II, the Kenyan Parliament need to work closely with the above two institutions for the purpose of ensuring that the state realizes full political, social and economic potential within the EAC II. Under this arrangement, Parliamentary Committee on Defence and Foreign Policy and Parliamentary Committee on Regional Integration should work closely with the Senate, Ministry of Foreign Affairs and International Trade, Ministry of East African Affairs, Commerce and Tourism and other relevant Ministries to promote integration.

5. Evidence from the study shows that many EAC motions moved, debated and passed in the House were mainly introduced by government ministers and assistant ministers. For example, in 1970 members of parliament debated and supported a bill permitting the government of Kenya to guarantee the loan borrowed on behalf of the four common services of the EAC (National Assembly Official Report, Vol. XIX, 1970:Cols. 1642-1643). It is however apparent that private members motions were rarely introduced especially between 2002 and 2012. Thus, members of parliament should be encouraged to take interest in foreign policy decision-making processes towards the EAC. To realize this objective, we recommend that Parliaments should hire well-trained staff to provide independent support to members of parliament during legislative process on foreign policy matters and other relevant matters related to the EAC. We also recommend frequent capacity building for members of
parliament on EAC foreign policy matters and national strategic interest of the state. If done properly, Parliament would be effective in the formulation and implementation of Kenya’s foreign policy towards the EAC.

6. A broad survey on the role of Parliament in foreign policy matters shows that there was lack of active participation in debates and passing of legislations towards the EAC II by the members of parliament. As per our findings in the study, sheer numbers of debates and motions moved in the House were associated with ministerial statements on the activities that were being conducted within the EAC I and the EAC II. This point is best demonstrated when the issues on the ratification of the Custom Union Protocol and adoption of the East African Common Market Protocol were discussed in the House. As we have seen in Chapter Four, the backbenchers and members of opposition did not raise essential questions on these two important issues that were introduced in the House by government minister and assistance ministers. Although it can be assumed that Kenya was adequately represented by the Executive branch of the government during the ratification of Customs Union and the Common Market protocols, nevertheless, we recommend that members of parliament should make use of the institution to influence government decision-making process towards the EAC II. In doing this, Parliament will be playing its political and legal mandates while at the same time protecting and advancing salient interests of Kenya within the EAC II.

The dominance of the Executive branch of the government in foreign policy making towards the EAC led to the collapse of the EAC I in 1977. We therefore recommend that the Kenyan Parliament as representative of the people should play an oversight role to balance the role of the Executive in the
integration process of the East African region. Parliament, as Adams Oloo (2005) contends, draws its mandate from the people and thus we further recommend that legislators must ensure a credible and independent Kenyan Parliament.

Independence of parliament in policy-making process is premised on the doctrine of separation of powers between the arms of the government. It is observed in Inter-Parliamentary Union (2006:4) that:

Within the traditional separation of powers-between the executive, legislature and judiciary-parliament as the freely elected body holds central place in any democracy. It is the institution through which the will of the people is expressed, and through which self-government is realized in practice.

However, as has been observed in this study, the role of Kenyan Parliament in foreign policy affair remained minimal due to the influence of the presidency in foreign affairs. Parliament was therefore reduced to making decision on other issues. There is therefore a need for Parliament to undertake radical measures such as educating parliamentarians on the importance of parliament and its legal and constitutional mandate on foreign policy decision-making process. This will further ensure that members of parliament are in control of foreign policy related issue areas within the House as opposed to allowing directives from the Executive to overshadow the role of parliament on foreign policy interests of the state.
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