

## The Non-Tariff Barriers in Trading Within the East African Community (EAC)

Trade, as one of the catalysts for growth within the East African Community (EAC), has to be properly promoted for effective integration. The available market of approximately 126.6 million people (2008 est) within the region of five countries opens up chances to fully implement the free trade goals for overall growth of the region. This Policy Brief aims at identifying the existing Non-Tariff Barriers (NTBs) that hinder the promotion of the regional cross border trade; and undertaking a review of the implementation of the current Customs Union Protocol and business environment promotion efforts.

### Introduction

The paper answers the following questions: Which trade barriers exist in the region?; How do these barriers hamper trade promotion in the region?; What measures have been employed in removing these barriers?; and What is the impact of the removal of these trade barriers to trade performance within the region?. Using the framework of the Customs Union Protocol that has an Article which combats the existence of the NTBs within the region? The paper examines the trade trends among member countries before and after the introduction and implementation of the protocol. The study then looks at the effects of the overlapping membership element that is common to most African countries; and all EAC member countries belong to more than just one regional bloc. It concludes that more efforts are needed for an effective removal of the NTBs within the region. This is the case since the prevailing NTBs still exist despite the NTBs removal timetable that was proposed.

On top of all this, there are other issues that are to as well be taken into consideration in order to curb the NTBs problem within the region, such as the inadequacies of infrastructure within the region and education on the benefits of regional integration. The

EAC member countries should ensure that the agreed regional efforts are being fully implemented at the national level such as by their revenue authorities and the immigration offices, to mention a few. Member countries also need to discourage the element of multiple memberships.

*“Trade within EAC will not grow to the desired levels unless our governments show commitment to eliminating various trade barriers in the spirit of integration”*

–Faustin Mbundu, EABC Chairman, 2010.

### Rationale of the Study

With the regional agenda of attaining an economic, social and political integration for all the member countries, and considering trade as one of the channels to achieve this goal, there is a huge need to eliminate all the existing trade impediments. The region is expected to benefit from up-scaled investment levels; increased exchange of goods and services levels; economic growth (which is a necessary condition for poverty alleviation); and the socio-economic cooperation which will directly impact the regional political and trade relations.

For many years, research has been a key tool towards making informed decisions and formulation of sustainable policies; this research therefore is expected to fill the knowledge gap on the existing trade restrictions in the EAC region and evaluate the proposed elimination measures. The project envisages coming up with recommendations on how to promote cross border trade and investment, development of trade policies that supports this objective, and trade relations within the region.

### **EAC Customs Union Protocol and NTBs**

The EAC Development Strategy (2001-2005) identified NTBs related to administrative and bureaucratic inefficiencies and standards and technical requirements to be the major impediments to trade within the region, others being poor infrastructure and communication networks. For these reasons, the EAC committed itself to promoting projects and strategies that would lead to the elimination of these obstacles to trade. Hence, EAC in its endeavors to further the liberalisation of intra-regional trade in goods to promote production efficiency in the community, to enhance domestic, cross border and foreign investment; and to promote economic development and industrial diversification, developed a CU Protocol which was signed in March 2004 by the member states and implemented from January 2005.

The CU Protocol identified a number of areas for development of the entire region, one<sup>1</sup> of them being the NTBs to trade under Article 13, where all the member countries agreed to remove all the existing NTBs to trade and not to impose any new ones.

### **Research Findings**

#### ***What Trade Barriers do exist in the Region?***

Broadly, NTBs in East Africa are rooted in a variety of causes that can be labeled as "structural bottlenecks". These include inadequate government structures/procedures; mismanagement; erratic application of rules; and bureaucratic staff attitude coupled with low staff morale. For the private sector, NTBs represent an additional cost factor and sometimes even lead to complete loss of markets or customers.

As per the 2005 study by the East African Business Council (EABC), NTBs on intra-EAC trade are categorised under the following categories: *Customs*

*and administrative documentation procedures; Immigration procedures; Cumbersome inspection requirements; Police road blocks; Varying trade regulations among the three EAC countries; Varying, cumbersome and costly transiting procedures in the EAC countries; Duplicated functions of agencies involved in verifying quality, quantity and dutiable value of imports and exports; and Business registration and licensing.*

#### ***How do these Barriers Hamper Trade Promotion in the Region?***

The NTBs within Africa affect the region in two main areas:

*The Intra-EAC trade:* In 2001, the Intra-EAC trade trends started declining and one of the reasons that were identified was the existence of the NTBs to trade (EAC Secretariat). In the formal trade within the region, food stuff and live animals continue to dominate, for almost all member countries, except the exports of Kenya. The other two dominating groups are beverages and tobacco, and inedible crude materials. The exchange of these products (statistically) within the region is adversely affected by NTBs.

*Informality:* Due to the existence of these NTBs, most trades/business people tend to opt for alternative means of moving goods and services from one country to another. This implies growth in the informal sector. Currently, this informal sector within the region accounts for almost half of the entire trade statistics, only that the figures do not appear in the formal statistics (Ogalo, V, 2010).

#### ***What Measures have been employed in removing these Barriers?***

The major initiative, which was launched in 2005 by the EABC in efforts to eliminate the existing NTBs in East Africa, was by commissioning the Business Climate Index (BCI) Survey. The main aim of the survey was to identify the nature and scope of NTBs that are experienced in the day-to-day business within the region. By the BCI report of 2008, the overall Business Climate Index across the East African region has declined to 44 points in 2008 from 51 points in 2007. Ugandans are the most positive business leaders with an index of 55, followed by Kenyans and Rwandans (45), Tanzanians (42) and trailing some way behind are Burundi's business leaders with an index of 32.

**What is the Impact of the removal of these Trade Barriers to Trade Performance within the Region?**

The findings<sup>2</sup> of the study on the impact of the NTBs on intra-EAC trade compare the trade performance in two phases: first phase being before the introduction and implementation of the CU Protocol (that is, before 2005); and the second phase being after the Protocol (2005-2008).

**Multiple Membership and the Implementation of the EAC's CU Protocol**

As was pointed out by Kenya's Minister for East Africa and Regional Cooperation dual membership in deferent regional economic groupings by East African member countries slows down the implementation of the CU Protocol due to diverse protocols and rules arising from other regional blocs (*The East African Newspaper*, June 2005).

**Conclusion and Recommendations**

NTBs in EAC, like in any other region, result in delays and increased costs which ultimately hinder the free movement of goods and services. Removal of NTBs is much more effective in boosting intra-regional trade than the method of tariff liberalisation (Odhiambo, W. 2010). To date, the persistent barriers include: lengthy customs administrative documentation procedures; lengthy and duplicated immigration procedures; cumbersome inspection requirements; un-harmonised standards; police road blocks, among others. Tanzania and Kenya are noted to be the countries with the highest number of reported trade and non-trade barriers. According to the EABC, the most notorious agencies and departments include revenue authorities, police, and bureau of standards as well as immigration, and local government agencies.

Country	Impact of the CU Protocol in Trade Performance
<p><b>Tanzania</b></p>	<p>With the exception of 2007, Tanzania's imports from Kenya and Uganda have been on the rise since introduction of the CU Protocol. Exports, on the other hand, have recorded a consistent increase, almost doubling in 2008 compared with 2004 (before the protocol).</p> <p>Generally, the trade share between Tanzania and the rest of EAC member states seems to have been only marginally affected due to the introduction of the CU Protocol.</p>
<p><b>Kenya</b></p>	<p>Kenya's trade with the region have been increasing since 2002 until 2008 (that is before and even after the introduction of the CU Protocol). On the other hand, re-exports to Tanzania accounted for about 45 percent of total exports in 2003 and has since been declining in the recent past reaching six percent in 2007. Major re-exports to Tanzania have been machinery &amp; transport equipments, chemicals and manufactured goods (Evarist Mugisa <i>et.al</i>, 2009).</p> <p>Generally, Kenya's trade performance has managed to maintain its position after the introduction of the CU Protocol.</p>
<p><b>Uganda</b></p>	<p>Uganda's proportion of trade with other EAC member states registers both increasing and decreasing trends. Before the implementation of the CU Protocol, Uganda has been exporting quite little to both Tanzanian and Burundi markets; but managed to register positive increases to the rest of the region as from 2005.</p> <p>Hence, the introduction of the CU Protocol has had positive impact on Uganda's trade performance; with positive impacts being realised as from 2006.</p>

This then implies that a full economic integration within the EAC region has been and is still a challenge. But all in all, the introduction of the CU Protocol stamped on the proposal of eliminating these existing NTBs and it has so far played a major role in improving the level of intra-EAC trade.

Hence, the study recommends that, to start with, the poor state of the physical infrastructure (the roads, railways, airways, energy, and telecommunications) within the region needs to be improved so as to reduce the costs of doing business and facilitating efficiency in

production, transportation and delivery of goods and services. *Secondly*, the involved traders/ business people in the region do not have enough education or knowledge on how to properly do business; hence there should be a formal educating system for this group of people so as to have a greater positive impact on the regional trade performance. And *lastly*, the informal sector needs to be curbed. The EAC secretariat need to find ways on how to harmonise the prevailing domestic tax systems, laws and procedures so as to reduce distortions and smuggling as well as introducing some level of predictability in business transactions.

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## ENDNOTES

- 1 Others being trade facilitation; anti-dumping measures; competition policy and law; re-exports of goods; and standards and measures
- 2 The findings are for Tanzania, Kenya and Uganda since Burundi and Rwanda joined the CU Protocol in 2007. Hence the comparison method of the trade trend before and after can not be done properly

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