

FORMAL RECOGNITION OF THE ROLE PLAYED BY INFORMAL CROSS-BORDER TRADE IS THE START OF DEVELOPING MEASURES TO ADDRESS ITS CHALLENGES WITHIN EAC

Introduction

As cross border trade grows among the East African Community (EAC) economies, a significant proportion of it is conducted through informal channels and is therefore lost without capturing in the official national statistics. The players, a majority of whom are survivalist enterprises, benefit from this kind of trade and contribute to the economies indirectly. However, some, mostly big formal ones who choose to engage in ICBT, do hurt the EAC economies real big; unlike their survivalist counterparts, they mostly trade in third party goods which bear huge tariff tags and other regulations but choose to evade such regulations and custom duties either fully or partially through such illegal practices as **under-invoicing, misclassification, mis-declaration** of country of origin, and/or **bribery**. These traders have, in most cases, valid reasons why they chose to do business in that manner. But they end up hurting economies and offer undue competition to their counterparts who have otherwise paid often punitive taxes and duties. Instead of targeting symptoms of these activities, it is important to target their real causes. There are critical measures that the EAC Partner States need to enforce so as to reduce the negative implications of ICBT and support regional trade and investment integration.

The Positions

Following a conclusive consultative research, CUTS Africa Resource Centre conducted various workshops and public dialogues incorporating a wider representation of the civil society, business community, private sector, government officials, media, policy makers, researchers on the informal cross border trade in EAC and its implications for regional integration and development, under a project known as "Building an Inclusive East Africa Community (BIEAC)". These consultations have yielded the following positions:

1. EAC governments must take deliberate efforts to develop a common definition of what constitutes an informal sector in such a way that it can be targeted with appropriate policies. Each of the governments must also make deliberate efforts to construct an inventory of the number of informal traders including the trends of growth of the sector and its contribution to the economies. Then, together they must set a common threshold for determining and classifying the informal sector in order that it is targeted with supportive policies including taxation policies. It is in this view that we maintain the difference between the formal and informal sector should be clarified and that informality should not necessarily be equated to illegal trade.
2. Informal cross border trade (ICBT) in EAC represents a significant proportion of regional trade. We recommend that in order to address any challenges with ICBT, EAC governments should seek to determine and deal with the factors that drive its growth and not fighting the traders who are merely eking a living out of the business and satisfying basic rights that government ought to fully provide such as health and education.
3. We avow that ICBT is a reality worldwide and it will be fruitless for EAC to seek to eradicate the practice altogether. Into the unforeseeable future, we see ICBT as remaining a part and parcel of socio-economic lifestyle and practice of EAC citizens, especially as a source of employment and income generation, especially for traders who cannot maintain formal trading. In this light, we advice that the sector be formally recognised and measures be undertake to provide it with an appropriate operating environment while making sure its adverse effects to the economies of EAC are fully understood and addressed.

4. We advise against stigmatization and the damage that has been met on the human psyche of the players in the sector. Instead, we urge EAC governments to begin to embrace, encourage and promote trade exhibitions involving informal traders across EAC border points. EAC governments must also consult with the ICBT traders more regularly, as well as introduce market development programs to promote formalisation.
5. We also reiterate the importance of involving civil society organisations in formulating and implementing such policies that are supportive and beneficial to the ICBT traders and that CSOs should be involved to the extent that they have the ability to network, create awareness and encourage ICBT traders to reform their activities so that they may benefit from policy reforms and benefits linked to formal business sector. This should go along with the demystification of the term “formalisation” to remove any unwarranted fears that are currently labeled or associated with it.
6. Creating a friendlier operating environment with fair cross-border trade rules and regulations taking account of the characteristics of ICBT players will not only benefit the ICBT players but all EAC economies as well. To the EAC countries, it could be the start of a successful process of formalising the activities of informal traders and consequently enable the countries to collect better information in order to improve the planning and decision making. Similarly, to the ICBT players, creating a favorable environment for trade may lead to a better understanding of their rights as they trade across the region, hence cases of paying bribes to border officials and smuggling of goods across the borders will be reduced. We therefore call upon EAC governments to undertake aggressive publicity and dissemination of the EAC treaty, the Customs Union Protocol, the Common Market, the Community’s policies and other applicable laws and principles. We further urge the EAC governments to apply practical approach towards ensuring the benefits of the EAC regional integration process reach the citizens by increasing information dissemination and capacity building for small scale border traders on how they can benefit from EAC integration.
7. We further affirm that government agencies should be educated on the CU protocol and promote attitude change among customs officials and other border officials who continue to collect tax on duty-free goods and those seeking rent from ICBT, and monitor compliance.
8. In order to achieve the information sharing element, we the civil society pledge to create programmes and develop policies that deal with justice, equality and accountability in the informal trading system. In addition, we guarantee production of user friendly documents outlining the EAC integration processes, benefits and organize educative forums to address issues in order to have tangible results to the beneficiaries especially the informal traders at border points.

Conclusion:

In a nutshell, getting accurate overview of the extent of informal cross-border trade might be difficult, but such trade still represents significant proportions of cross-border trade in East Africa. Specifically, ICBT can in the short-to medium-term encourage entrepreneurial activity and regional trade, contribute to greater food security and enhance income earnings and employment opportunities for the EAC vast population. Therefore, this positional paper advocates for important measures that the EAC governments must embark on in order to stimulate positive effects of ICBT so as to deepen regional integration.

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