



UPDATE ON EAC REGIONAL INTEGRATION

EABC TRADE AND POLICY BRIEF ON THE COMPREHENSIVE REVIEW OF THE EAC CET AS AT 28TH MARCH 2019

For the period of January to March 2018, EABC Secretariat participated in EAC Regional Task Force Meeting for Comprehensive Review of the EAC Common External Tariff (CET) with a view of representing members views and concerns.

One of the key instruments of the EAC Customs Union Protocol is EAC Common External Tariff (CET). EAC CET is a very important annex of EAC Customs Union Protocol as it reflects the tariff structure between the EAC Partner States and the Rest of the World (RoW) with regard to import duty charged on imported products into the Community.

I. COMPREHENSIVE REVIEW OF THE EAC CET

EAC Regional Task Force Meeting for Comprehensive Review of the EAC Common External Tariff (CET) 26th February- 2nd March 2019

EABC represented members in the Regional Task Force Meeting for the Comprehensive Review of the EAC CET which was held in Kigali, Rwanda on 26th February- 2nd March 2019 as representative of the Private Sector in the region. The four-day meeting deliberated on six agenda which are: the Regional Report; the bands (CET structure) and criteria for classifying and categorizing goods under CET; recommendations made on management of exemption regimes and Duty Remission Schemes; proposals on sensitive list; proposed measures to be taken to eliminate Stays of Application (SOAs); matters referred to CET Review during SCTIFI and review of the Regional work plan:

- **Consideration of the Regional Report**

During the meeting, the Regional Consultant presented the consolidated report that highlighted the status of the implementation of CET on Regional integration taken in to consideration the following issues: challenges experienced during CET implementation; global and regional changes impacting on CET operations; I on regional economies; different approaches for review of the

CET:-*classifications & principles and criteria for CET structure*; different approaches for review of CET:- *country proposals for CET review & comparative CET benchmarks* ; results from simulations: *socio-economic effects, Agriculture and industrial effects, effective rate of protection(ERP) and effects on AfCFTA and TFA*; Proposed CET Structure (bands and tariff rate, WTO Compatibility, Proposals on elimination of Stys of Application (SOAs), review of trade regimes and Proposals on legal reviews.

The meeting considered the report and observed that ongoing CET review should enhance economic growth and development in the EAC region, promote social welfare, increase intra and extra EAC trade, promote food security, generate employment and safeguard revenue. The meeting also noted that UNCTAD and BEC methodologies were employed in the reclassification of EAC CET structure while UNIDO and FAO data sets were used in assessing adequacy in supply potential in the region.

In addition, the presentation was made on situation analysis highlighting the impact of EAC CET on regional economies; global and regional changes on the potential impact of EAC CET review, approaches for CET review, simulation on socioeconomic effects, industrialization, agriculture and employment as well as analysis on sector implications and the impact of the proposed CET structures on domestic taxes.

- **Consideration of Tariff Bands (EAC-CET Structure)**

The 5-day meeting discussed and agreed on the criteria for classifying and categorizing of goods in the four categories as follows:

- ✓ **Category I:** This comprises **Raw Materials** and **Capital Goods**. Raw materials include goods not subjected to any form of transformation in production. It also includes residues, waste and scrap in as far as they are only necessary for the recovery of raw materials. On the other hand, Capital goods entail durable industrial goods (plant and machinery) and livestock for reproduction (purebred breeding animals) as well as semen, plants for propagation and seeds for sowing.
- ✓ **Category II:** This comprises **Intermediate Goods** which includes goods that have undergone some degree of transformation. Such goods would require further processing before they are ready for final consumption. The category II also includes ‘parts’ in as far as they are identified as such in the HS code.
- ✓ **Category III:** This comprises **Finished Goods** which are goods ready for consumption.
- ✓ **Category IV:** This category entails **Goods for Differentiated Categorization**. This category comprises following goods: Goods not falling in any of the three categories above

and need special treatment; meritorious goods which are based on social and humanitarians considerations, goods for dual use and goods which may not be sufficiently accommodated in the CET and could require special policy measures.

The insisted that during mapping of goods into respective categories focus should be made on the level of processing and availability of products to protect and promote production in the region. Meeting went further to identified tariff lines where there was convergence, exceptions and movement as proposed by four countries (Kenya, Rwanda, Tanzania and Uganda).

In summary, based on EAC CET 2017 version, the national CET proposals established the following three main issues:

✓ **Tariff Bands Exceptions :**

Tanzania proposed exceptions of 35 percent and 20 percent bands covering 597 tariff lines and 14 tariff lines, respectively. Uganda proposed 35 percent and 5 percent bands covering 330 tariff line and 174 tariff lines, respectively. Kenya on its part proposed exceptions of 30 percent band covering 594 tariff lines. Rwanda had no exceptions while Burundi didn't attend the meeting.

Kenya and Uganda proposed band of above 25 percent on 104 tariff lines with the exception for 60 tariff lines where Uganda has proposed specific duty in addition to the ad valorem rate of 35 percent.

✓ **Tariff Bands Convergence**

Kenya, Tanzania and Uganda in total have convergence on 17 tariff lines for proposed band above 25 percent, except for three tariff lines which are HS Code 7210.30.00; 7210.61.00 & 7212.50.00 where Uganda and Tanzania also proposed increment of the specific duty from USD200 to USD 250 and USD 350 per metric ton. Kenya and Tanzania have convergence on 45 tariff lines for additional band above 25 percent except for 10 tariff lines where Tanzania has proposed additional specific duty, while Rwanda has proposed movement of some of the proposed goods to a band of 10 percent and 0 percent. In addition, Uganda and Tanzania have convergence on 64 tariff lines for the proposed band of 35 percent, except on 4 tariff lines where Uganda has proposed in addition of a specific duty whichever is higher. There are no convergences on Tanzania's proposed ban of 20 percent with other Partner States.

✓ **Tariff Bands movement**

Rwanda has proposed movement of the two tariff lines (HS Code 7210.30.00 and 7210.61.00) from the current band of 25 percent or USD200.MT whichever is higher to the band of 10 percent. Rwanda has also proposed movement of HS Code 1511.90.00 –*Palm olein* from o a band of 25 percent to a band of 10 percent

The Summary of Comparative Analysis of Prather States Proposed CET Structures

| Classifications | Applicable tariff, % | EAC CET 2017 | | Kenya | | Rwanda | | Tanzania | | Uganda | |
|----------------------|----------------------|--------------|---------|--------------|---------|--------------|---------|--------------|---------|--------------|---------|
| | | No. of lines | % share | No. of lines | % share | No. of lines | % share | No. of lines | % share | No. of lines | % share |
| Raw materials | 0 | 2,128 | 37.44 | 2,120 | 37.30 | 2,282 | 40.15 | 2,121 | 37.32 | 2,098 | 36.91 |
| | 5 | | | | | | | | | 162 | 2.85 |
| Intermediate | 10 | 1,159 | 20.39 | 1,108 | 19.49 | 1,296 | 22.80 | 1,148 | 20.20 | 1,010 | 17.77 |
| | 20 | | | | | | | 14 | 0.25 | | |
| Final/consumer goods | 25 | 2,334 | 41.06 | 1,812 | 31.88 | 2,044 | 35.96 | 1,747 | 30.74 | 2,027 | 35.66 |
| | 30 | | | 585 | 10.29 | | | | | | |
| | 35 | | | | | | | 597 | 10.50 | 330 | 5.81 |
| Sub-Total | | 5,621 | | 5,625 | | 5,622 | | 5,627 | | 5,627 | |
| Sensitive | | 63 | | 59 | | 62 | | 57 | | 57 | |
| Total Lines | | 5,684 | | 5,684 | | 5,684 | | 5,684 | | 5,684 | |

- **Consideration of Recommendation on Management of exception Regimes and Duty Remission Scheme (DRS)**

Regional Consultant made a presentation on the proposed recommendation on the management of exceptions and Duty Remission Schemes (DRS). Some of the proposed recommendations included:

- a) Digitalize the process and products benefiting from DRS to facilitate online application at the national level and regional verifications of supply potentials. The process for notifications of DRS Procedures be accessible to the private sector,
- b) Registering the manufacturers of the products to benefit from DRS exports,
- c) Establishing a regional database of sector-specific manufacturers for the purpose of verifying regional supply capacities;
- d) The description of the finished products benefiting from DRS inputs should be aligned to the appropriate HS Code;
- e) Firms to register and file quarterly returns, for monitoring and in order to qualify for the next allocation;
- f) Review and limit the list of products benefiting from DRS to those inputs of dual application;
- g) Adoption of universal access to products benefiting from regional duty remission, to facilitate such products to trade in the EAC region provided they meet Rules of Origin (RoO), with the beneficiary companies being gazetted, provided that such goods do not benefit from national remission schemes;
- h) To avoid unfair trade practices, within the region, it is proposed that:
 - I. The use of customs bonds as security on DRS should be enforced uniformly across the region, with standardized language on quantity and length of time for application;
 - II. Partner States to review and align their national level incentives with the regional mechanisms, to eliminate unfair trade practices;
 - III. Due process be taken in sensitizing the private sector on requirements and benefits of the various remission schemes for application and enhanced competitiveness

In discussing the proposed recommendations the meeting noted that they mainly addressed issues on improving the administering of DRS and advised that the proposals should be of policy nature to address issues relating to the ongoing CET review. It was proposed that consideration should be made in regard to the treatment of dual remission scheme (Manufacture for export and domestic market), the proposal on management of exemption regimes and streamlining exemptions provided under EAC CMA by moving some products to the CET and duty remission scheme. It was therefore proposed that a meeting of legal and tariff experts be convened to identify products to be moved to the CET and duty remission from the Fifth Schedule of the EAC CMA, 2014.

- **Consideration of Proposals on Sensitive List**

The Regional Consultant made a presentation on recommendations on the Sensitive List as follows:

- a) All EAC Partner States recommended for retention of the Sensitive Items (SI) List;
- b) Rwanda propose the application of a uniform tariff rate for all qualifying products;
- c) Retain products of national and regional interest in SI, on the basis of food security
- d) Partner States to evaluate the introduction of the new proposed products- fish, poultry and poultry products and meat and meat products proposed by Kenya and Tanzania into the SI List; and
- e) Cases where Stay of Applications (SOAs) on Sensitive Products be reviewed in line with decisions made on the implementation of SOAs on finished products.

The meeting observed that:

- (i) Partner States to identify goods that require protection and assign higher rates than the CET
- (ii) There is a need to have different rates for different products
- (iii) New proposals for sensitive products to be subjected to the developed and greed criteria

- **Consideration of Proposed Measures to be Taken to Eliminate Stays of Applications (SOAs)**

The meeting considered recommendations presented by the Consultant on the Stays of Application as follows:

- a) Products that continued to be accessed through SOAs should be reviewed during reclassification to be retained at the SOAs Rates in the regular CET;
- b) Agree on the safeguards and modalities for bridging seasonality gaps
- c) Subject to Effective Rate Protection (ERP), review the CET for those products that are negative;
- d) In the case of agricultural products, which may be devastated with vagaries of weather, provisions in the CMA be made to bridge seasonality gaps;
- e) EAC Duty Remission Regulations, 2008 be reviewed to include the temporary stay of CET rate, pursuant to the EAC Customs Union Protocol, Articles 12(3) and Articles (39(1)(i)(c)
- f) Customs regulations for the management of SOAs, which should incorporate limitations to avoid import surge;
- g) Establish a threshold for screening products that would be considered for the temporary stay of CET rate;
- h) Apply regional deficit, trigger, as the basis for determining the necessity of the temporary stays of applications of the CET Rate;
- i) Coming up with triggers to kick in remission schemes;
- j) EAC Partner States to review EAC CMA, to quantify imports under seasonality shortages, to cater for safeguards that may be applied by the Partner States in case of shortage of supplies or in cases of an upsurge.

The meeting discussed the recommendations and agreed that the region should do away with Stays of Applications, which have created in intra EAC trade and undermined the credibility of EAC CET. The meeting also noted that section 140 only caters for industrial inputs and raw materials. It was proposed the section should be amended to provide relief of duty on finished products in special circumstances where a Partner State experiences shortfalls. However, it was agreed that relief shall be time-bound and quota based and supported by evidence of non-availability within the region. Relief of finished products shall be catered for under duty remission scheme at the region level. The meeting further recommended for operationalization

of safeguard measures in the customs law where a need arises to safeguard economies.

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The EABC Trade and Policy Briefs are to inform, educate the Private Sector about recent developments on trade and investments in the region. EABC's raison d'être is to seek change in public policy in order to promote a business environment conducive for business formation, growth and expansion. EABC is a regional platform through which the business community can present their concerns at EAC policy level, with the overall aim of initiating dialogue with policymakers at all levels to allow speedy resolution of concerns

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