



EAST AFRICAN BUSINESS COUNCIL POSITION PAPER ON THE STATUS OF IMPLEMENTATION OF EAC DUTY REMISSION SCHEME WITHIN THE FRAMEWORK OF EAC MARKET

1. BACKGROUND

Section 140 of EAC Customs Management Act (CMA, 2004), provides for duty remission for industrial inputs imported for manufacture goods. The administration of this section is carried out through EAC Customs Management (Duty Remission) Regulations which became effective from 1st May 2008. The Regulations provide for administration of imported industrial inputs for manufacture of goods for both export and home use.

2. THE PROBLEM

Partner States are implementing Article 140 of the EAC CMA concurrently with Article 25 of the EAC Customs Union Protocol which only caters for “Export Promotion Schemes”.

While Article 140 of the EAC CMA provides for general duty remission whether a product is manufactured for local consumption or export, Article 25 of the Customs Union Protocol provisions is mainly towards products for exports outside the region.

The private sector is made to believe that, the stem of the problem is due to the fact that Article 140 of the EAC CMA 2004, derives its powers from Article 27 of the Customs Union Protocol which is under Part F providing for Export Promotion Schemes under the same Protocol.

This means that 100% of the products manufactured under any export promotion schemes are expected to be sold outside the EAC region but in case it is sold in EAC region then only 20% of annual production will be allowed, provided that full duties, levies and other charges are paid.

However, not all manufacturers enjoying duty remission schemes are under export promotion schemes. This means that charging import duty equivalent to prevailing duty rates on similar imported goods as provided by Article 25 of the Customs Union Protocol by

Destination Revenue Authorities is unfair. The duty to pay should be the one which was forgone by the source Revenue Authority at the point of importing the respective input and should be collected by the source Authority not on the final product and the destination Authority.

3. THE ACTION BY REVENUE AUTHORITIES IN THE EAC AND THEIR IMPACT

The following action by Revenue Authorities in the Partner States is adversely affecting intra-EAC exports because;

- ⇒ They are penalising intra EAC exports without enquiring whether they are made from industrial inputs imported through duty remission or not.
- ⇒ They are charging duty on exports made from industrial inputs obtained locally or duty paid industrial inputs.
- ⇒ They are assuming that gazetted quantity translate into exports but we are aware that some gazetted quantities are used for manufacture of goods outside EAC Region, some gazetted quantities are used for manufacture different goods from those sold in EAC region and finally exports to other Partner States are manufactured from industrial inputs outside the gazetted quantities.

The actions by Revenue Authorities have negative impact on;

- ⇒ Manufacturers operating under duty remission scheme have on-going contracts.
- ⇒ There are many manufacturers (over 250) operating under Duty Remission Scheme and selling goods in the EAC region. The action is having serious impact on many manufacturers.

The situation is worsen by the fact that harmonisation of domestic taxes (VAT, excise duty etc) has not been finalised. It is not clear how domestic taxes will be handled with regard to goods exported to the EAC region.

EAC Trade Flows 2008 - 2011

	% of Intra-EAC Trade to the Total Trade (Source: EAC Facts and Figures 2012)USD Million			
Country	2008	2009	2010	2011
Intra- Exports	2,180.8	2,210.1	2,355.7	2,706.1
Intra- Imports	1,484.3	1,655.4	1,764.6	2,258.8
Total intra-EAC Trade	3,665.1	3,865.5	4,120.3	4,964.9
Total EAC Trade (EAC + rest of world)	34,469.75	31,806.62	36,624.64	45,790.25
% of Intra-EAC Trade to Total Trade	10.6%	12.2%	11.25%	10.84%

The value of EAC total trade was US\$ 45.8 Billion in 2011 which is 54% of GDP. Out of which the value of Intra-EAC Trade was US\$ 5.0 Billion in 2011. (5.9%). The intra EAC trade is still low, it dropped from 11.4% in 2010 to 10.8% in 2011. In 2011, EAC Traded more with the rest of the world, hence reduced the percentage of Intra-EAC Trade. Trade with the rest of the world increased from 88.6% in 2010 to 89.2% in 2011. The challenges facing manufacturers operating under EAC duty remission might reduce further intra-EAC Trade in favor of trade with the rest of the world.

4. CONCLUSION

The arbitrary action by Revenue Authorities is adversely affecting Intra-EAC exports and finally affecting Intra-EAC Trade. Many of the manufacturers are not violating article 140 of the EAC CMA, 2004, which provides for duty remission schemes but being subjected to the provisions of Article 25 of the Customs Union. The issue, therefore needs to be discussed in the Committee of Customs or Council to agree on how best to resolve the impasse.

5. WAY FORWARD

In order to address the concerns raised above, we propose the following;

- ⇒ **The products whose inputs are imported through duty remission for home market should not be subjected to duty when exported to other Partner States. Inputs referred to in this case include, industrial sugar, paper for manufacture of exercise & text books, exam papers, CKD for motor cycles etc.**
- ⇒ **The full duties should not be charged on the final product when sold in the Customs territory but instead they should be recovered from imported inputs which were used to produce final products, by the Revenue Authorities from the source Partner State.**