POLICY ADVOCACY AGENDA
2023/24

The Voice of the Private Sector in East Africa





The Voice of the Private Sector in East Africa

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FOREWORD

FROM THE CHAIRPERSON OF THE BOARD

The 2023/24 marks the 25th anniversary of the East African Business Council (EABC), which demonstrates our track record of representing the interests of the private sector in the EAC integration process. As an organization, we are celebrating two major milestones. One encourages us to reflect on the successes of our past, while the other gives us confidence to face our future.

EABC, as the regional apex business association, has come a long way since the early days when Kenya, Uganda, and Tanzania were negotiating the new Regional Economic Community (REC), leading to the formation of the East African Community (EAC) in July 2000. Interestingly, EABC was formed much earlier in 1997 so that it could represent the private sector in the negotiation of the Treaty for establishing the EAC and its Customs Union Protocol, which ushered in the first stage of EAC integration.

Over the past two and a half decades, policy advocacy has emerged as a core pillar of EABC's activities. Policy advocacy has been used to advance the interests of the EAC private sector in the integration process and push for a conducive business environment in the region. The overarching objective is to enable the private sector to take advantage of the opportunities presented by the EAC integration process. The EAC private sector requires a conducive business environment to flourish nationally, regionally, and internationally.

The seventh EABC Policy Advocacy Agenda 2023/24 presents key policy priorities that our region must embrace to sustain the recovery of our businesses and economies of the EAC Partner States. The Agenda recognizes the challenges and opportunities brought about by the impact of the COVID-19 pandemic, geopolitical crises caused by the Russian-Ukraine war, AfCFTA integration, climate change, as well as the admission of new members into our Community.

Our Agenda this year is anchored on a few regional policy priorities and recommendations which, if effectively implemented, will significantly contribute to boosting intra-EAC trade and investment. More importantly, it will enhance the participation of the EAC private sector in the AfCFTA through trade and investment.

The Agenda highlights the challenges that prevent the private sector from taking advantage of the opportunities presented by the EAC integration processes, especially at the stages of the Customs Union and Common Market. It also proposes key recommendations that will unlock trade and investment opportunities within and outside the region as the EAC intensifies its efforts to integrate with the rest of the world and, more importantly, with the rest of Africa through the African Continental Free Trade Area (AfCFTA).

Our Policy Advocacy Agenda calls for concerted efforts from the EAC Partner States to deepen integration by fully implementing the agreed commitments, decisions, and directives related to the Customs Union, Common Market, and Monetary Union. These are the three stages that the EAC Partner States have agreed upon over 20 years as a roadmap to achieve a United East Africa. However, none of the stages has been fully achieved as we are still struggling with implementing basic commitments such as the elimination of non-tariff barriers, harmonization of domestic taxes, free movement of goods, workers, services, persons, capital, as well as the enjoyment of the rights of residence and establishment. On Monetary Union, the ten-year roadmap elapsed in 2022 without any noteworthy landmarks. As a result, last year, the Partner States met and set another ten-year roadmap for achieving the Monetary Union by 2032!

It is the expectation of the private sector that efforts to deepen our integration will make our Community and economies more integrated, efficient, and competitive. Subsequently, this will result in a more resilient REC that can tackle ever-evolving global challenges.

I challenge all our members, especially national business associations that have been actively involved in coming up with harmonized regional policy priorities, to join EABC and collectively advocate for the policy recommendations contained in this Agenda.

With a strong commitment to EAC integration, EABC once again appeals to the EAC Governments for continued public-private dialogue at both national and regional levels to advance our integration agenda to another noteworthy milestone.

I thank all the private sector for their dedication and commitment to creating wealth for the prosperity of all East Africans.

Madam Angelina Ngalula
Chairperson EABC.

FOREWORD FROM THE EXECUTIVE DIRECTOR

Mr. John Bosco Kalisa
Executive Director / CEO

It has come to light that one of the reasons why the EAC economies were much more resilient to the impact of COVID-19 compared to other regions was mainly due to their level of integration. According to the African Development Bank (AfDB), the region registered positive economic growth of 1.5%, 5.1%, and 4.2% for the years 2020, 2021, and 2022, respectively. The regional economy is projected to grow by 5.0% in 2023 and 5.4% in 2014. This represents significant growth considering that the global economy is projected to grow at 3.4%, 2.9%, and 3.1% in 2022, 2023, and 2024, respectively.

While most economies across the world have been grappling, the projected macroeconomic indicators for the EAC Partner States are relatively stable. For example, the AfDB Macroeconomic Outlook of January 2023 projects that for 2023/24, Rwanda will register GDP growth of 7.9% and inflation of 6.7%, while Uganda will record GDP growth of 5.9% and inflation of 6.2%. In the same period, Tanzania is expected to register GDP growth of 5.6% and inflation of 5.1%. Kenya is expected to record GDP growth of 5.4% and inflation of 6.0%, while Burundi's GDP growth is projected at 4.4% with inflation at 9.5%. South Sudan is expected to experience the lowest GDP growth of 2.2%, with inflation reaching 14.2%. The higher inflation in the region is mainly caused by higher international prices, in addition to recurrent climate events such as drought. This is due to the fact that although our production is relatively diversified, all countries in the EAC are largely net importers, with current account balances in percentage of GDP ranging from -10.8% to -0.7% across the EAC Partner States. Global inflation is estimated at 8.8% in 2022 and projected to be 6.6% in 2023 and 4.3% in 2024.

The dismal performance of the global economy is mainly attributed to severe health outcomes in China, the escalation of Russia's war in Ukraine, worsening debt distress, financial markets repricing, and further geopolitical fragmentation. However, the EAC economy is performing very well against a backdrop of rising global inflation, tightening financial conditions, and worsening debt vulnerabilities for developing economies, owing to the protracted COVID-19 pandemic and geopolitical tensions.

In the EAC, the year 2023/24 is projected to usher in a new dawn for the EAC Partner States in terms of widening and deepening the EAC integration process. In terms of widening the integration process, the region officially admitted the Democratic Republic of the Congo (DRC) as the seventh member of the EAC in 2022. It is the expectation of the EAC private sector that the DRC will start implementing the EAC commitments this financial year, thereby expanding the EAC market to over 300 million people with a combined GDP of over USD 300 billion. The private sector eagerly awaits free movement of goods, persons, and services between the DRC as a new member and the other EAC Partner States. Furthermore, the EAC private sector is expected to expand its trading under the AfCFTA after learning through the AfCFTA Guided Trade Initiative.

In terms of deepening integration, the EAC Partner States are expected to consolidate the progress made in the implementation of the Customs Union and Common Market protocols. The private sector expects that the EAC Partner States will expeditiously implement commitments under the Single Customs Territory (SCT), activate the trade remedies committee, remove non-tariff barriers (NTBs), and harmonize domestic taxes. These measures will guarantee the free movement of goods and boost intra-EAC trade and investment.

With regards to the implementation of the Common Market protocol, the EAC private sector expects the Partner States to give effect to the implementation of the regulations on the free movement of services and service suppliers, the mechanism for the removal of restrictions on trade in services, and the revised schedules of commitments on progressive liberalization of services. These measures will guarantee the free movement of the agreed-upon seven service sectors, as well as service suppliers. Furthermore, it is high time for the EAC Partner States to commence negotiations on the remaining five service sectors. To lower the cost of doing business, the EAC Partner States should also liberalize air transport services, and all Partner States should join the One Network Area (ONA) Model for telecommunications.

Regarding the Monetary Union, which is the third pillar of EAC integration, Partner States need to give special attention to the low progress in terms of the implementation of the agreed commitments. Some of the commitments that are lagging behind include the attainment of convergence criteria, the creation of key institutions of the East African Monetary Union (EAMU), the harmonization of monetary and exchange rate policies, the harmonization of regulatory frameworks, and the enhancement of the East African Payment System (EAPS).

Implementation of the above recommendations will make our region and private sector more integrated, resilient to economic shocks, and competitive enough to play an active role in intra-EAC trade and investment, intra-African trade, and international trade.

Mr. John Bosco Kalisa
Executive Director / CEO

ACKNOWLEDGEMENT

We would like to express our sincere gratitude and appreciation to all those who contributed to the development of the EABC Policy Advocacy Agenda 2023/24. The creation of this agenda involved the active participation of policy team members from business associations in the EAC Partner States, who have been traditionally involved in this process.

We extend our heartfelt thanks to our valued members for their valuable inputs, which formed the foundation of this agenda. The inputs were carefully analyzed by the EABC Policy Team at the Secretariat, with the guidance and expertise of the TACT (Technical Advocacy Coordination Team). We are grateful to the members of TACT, which includes policy team members from EABC and business associations across the EAC Partner States, including our National Focal Points (NFPs) and Manufacturers Associations.

Special appreciation goes to the members of the EABC Policy and Advocacy Committee (PAC), under the chairmanship of Mr. Simon Kaheru, for providing strategic direction on behalf of the Board Members throughout the development process. We would also like to express our equal gratitude to the EABC Executive Director, Mr. John Bosc Kalisa, for his invaluable technical guidance.

The successful creation of this agenda would not have been possible without the dedicated efforts of the EABC Trade and Policy Team. We extend our sincere thanks to Mr. Adrian Njau, who led the team, as well as Mr. Frank Dafa and Geoffrey Kamanzi for their valuable support. Their tireless work in compiling, analyzing, harmonizing, and drafting the policy priorities and recommendations for this agenda is greatly appreciated.

Lastly, we would like to give a special thanks to the EABC Public Relations and Communications Team, led by Patrick Moshi, for their diligent efforts in reviewing, editing, and designing the entire agenda. Their contribution in ensuring the clarity and coherence of the document is highly commendable.

Once again, we express our deepest gratitude to all those who played a part in the development of the EABC Policy Advocacy Agenda 2023/24. Your dedication and collaboration have been instrumental in shaping this important roadmap for our organization and the region.

1 INTRODUCTION:

With the theme of Building Forward Better Through Effective Private Sector Led Growth the EABC Policy Advocacy Agenda 2023/24 aims to unite both the private and public sectors in creating a conducive business environment for the thriving of the EAC private sector. The 2023/23 fiscal year is bursting with promise for growth as region is projected to register growth of 5.0% in 2023 and 5.4% in 2014. Focused on key regional policy priorities, this agenda seeks to address the challenges that hinder EAC businesses from fully capitalizing on the opportunities presented by EAC and African integration processes.

The Policy Advocacy Agenda 2023/24 highlights specific challenges raised by the private sector across the region and provides policy recommendations for their resolution. The underlying cause of many of these challenges lies in the failure of the EAC Partner States to implement agreed commitments, decisions, and directives. In some cases, it is evident that certain EAC Partner States are violating the EAC Treaty, Protocols, Agreements, Laws, and regulations due to conflicting national interests that supersede regional interests.

This year, the EAC Partner States are celebrating 18 and 13 years of implementing the Customs Union and Common Market protocols, respectively. Additionally, the region has been implementing the East African Monetary Union Protocol for over 10 years. Despite this timeframe, the EAC Private Sector continues to face challenges in harnessing the advantages offered by EAC integration. The period taken to implement these commitments is sufficient for both the private and public sectors to evaluate achievements, identify challenges, and identify areas for improvement in order to enhance intra-EAC trade and investments for the prosperity of East Africans.

The Agenda highlights several regional policy priorities, including the implementation of the EAC CET 2022 Version, the elimination of Non-Tariff Barriers (NTBs) in the EAC, the activation of the EAC Committee on Trade Remedies to handle trade disputes, the harmonization of domestic taxes, the harmonization of product standards, and the prioritization of value chains.

Furthermore, other regional policy priorities include the Free Movement of Services & Service Suppliers, the Free Movement of Workers, the liberalization of Air Transport Services, Telecommunications & Broadbands, the acceleration of the African Continental Free Trade Area (AfCFTA) and Tripartite Free Trade Area (TFTA), as well as the EAC Trade Agreements with Third Parties.

The Agenda is based on the Business Environment Pillar, one of the five strategic pillars of EABC's Strategic Plan 2022-2027. Under this pillar, one of the strategic interventions is to proactively advocate for a policy and legislative framework that fosters a conducive business environment and promotes the growth and sustainability of the private sector in the EAC. This will be achieved through evidence-based advocacy and research on the implementation of the EAC's agreed commitments and decisions arising from the EAC Customs Union, Common Market, and Monetary Union Protocols. Additionally, strategic interventions focus on areas where the EAC Partner States are negotiating trade and investment agreements with Third Parties to ensure that the interests of the private sector are adequately represented.

2.0 IMPLEMENTATIONS OF THE EAC CUSTOMS UNION AND COMMON MARKET PROTOCOLS

I. IMPLEMENTATION OF THE EAC COMMON EXTERNAL TARIFF 2022 VERSION

The four-band EAC Common External Tariff (CET) structure came into effect on July 1, 2022. The process of reviewing the EAC CET rates began over five years ago with the aim of promoting trade and industrialization in the region. The EAC Council of Ministers adopted the four-band tariff structure through Legal Notice EAC/117/2022. The new CET structure consists of a minimum rate of 0 percent, rates of 10 percent, 25 percent, and a maximum rate of 35 percent for all imported products in the EAC. Additionally, the new tariff structure includes a list of sensitive items with import duty rates higher than 35 percent, ranging from 50% to 100%.

The EAC Partner States commenced the implementation of the new EAC Common External Tariff (CET) Version 2022 on July 1, 2022. The four-band tariff structure introduced the 4th band with a maximum import duty rate of 35 percent. The other bands are set at 0 percent, 10 percent, and 25 percent. The EAC CET 2022 Version maintains a sensitive list for a few products that attract higher tariff rates ranging from 50% to 100%. In summary, the revised four-band EAC CET increases the number of tariff lines from the previous 5,688 under HS 2017 to 5,955 under HS 2022. There are 444 new tariff lines created under HS 2022, while 172 tariff lines have been deleted from HS 2017. The two main differences between the previous and new EAC CET are the introduction of the 4th band with a maximum rate of 35 percent, covering 499 tariff lines, and an increase in the rates of sensitive items from a minimum rate of 35 percent to a maximum of 100 percent.

IMPLEMENTATION OF THE EAC COMMON EXTERNAL TARIFF 2022 VERSION

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The structure of the EAC CET 2022 Version is as follows:

- **Table 1: Summary of the New EAC CET**

/ EAC CET Rate Cate No. of tariff lines in the EAC CET

EAC CET Rate	Cate	No. of tariff lines in the EAC CET
0 % 5955	Raw materials and capital goods	2,245 or 37.69%
10 %	Intermediate goods	1,174 or 19.71%
25 %	Final/finished goods not sufficiently available/produced in the EAC region	1,965 or 32.99%
25% or USD 200/MT whichever is higher	Final/finished goods not sufficiently available/produced in the EAC region	22 or 0.36%
35 %	Final/finished goods sufficiently available/produced in the EAC region	496 or 8.32%
35% or USD 0.40/KG whichever is higher	Final/finished goods sufficiently available/produced in the EAC region	3 or 0.05%
50%	Sensitive	19 or 0.31%
60%	Sensitive	17 or 0.28%
75% or USD 365/MT	Sensitive	5 or 0.08
100% or USD 460/MT	Sensitive	9 or 0.15
Grand Total		5,955

IMPLEMENTATION OF THE EAC COMMON EXTERNAL TARIFF 2022 VERSION

Under the current EAC CET (HS 2022 Version), there are 499 tariff lines (products) classified under the 4th band. This accounts for just 8.37% of the total EAC tariff lines. Out of these, 496 tariff lines were previously attracting a 25% tariff rate, while the remaining 3 items were previously classified as Sensitive Items, such as worn articles, batteries, and wheat grain.

Some of the products under the 4th band that attract a 35% tariff rate include meat, dairy produce, live trees, furniture, edible vegetables, edible fruits, tea, coffee and mate, animal and vegetable fats & oils, preparations of meat and fish, cocoa and cocoa preparations, preparations of cereals, cement, paints, cosmetics, plastic water tanks, wigs, ceramic products, textiles, iron and steel, pens, beverages, spirits, and vinegar.

Challenges in the application of the current EAC CET:

During the implementation, the private sector has identified some benefits and challenges. The reported challenges that the Partner States are working on include:

- Misclassifications of HS Codes for products.
- Errors, misalignment, and some products that still need to be moved to the maximum tariff of 35%.
- Persistence of Stays of Applications (SOAs) and the application of country duty remission.
- Non-uniform application of the EAC CET 2022 Version by Partner States.

EABC recommends the following:

1. EAC Partner States should uniformly apply the EAC CET 2022 Version to safeguard last-mile investments and promote export-led, value-addition-led economic growth in the country and the region.
2. EAC Partner States should limit duty remission to goods that are not available in the region, and the final goods should be allowed to access the regional market with preferential tariff treatment.

II. HARMONIZATION OF CUSTOMS AND DOMESTIC TAXES:

In the East African Community (EAC), like any other Regional Economic Communities (RECs), customs and domestic taxes play a key role in influencing intra-trade and investment in the region. Through the Customs Union, the five (5) EAC Partner States apply the Common External Tariff (CET) as customs duties when goods are imported into the territory. South Sudan and the Democratic Republic of Congo (DRC), as new members of the EAC, are yet to join others in the application of the EAC CET. While customs duties are to some extent harmonized in terms of the CET, their application faces various challenges, as manifested by charges of equivalent effect that are not harmonized across the EAC Partner States.

Although the harmonization of domestic taxes (excises, value-added taxes, and income taxes) is highlighted in the EAC Treaty and all agreed stages of EAC integration (Customs Union, Common Market, and Monetary Union), domestic taxes remain largely unharmonized. Differential tax regimes pose a major hindrance to the integration process, with a negative impact on intra-EAC trade and investment. An unharmonized tax regime hampers the free movement of goods, services, labor, and capital, freedoms that are provided for in the EAC Customs and Common Market Protocols. Furthermore, various tax systems encourage tax distortions and hinder the efficient allocation of resources in the EAC bloc. The objective of tax harmonization is to move from the current wide variation in tax policies to some degree of regional harmonization, with the Partner States retaining some degree of tax differentiation in terms of rates and certain exemptions.

HARMONIZATION OF CUSTOMS AND DOMESTIC TAXES:

Challenges:

- Unharmonized charges of equivalent on imports create an uneven playing field, such as the Railway Development Levy/Infrastructure Levy, Import Declaration Fee (IDF), etc.
- Domestic tax disparities hinder the optimal allocation of resources as well as the movement of goods, services, service suppliers, workers, capital, and investment.
- Unharmonized taxes encourage illicit trade, such as smuggling across borders.
- Harmonization of domestic taxes, especially excise duty, has been carried out without the involvement of the private sector.

EABC recommends the following:

1. EAC originating goods should not be subjected to any other charges of equivalent effect once transferred from one Partner State to another.
2. Eliminate all discriminatory domestic taxes on EAC originating goods.
3. Partner States should harmonize all other charges of equivalent effect levied on goods imported into the EAC Customs Territory.
4. Partner States should fast track the development of the EAC Regional bond.
5. Partner States should involve the private sector in the progressive harmonization of domestic taxes (excise duties, VAT, income tax, and incentives).
6. To address the challenge of double taxation, Partner States should review the EAC Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Income Taxes to align it with Base Erosion and Profit Shifting (BEPS) Action Points. Thereafter, implement the Agreement across the EAC region.
7. EAC Partner States should review the implementation of the Digital Tax Stamps (DTS) System across the region with a view to reducing the existing high excise stamp fees for producers of excisable goods.
8. EAC Partner States should ensure that their tax regimes are consistent with the EAC Treaty, Protocols, and other applicable binding community law.
9. EAC Partner States should harmonize export taxes and refrain from charging export taxes on goods transferred to EAC countries.
10. Involve private sector in the harmonisation of domestic taxes

III. ACTIVATION OF THE EAC COMMITTEE ON TRADE REMEDIES TO HANDLE TRADE DISPUTES

Article 24 of the EAC Customs Union (EAC CU) Protocol provides for the establishment of an EAC Committee on Trade Remedies. The Committee is supposed to handle matters such as rules of origin, antidumping measures, subsidies and countervailing measures, safeguard measures, dispute settlement mechanisms, and any other issues referred to the Committee by the Council. However, the Committee has not been established yet due to the non-ratification of the Amended Article 24(2) of the EAC CU Protocol to accommodate Burundi, Rwanda, and other new EAC members.

ACTIVATION OF THE EAC COMMITTEE ON TRADE REMEDIES TO HANDLE TRADE DISPUTES

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Challenges:

/ The delayed ratification of the Article denies the EAC a robust mechanism for handling persistent trade disputes, including those related to rules of origin, anti-dumping measures, safeguard measures, dispute settlement mechanisms, and other trade-related issues. The effective implementation of regulations pertaining to these disputes, such as Rules of Origin, NTBs, Tariff Barriers, Other Charges of Equivalent Effect, and Discriminatory Tax Practices, is hindered. Resolving trade disputes through litigation or negotiation among the EAC Partner States is time-consuming and costly.

/ The nonexistence of the Committee on Trade Remedies makes it impossible for the Council to refer the elimination of non-tariff barriers (NTBs) to the Committee, as provided for in the EAC Non-Tariff Barriers Act, 2017 (Article 12(2), (3), and (4)). Consequently, individuals and small businesses aggrieved by a directive, decision, or recommendation of the Council would need to resort to litigation in the East African Court of Justice, which would be prohibitively expensive.

EABC recommends the following:

1. The EAC Heads of State Summit should provide a clear directive with a timeline for the ratification of the Amendment of the CU Protocol by all EAC Partner States.
2. All EAC Partner States should expedite the ratification of the Amendment of the EAC CU Protocol to enable the establishment of the Committee on Trade Remedies.
3. The EAC Partner States should expedite the operationalization of the Committee on Trade Remedies to effectively handle trade disputes in the EAC region.

IV. ELIMINATION OF NON-TARIFF BARRIERS IN THE EAC

Both the Customs Union and Common Market Protocols provide for the free movement of EAC-originating goods and the elimination of all existing non-tariff barriers (NTBs) while prohibiting the imposition of new NTBs.
Article 13 of the EAC Protocol on Customs Union mandates each Partner State to immediately remove all existing NTBs to the importation of goods originating from other Partner States. The Protocol, adopted in 2004 and effective since 2005, establishes a mechanism for identifying and monitoring the removal of NTBs.

ELIMINATION OF NON-TARIFF BARRIERS IN THE EAC

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Challenges:

- Despite more than 18 years of Customs Union implementation and over 11 years in the Common Market, the free movement of EAC-originating goods continues to face persistent NTBs.
- Many of these persistent NTBs deny preferential tariff treatment or discriminate against products from other EAC Partner States.
- Protectionist measures contribute to most persistent NTBs, particularly on products that have regional production potential and trade competitiveness.
- The impact of NTBs on consumer prices often exceeds that of customs tariffs on the same goods.
- The existing mechanism for eliminating NTBs is time-consuming, unpredictable, and costly in terms of human and financial resources.
- Delays in finalizing the amendment of the EAC Elimination of Non-Tariff Barriers Act, 2017, and its Regulations have hindered the establishment of a robust legal framework for NTB elimination.
- The persistence of NTBs has significantly hindered intra-EAC trade and investment, impeding the free movement of goods among Partner States
- Intra-EAC trade remains low at around 10%, while international trade accounts for 90% of total EAC trade.
- Delays in implementing the Single Customs Territory by Kenya lead to congestion, delays, high transaction costs, and substantial losses for traders and transporters.

EABC recommends the following:

1. EAC Partner States should expedite the finalization of the amended EAC Non-Tariff Barriers Act.
2. Implement weigh-in-motion systems on the Regional Trunk Network to enforce vehicle load control measures.
3. Establish interconnectivity between weighbridges within and across EAC territories.
4. Adopt a regional (EAC) Electronic Cargo Tracking System (ECTS) in all Partner States.
5. Utilize a single seal for transit cargo trucks along the Northern and Central Corridors.
6. EAC Partner States should promptly finalize the development of a framework for the Regional EAC Customs Bond.
7. Fast track the approval of the EAC Inter-Agency Regulatory Framework for trade in food and cosmetic products.
8. Set timelines for full implementation of all commitments under Single Customs Territory (SCT) Framework to facilitate free movements of goods to and from the region and across the EAC Partner States.

V. HARMONIZATION OF STANDARDS AND TECHNICAL REGULATIONS

The EAC region faces challenges in the harmonization of regional standards and the adoption of technical regulations. Currently, there are few harmonized regional standards, a lengthy harmonization process, and varying frameworks of technical regulations across the Partner States. The EAC has identified a total of 1882 standards for harmonization, including 625 indigenous standards developed in the EAC region and 1,257 international standards developed by organizations like ISO and IEC.

While most international standards are adopted into national standards, the adoption rate of indigenous standards by National Standard Bodies (NSBs) varies from 0% to 90%. For example, South Sudan National Bureau of Standards has not yet adopted the identified standards for harmonization by EAC, while Kenya, Tanzania, and Burundi have adopted 90%, 74.08%, and 68.9% of the harmonized standards, respectively.

Additionally, the private sector has reported challenges related to non-mutual recognition of quality marks and multiple border inspections by some Partner States. The lack of a regional technical regulation framework has led to the application of national technical regulations without a common administrative approach, resulting in misunderstandings among stakeholders and a lack of coordination among institutions.

HARMONIZATION OF STANDARDS AND TECHNICAL REGULATIONS

Challenges:

- Lack of mutual recognition and slow pace of harmonization of regional standards lead to costly and time-consuming re-testing processes.
- Unharmonized standards and non-mutual recognition of conformity assessments deny market access for EAC products, imposing additional costs of conformity assessments.
- Inadequate testing facilities and technical staff at border posts cause delays in goods clearance.
- High standards costs contribute to increased informal cross-border trade as traders avoid formal border procedures.
- Lengthy harmonization process and low adoption rate of harmonized regional standards, coupled with varying frameworks of technical regulations across the Partner States.

EABC recommends the following:

1. Fast-track the finalization of the Standardization, Accreditation and Conformity Assessment (SACA) Bill, Sanitary and Phytosanitary (SPS) Bill, and Metrology Bill
2. Establish a peer review mechanism for National Bureau of Standards (NSBs) to facilitate mutual recognition of quality marks, even for standards not yet harmonized across the region.
3. Prioritize the harmonization of standards for the 50 most traded goods and EAC priority value chains.
4. Establish a monitoring mechanism for adopted East African Standards to increase adoption levels.
5. Develop and adopt a regional technical regulations framework.

VI. REVIEW OF EAC RULES OF ORIGIN, 2015

The EAC Rules of Origin (RoO), which are Annex II of the EAC Customs Union Protocol, play critical roles in facilitating preferential tariff treatment in intra-EAC trade. The EAC RoO refer to a set of criteria used to differentiate between goods produced within the EAC Customs territory, eligible for Community preferential tariff treatment, and those produced outside the EAC customs territory, subject to import duties specified in the Common External Tariff (CET). Article 14 of the EAC Customs Union Protocol states that goods originating in the Partner States shall be accepted as eligible for Community Tariff treatment. To qualify for Community Tariff treatment within the EAC, goods must meet the criteria set out in the EAC RoO. The determination of product eligibility for EAC origin and the granting of Community Tariffs to goods originating in the Partner States are important processes in the implementation of the EAC trade regime. The implementation of the EAC RoO requires Partner States to apply common procedures in determining product eligibility for EAC origin and the granting of Community Tariff preferences, as provided under the EAC trade regime.

REVIEW OF EAC RULES OF ORIGIN, 2015

The first EAC RoO came into effect in January 2005 when the EAC Partner States began implementing the EAC Customs Union. The EAC RoO were comprehensively reviewed, and the revised EAC Rules of Origin, 2015, came into force in January 2015 through Legal Notice EAC/3/2015 of January 23, 2015. The main objective of the review was to make the EAC rules of origin trade facilitative and attract more investments to the region. Additionally, the new RoO aimed to address identified challenges faced by certain sectors/products while trading in the EAC. However, there has been outcry from the business community regarding the need to review certain areas of the rules to respond to the business environment. The main challenge identified in the current EAC Rules of Origin is their rigidity in certain products such as edible oils and cement, which are unable to qualify for EAC originating criteria and receive preferential tariff treatment.

In response to the concerns of the business community, the Sectoral Council on Trade, Industry, Finance, and Investment (SCTIFI) directed in 2016 that the review of the EAC RoO, 2015, be undertaken after the completion of the Comprehensive Review of the EAC Common External Tariff (CET). Last year, the EAC Partner States finalized the review process, and the new EAC CET Version 2022 came into effect on July 1, 2022. It is now high time for the EAC Partner States to initiate the review of the EAC RoO 2015.

REVIEW OF EAC RULES OF ORIGIN, 2015

Challenges:

- The EAC RoO 2015 are not aligned with the agreed Rules of Origin of the African Continental Free Trade Area (AfCFTA) and the Tripartite Free Trade Area (TFTA) formulated recently.
- The EAC RoO, 2015, are not compatible with the EAC CET 2022 Version.
- Stringent EAC RoO, 2015, have resulted in the denial of preferential tariff treatment for some products that used to qualify as originating.
- Non-alignment of EAC RoO with AfCFTA RoO main long create trade diversion in EAC as the investors of the sectors which are negatively affected may prefer other destinations in the AfCFTA markets or

EABC recommends the following:

1. The EAC Partner States should review the EAC RoO 2015 to align them with AfCFTA and TFTA Rules of Origin.
2. The review should ensure that products such as Edible Oil (Chapter 15) qualify as originating, allowing them to enjoy preferential tariff treatment when traded across the region.
3. The review should take in to accounts the EAC CET 2022 Version and new development in technology, production patterns, global economy and trade.

VII. LIBERALIZATION OF TRADE IN SERVICES:

Under the EAC Common Market Protocol (CMP), EAC Partner States have committed to progressively liberalize trade in services in accordance with the negotiated commitments made under Annex V and Part F (articles 16-23) of the Protocol. In 2010, all Partner States made commitments to open their markets in seven (7) priority service sectors. The sectors were liberalized as follows: Business (46); Distribution (6); Education (5); Finance (17); Communication (24); Tourism & Travel related (4); and Transport (35). In total, Partner States committed to liberalize 136 sub-sectors out of the 160 sub-sectors identified by the World Trade Organization (WTO). EAC liberalization followed the 'positive list' approach, meaning that Partner States only made market access and national treatment commitments that aligned with their respective development agendas in terms of sectoral coverage and depth of commitments. The EAC Partner States agreed to progressively remove restrictions and not introduce any new restrictions on the provision of services (Art. 16(5) of EAC CMP). The Partner States took a varied approach to liberalization, making commitments in different services activities and modes of supply.

Furthermore, Partner States agreed that additional commitments would be undertaken in successive rounds, specifically in sectors and areas where no commitments were made. These remaining 5 services sectors are Construction and related services; Environmental services; Health-related and Social

LIBERALIZATION OF TRADE IN SERVICES:

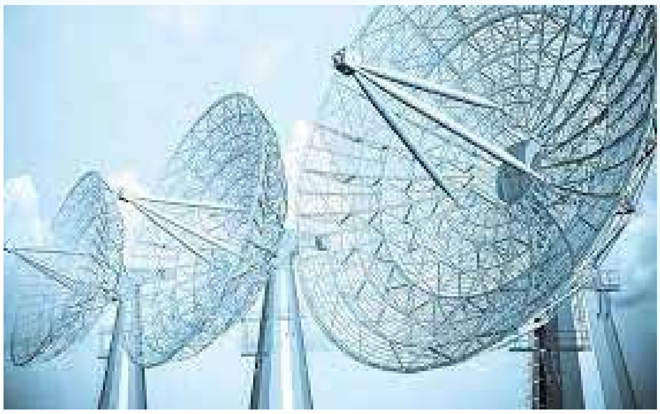
services; Recreational, Culture, and Sporting services; and Other services not included elsewhere. However, the linking of Mode 4, which involves the temporary movement of services suppliers, to the schedule on the movement of workers has restricted the free movement of services and service suppliers/providers in the region. As a result of this linkage, temporary service providers were subject to rigorous requirements for workers.

To address the challenges facing the liberalization of trade in services, the Sectoral Council on Trade, Industry, Finance, and Investment (SCTIFI) in its May 2014 meeting agreed to adopt recommendations for amending some provisions of the EAC Common Market Protocol (CMP) regarding Part F (Free Movement of Services). The meeting also directed the development of regulations to guide the free movement of services and service suppliers under the CMP and the review of Annex V - Common Market Schedule of Commitments on the Progressive Liberalization of Services.

Based on the directives from SCTIFI, Partner States engaged in negotiations that resulted in improved specific commitments at both the horizontal and sector-specific levels in the seven (7) agreed (liberalized) sectors. The Revised Schedules of Commitments on the Progressive Liberalization of Services were initialed by Partner States and adopted by the EAC's SCTIFI in May 2019. Their implementation is pending gazettement after going through the legal process. At the horizontal level, Partner States have committed to liberalizing the categories of services suppliers, including Intra-Corporate Transferees (ICT), Business Visitors, Contractual Service Suppliers, Independent Professionals, and Trainees.

Regarding specific commitments, each Partner State committed to liberalizing at least 78 sub-sectors, correcting all technical errors, and including commitments on the movement of service suppliers.
Furthermore, the EAC Partner States have developed Regulations on Free Movement of Services and Service Suppliers and the Mechanism for the Removal of Restrictions on Trade in Services. The Regulations are expected to govern the movement of services and service suppliers after services suppliers have been delinked from the movement of workers in the revised schedules of commitments on the progressive liberalization of services. The Mechanism aims to enhance the implementation of the CMP by facilitating the removal of restrictions on trade in services in the EAC region. The Mechanism identifies Non-Conforming Measures (NCM) that are discriminatory measures, both de jure and de facto, affecting trade in services. The targeted measures are those inconsistent with services commitments undertaken by the Partner States and the most restrictive barriers to regional services trade.

In Article 23, Partner States further agreed to make additional commitments, at a future date, in the following five service sectors that were not covered by the initial commitments: energy services; environmental services; health and social services; construction and related services; and recreational, cultural, and sporting services. However, all these initiatives are yet to be implemented, limiting the liberalization of trade in services in the region.



LIBERALIZATION OF TRADE IN SERVICES:

EABC recommends the following:

1. Fast-track the adoption and implementation of the revised schedule of commitments on the progressive liberalization of services to enable meaningful commercial liberalization of the 7 agreed service sectors and the movement of service suppliers. The revised schedule will also facilitate delinking the temporary movement of service suppliers (Mode 4) from the schedule on the movement of workers (Annex II of CMP).
2. Adopt the Mechanism for the Removal of Restrictions on Trade in Services and subsequently develop a regional time-bound framework/roadmap for the removal or easing of restrictions to enhance the cross-border movement of services.
3. Urgently commence negotiations among the Partner States to broaden service integration in the 5 service sectors not covered under the current schedule of commitments on the progressive liberalization of services. The 5 sectors are Construction and related services; Environmental services; Health and Social Services; Recreational, cultural, and sporting services; and other services not included elsewhere.
4. Address all prevailing restrictions and diverse regulations in the seven (7) liberalized sectors that restrict cross-border services trade between EAC Partner States.

VIII. LIBERALIZATION OF AIR TRANSPORT SERVICES:

Air transport services, particularly with respect to traffic rights, or services directly related to the exercise of traffic rights are usually not under the scope of the WTO GATS. Under the CMP / Revised Schedule, some EAC Partner States have however made commitments covering these rights. While Burundi and Uganda have committed to liberalise air passenger and freight transport services, with no limitations on market access and national treatment, Kenya and Rwanda have not committed to liberalise both sub-sectors. Tanzania has committed to liberalise air passenger transport, excluding cabotage and mode 3 is subject to operational Bermuda type bilateral air service agreements (BASA) arrangements. Despite the above, air transport services in the EAC are regulated through BASAs and EAC air service operators, passengers and cargo are not accorded national treatment and market access is restricted through the individual BASAs.

According to an EABC study (2016), the air transport sector is constrained by many factors, among them low cargo and passenger movements, pricing method and structure (especially fuel and insurance surcharges) leading to high

fares; and limited physical aerodromes and related facilities. Other factors constraining the sector include uncompetitive domestic and BASAs regulatory regimes, fiscal policies, high insurance premiums, management inefficiencies and perceived security and safety oversight limitations. The study indicates that although most BASAs in EAC provide substantial liberalisation according to the Yamoussoukro Decision (YD), they provide a limited fifth freedom and limit operations of EAC Partner States designated airlines in the respective contracting party state. Different regulations at the national level lead to different passenger services charges, landing, navigation, security and other surcharges such as those related to lighting during landing or taking off at night. Airline-related charge components (basic fare and surcharges) account for the largest proportion of fares.

The case for full liberalization of air transport services is strong: globally, there is evidence that liberalisation leads to lower fares and higher frequencies, which in turn stimulate passenger demand. The 2016 East Africa Research Fund / EABC Study on Costs and Benefits of 'Open Skies in the East African Community (EAC) established that that if EAC Partner States fully liberalised air transport services (purely on the basis of domesticating the EAC airspace by having open skies BASAs), there would be 9% reduction of fares on average on restricted routes and an increase of 41% on frequencies on average, (based on 2015 volumes of cargo and passengers and all else being equal). Furthermore, the results showed that that partial liberalisation would not be effective in achieving equivalent impacts, noting that all major restrictions must be removed from the current BASAs for these impacts to be realised. Furthermore, looking at wider impacts of such liberalisation across the 5 EAC Partner States (excluding South Sudan), it noted that more than 30,710 additional jobs would be created and about 0.04% of regional GDP (about) USD 124M would be added to the economy. In recognition of the above, the EAC Partner States are in the process of negotiating EAC liberalisation of Air Service Regulations, a process that has been over four years in development.

In addition to the above, further impacts on the EAC air transport market are possible if the EAC addresses other key challenges besides BASAs, such as the taxes and charges earlier discussed. Other opportunities lie in the promotion of other commercial segments, such as cargo.

LIBERALIZATION OF AIR TRANSPORT SERVICES:

EABC recommends the following:

1. EAC Partner States should expeditiously finalize the development of the EAC Liberalization of Air Services Regulations and adopt the Regulations.
2. EAC Partner States should harmonize the taxation regimes on air transport services to bring down the cost of airfares.
3. As per the Yamoussoukro Decision, all EAC Partner States should grant each other the free exercise of the rights of the first, second, third, fourth, and fifth freedoms of the air on scheduled passenger, non-scheduled passenger, cargo, and/or mail flights performed by an Eligible Airline to/from their respective territories. However, for economic reasons, a Partner State may be allowed to limit its commitments with respect to fifth freedom rights for an agreeable period of time.
4. All EAC Partner States should adopt the Single African Air Transport Market (SAATM).
5. In addition to the liberalization of air transport services, EAC Partner States should review and harmonize charging mechanisms, fees, and taxes with the objective of reducing the ticket cost and stimulating demand in air transport. The harmonization should comply with the ICAO Policy guidelines on airport charges.
6. Partner States should promote the development of low-cost carriers by providing incentives, including terminal facilities that support their operations.

IX. TELECOMMUNICATION SERVICE SECTOR IN EAC:

All EAC Partner States have committed to liberalise telecommunication services under the CMP. While Burundi, Rwanda and Uganda maintain no limitations on market access and national treatment across all modes, Kenya and Tanzania have limitations particularly with regard to Mode 3. Kenya requires under mode 3 that all commercial presence should have 20% Kenyan shareholding within 3 years of receiving a license, while for Tanzania, for Telex, Packet switched & circuit-switched data transmission services, a minimum of 25% local shareholding is required through listing in stock exchange.

In terms of state of liberalization, telecommunications is one of the sectors that has been liberalised across the region, leading to an exponential growth of mobile telephony especially. Despite the liberalization, several restrictions limit the free movement of telecommunication services and several challenges constraint the growth of the sector. For example, based on International Telecommunications Union (ITU) 2020 data, the region is yet to cover all the population with mobile 3G data, with the highest coverage being at 98% in Rwanda and South Sudan having the lowest coverage at 15%. In terms of individuals using the internet, Kenya has the highest percentage at 30%, while for persons with fixed broad-band, Tanzania leads with 1.9 persons per 100 people. This compares poorly with global average, where 95% have access to 3G and above; 63% of individuals use the internet and 17 out of 100 people have fixed broadband subscriptions (based on ITU data).

The East African Business Council (EABC) is concerned about the high cost of telecommunications, which increases the cost of doing business.

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EABC recommends the following:

1. Bring the One Network Area (ONA) initiative under the EAC framework and bring on board Tanzania and Burundi to lower the cost of voice and data services across the region.
2. EAC Partner States should eliminate all taxes and charges on roaming as part of the ONA initiative.
3. Partner States should review taxes on ICT services and equipment with a view of making them affordable and bring down the cost of ICT services.
4. EAC Partner States should progressively harmonize the costs of spectrum, license fees, universal access funds, numbering fees, and the cost of bandwidth within the EAC.

X. EAC MUTUAL RECOGNITION AGREEMENTS (MRAS) FOR MOVEMENT OF PROFESSIONALS:

The EAC Common Market Protocol (CMP) outlines mechanisms for promoting economic integration, including the free movement of services, increased mobility rights for workers, and freedom for service providers to establish their businesses in other countries within the Community. These measures are crucial for regulated professionals such as architects, engineers, accountants, lawyers, veterinarians, doctors, and nurses, as they enable them to work temporarily across borders and establish themselves or their businesses permanently in another country. A fundamental aspect of the CMP for professional services is the recognition of academic and professional qualifications, experience, and licenses granted to professionals in other Partner States. Article 11 of the EAC CMP covers this provision. Without mutual recognition, professionals would face challenges working in other EAC Partner Countries due to local regulations specific to their profession that could hinder cross-border business operations permitted for EAC businesses.

A Mutual Recognition Agreement (MRA) allows regulated professionals and the businesses they own or work to provide services in other countries without having to repeat all the qualification or authorization procedures they have already completed in their home country. MRAs establish a legal framework for the mutual recognition of professional qualifications and outline eligibility criteria for registration in another Partner State.

EAC MUTUAL RECOGNITION AGREEMENTS (MRAS) FOR MOVEMENT OF PROFESSIONALS:

Progress in Mutual Recognition Agreements in the EAC: Although the EAC Common Market Mutual Recognition of Academic and Professional Qualifications Regulations, 2011 (Annex VII of the EAC CMP) has not been adopted yet, the EAC Partner States have negotiated and signed MRAs in the fields of Accountancy, Architecture, Engineering, and Veterinary professions. The MRAs for Advocates and land surveyors are awaiting signature, while negotiations and awareness campaigns for the pharmacy profession are in the early stages. The Mutual Recognition of Academic and Professional Qualifications Regulations, 2011 define the scope of the regulations, the procedures for competent authorities to recognize qualifications and adopt MRAs, reporting mechanisms, dispute settlement, and other relevant areas.

Signed MRAs in the EAC

Professions/Year	Kenya	Uganda	Rwanda	Tanzania	Burundi
Architects (2011)	X	X	X		X
Accountants (2011)	X	X	X	X	X
Engineers (2012)	X	X	X	X	
Veterinarians (2016)	X	X	X		

Although the current number of professionals utilizing MRAs may seem low, there is evidence from clients that these agreements will help reduce the cost of procuring specialized professional services that are not locally available. MRAs allow clients to search across the EAC region for the required services, making it more cost-effective compared to sourcing services from the rest of the world. MRAs offer various potential benefits to different parties, but their actual impact depends on the willingness of individual practitioners and professional service firms to take advantage of them, as well as the commitment of EAC competent authorities and governments to effective implementation. MRAs present exciting prospects for the development of professional services in East Africa.

EAC MUTUAL RECOGNITION AGREEMENTS (MRAS) FOR MOVEMENT OF PROFESSIONALS:

Some key challenges in effectively implementing the existing MRAs include the failure of all Partner States to uniformly sign the MRAs, delays in finalizing and adopting the Mutual Recognition of Academic and Professional Qualifications Regulations 2011, non-liberalization of professional services by certain Partner States within the existing MRAs, lack of a database for professionals and relevant information, insufficient capacity of professional bodies and regulatory bodies to sustain regional internship programs, and misalignment of national laws with MRAs and CMP.

EABC recommends the following actions:

1. EAC Partner States should expedite the finalization of the EAC Common Market (Mutual Recognition of Academic and Professional Qualifications) Regulations 2011 (Annex VII of the EAC-CMP).
2. All EAC Partner States should liberalize all professional services covered by negotiated and signed MRAs.
3. MRAs should encompass all professionals supporting businesses, including completing negotiations for the EAC Cross Border Legal Practice bill and the Mutual Recognition Agreement for Legal Services.
4. All EAC Partner States should participate in the MRAs.
5. EAC Partner States should establish a database for professionals and relevant information.
6. EAC Partner States should establish regional internship programs to promote the mobility of professionals within the region.
7. EAC Partner States should establish a regional inter-professional platform for exchanging information and data.
8. Alignment of national laws with the EAC CMP and agreed MRAs should be prioritized.
9. Review the MRAs for engineering and accounting services to address trade-related aspects such as firm registration and related procedures.
10. Enhance the regulatory framework for the accounting and engineering sectors, including establishing an engineering sector regulator in Burundi and an accounting services regulator in South Sudan.
11. Implement a framework mandating the registration of all accounting professionals to enhance service

XI. FREE MOVEMENT OF WORKERS:

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One of the freedoms provided for in the EAC Common Market Protocol (EAC CMP), which entered into force on 1st July 2010, is the Free Movement of Workers. Other freedoms and rights enshrined in the Protocol are the Free Movement of Goods, Free Movement of Capital, Free Movement of Services, Free Movement of Persons, the Right of Establishment, and the Right of Residence. Under the provisions of Article 10 of the EAC CMP, the Partner States guarantee the free movement of workers who are citizens of the other Partner States within their territories.

However, a decade since the commencement of the implementation of the EAC CMP, both workers and employers are still constrained in their efforts to utilize the freedom of movement of workers. The working permit regime is not harmonized across the EAC Partner States. Kenya and Rwanda do not charge work permit fees to East Africans, while Uganda does not charge work permit fees on a reciprocal basis. Tanzania and Burundi charge work permit fees to East Africans. Additionally, the schedule on the free movement of workers in the Protocol has never been revised. Other challenges regarding the movement of workers include delays in issuing work permits, a limited number of occupations opened up in the Schedule on Free Movement of Workers (Annex II of the EAC CMP), delays in issuing residence permits, and the existence of unharmonized work permit regimes in the EAC Partner States.

FREE MOVEMENT OF WORKERS:

EABC recommends the following actions:

1. EAC Partner States should review their respective immigration and labor laws and align them with the EAC Common Market Protocol.
2. The EAC should develop a roadmap for the harmonization of all remaining laws by the Partner States to ensure a structured approach and enhance the monitoring process.
3. Tanzania and Burundi should join other EAC Partner States by abolishing work permit fee requirements for EAC nationals/citizens.
4. EAC Partner States should abolish residence permit fees for East Africans who have been issued a work permit.
5. The Council of Ministers should deliberate and approve the harmonized fees and classification of work/ residence permits and forms as stipulated in the Common Market Protocol.
6. EAC Partner States should implement the Standard Work/Residence acquisition Procedures as provided for in the Common Market Protocol.
7. EAC Partner States should open up further occupations in the Schedule on Free Movement of Workers after consulting employers, workers' organizations, and private sector associations.
8. Partner States should implement the Standard Procedures as provided under Regulation 6 of the EAC Common Market Protocol.
9. EAC Partner States should harmonize both Education and Skills Frameworks in the region.
10. Establishment of the Regional Labour Market Information System.
11. EAC Partner States should carry out manpower surveys to provide information on the skills gap, which would support higher education institutions in providing relevant training for the required skills in the region.
12. Adoption of an electronic system in issuing work/Residence Permits: the EAC Partner States should adopt Rwanda's model in the processing and issuance of work/residence permits.

3.0 EAC INTEGRATING WITH THIRD PARTIES:

I. EAC ENGAGEMENT WITH THIRD PARTIES ON TRADE AND INVESTMENT AGREEMENTS

In principle, the East African Community (EAC) Partner States are pursuing two main trade integration processes concurrently. The first form of integration is within the EAC. The EAC Partner States are implementing the EAC Common Market Protocol and consolidating the achievements of the Customs Union. The implementation of the Customs Union (CU) as the first step of EAC integration commenced on January 1st, 2005. The EAC Partner States are still operationalizing the Single Customs Territory (SCT) to achieve the free circulation of goods and reduce the cost of doing business in the region. Additionally, the EAC Partner States are reviewing the EAC Common External Tariff (CET) to align the existing tariff structure and rates with dynamic global trade changes and the regional trade environment. The EAC Common Market was launched in July 2010 to deepen and widen integration by enhancing the movement of goods and bringing on board four freedoms and two

EAC ENGAGEMENT WITH THIRD PARTIES ON TRADE AND INVESTMENT AGREEMENTS

rights. These are the free movement of persons, labor, services, capital, as well as the right of establishment and the right of residence. Furthermore, in November 2013, EAC Heads of State signed the Protocol for the Establishment of the East African Monetary Union, aiming to strengthen economic cooperation through the progressive establishment of a single currency.

The second form of trade integration is between the EAC Partner States and third parties. Recognizing this type of integration, the EAC Treaty provides that the Partner States shall honor their commitments in respect of other multinational organizations and organizations of which they are members. These include the Common Market for Eastern and Southern Africa (COMESA) and the Southern Africa Development Community (SADC). Kenya, Uganda, Burundi, and Rwanda are members of COMESA, while Tanzania is a member of SADC. Furthermore, the EAC Partner States, either jointly as a bloc or unilaterally, have been negotiating trade and investment agreements with various third parties. These agreements are in different stages and include: EAC-EU Economic Partnership Agreement (EPA), COMESA-EAC-SADC Tripartite Free Trade Area (TFTA), African Continental Free Trade Area (AfCFTA), EAC-US Trade and Investment Partnership Agreement (TIPA), and US-Kenya Free Trade Area. Additionally, all seven of the EAC Partner States are members of the World Trade Organization (WTO), which aims to liberalize international trade and formulate a rule-based trade system.

EAC ENGAGEMENT WITH THIRD PARTIES ON TRADE AND INVESTMENT AGREEMENTS

The Voice of the Private Sector in East Africa

The EAC Secretariat has also received several requests to negotiate FTA agreements. These countries include the European Free Trade Area (EFTA), the Gulf Cooperation Council, Turkey, China, Singapore, and the United Kingdom. The EAC Partner States consider trade and investment agreements as important instruments to deepen trade and investment relations among themselves and third parties.

Challenges:

- There is a perceived fear that agreements between EAC Partner States and developed countries may create trade diversion, hamper industrialization of the region, and impede EAC and African integration.
- Since trade agreements are based on reciprocal arrangements, there is a fear that large economies may forfeit the general system of preferences they are offering to EAC Partner States.
- The EAC private sector may be disadvantaged by the agreements, given the competitive advantage challenges posed by developed economies to EAC economies.
- The dual status of EAC Partner States, whereby some are categorized as Least Developed Countries (LDCs) while others are Non-LDCs.

EAC ENGAGEMENT WITH THIRD PARTIES ON TRADE AND INVESTMENT AGREEMENTS

EABC recommends the following actions:

1. EAC Partner States should be encouraged to collectively negotiate agreements with third parties in order to enhance mutual trust and preserve the Customs Union and common policy in the field of external trade.
2. EAC Partner States should develop concrete policy instruments to guide negotiations with third parties that are large economies or developed countries.
3. EAC trade and investment agreements with third parties should take into consideration the developing and least developed status of EAC Partner States.
4. EAC agreements with third parties should go beyond provisions of market access and investment to include addressing concerns of developing countries such as trade barriers, supply-side constraints, trade and investment linkages, export diversification, and competitiveness.
5. For Partner States separately negotiating agreements with third parties, they should ensure that the terms of the agreement are not in conflict with the provisions of the EAC Treaty and Protocols.
6. To guide the negotiation of investment agreements with third parties, the EAC Partner States should first develop an "EAC Model Treaty" to reflect the greater concerns of developing countries.
7. The EAC should undertake a comprehensive cost-benefit analysis on the implications of negotiating an EAC-trade and investment agreement with any third party it intends to negotiate with.
8. EAC Partner States should cautiously engage third parties to take advantage of identified benefits and opportunities provided by agreements, as well as minimize any potential risks associated with the agreements.
9. EAC Partner States should involve the private sector in all stages of negotiations to ensure their interests are taken on board and incorporated in the agreement. This will ensure buy-in from the private sector.

II. IMPLEMENTATION OF THE AFRICAN CONTINENTAL FREE TRADE AREA (AfCFTA) BY EAC PARTNER STATES

The operationalization of the AfCFTA on January 1st, 2021 was a milestone in Africa's economic integration agenda. It marked the start of Africa's collective journey as an economic community. By April of this year, 54 African Union (AU) Member States had signed the Agreement, while 46 AU Member States became State Parties after ratifying and depositing instruments with the AfCFTA Secretariat.

All EAC Partner States except the Republic of South Sudan are State Parties to the AfCFTA Agreement. So far, Kenya, Rwanda, and Tanzania have started trading under the AfCFTA Guided Trade Initiative (GTI) after being selected to be among the seven countries to start trading using AfCFTA trading instruments under the first pilot program. The other participating countries are Ghana, Cameroon, and Mauritius, representing all five regions of the continent. The GTI is expected to be extended to cover trade in services, to propel African economies as an enabler of both trade in goods and services and services trade in a liberalized market in a specific services sector of the economy.

Important milestones in the implementation of the AfCFTA include the finalization of the protocols in Phase I, which include the Protocol on Trade in Goods, Protocol on Trade in Services, and Protocol on Dispute Settlement Mechanism. The Phase II Protocols on Investment, Competition, and

Intellectual Property Rights have been concluded and were approved by the 36th Ordinary Session of the Assembly of Heads of State and Government of the African Union. Other achievements include the launch of the Pan-African Payment and Settlement System (PAPSS), the signing of the AfCFTA Adjustment Fund Management Agreement, the launch of the AfCFTA e-Tariff book and AfCFTA Rules of Origin Manual, the Online NTB Reporting Mechanism, and the signing of an USD 11 Million Grant Agreement with the African Development Bank.

The AfCFTA has the potential to establish Africa as the world's largest free trade area, with a combined GDP of $3.4 trillion and a market of more than 1 billion consumers. It aims to accelerate intra-African trade and boost Africa's trading position on the global market, with the intention of accelerating economic growth, industrialization, production, and job creation. The AfCFTA has initially prioritized a list of four value chains based on high potential for meeting local demand and the ability to produce goods locally. These sectors are agriculture and agro-processing, automotive, pharmaceuticals, and transportation and logistics.

Challenges:

- Trade within Africa is very low compared to other global regions. Intra-African regional trade in goods accounted for 18% (USD 87 billion) of Africa's exports in 2018, whereas it is 66% in Europe, 58% in Asia, and 22% in Latin America. Furthermore, Africa has the largest trade deficit of all continents, at USD 123 billion, approximately 1.5 times larger than Asia and four times larger than Europe.
- There is low awareness among the EAC private sector regarding AfCFTA opportunities, challenges, and trade-related instruments such as AfCFTA tariff concessions and Rules of Origin.
- The capacity of the EAC's institutions, legal and regulatory frameworks to implement AfCFTA's trading instruments, such as trade remedies, tariff concessions, Rules of Origin, customs cooperation, and mutual assistance, is low.
- The EAC Tariff Concessions under AfCFTA are based on the EAC CET 2007 Version, while EAC Partner States are implementing the EAC 2022 Version. There is a need for analysis of the two versions to ensure that no products attract higher tariffs in the offer than the rates applicable in the EAC CET 2022 version.
- The joining of the Democratic Republic of the Congo (DRC) as a bona fide Partner State of the EAC may bring challenges to EAC offers, given that the DRC has separate tariff offers that have already been accepted by the AfCFTA.
- The failure of the Republic of South Sudan to ratify the AfCFTA and the non-implementation of the EAC CET by South Sudan may bring issues regarding the implementation of EAC tariff concessions.
- The different positions of the EAC Partner States on outstanding tariff lines under AfCFTA Rules of Origin are counterproductive to the EAC, considering that the region has the EAC Rules of Origin 2015 and Manual, which Partner States are implementing uniformly.

IMPLEMENTATION OF THE AFRICAN CONTINENTAL FREE TRADE AREA (AfCFTA) BY EAC PARTNER STATES

EABC recommends the following:

1. Partner States should launch intensive sensitization campaigns on AfCFTA for the EAC private sector to take benefits of the opportunities and face challenges associated with liberalization of trade in goods and services.
2. EAC Partner States should review their regional and national institutional, legal, and regulatory frameworks to facilitate the smooth implementation of AfCFTA's Protocol of Trade in Goods Annexes, such as Trade Remedies, Rules of Origin, Customs Cooperation & Mutual Assistance, etc.
3. Partner States should conduct an analysis of the EAC Tariff Concessions to AfCFTA to identify tariff lines that are inconsistent with AfCFTA's Most Favored Nation (MFN) principle given that the EAC is implementing the EAC CET Version 2022 while the Tariff Concessions is based on EAC CET Version 2007.
4. Partner States should conduct an analysis to establish the differences and similarities between the DRC Tariff Concessions and the EAC Tariff Concessions and their impact on the EAC Customs Union.
5. EAC Partner States should urge the Republic of South Sudan to ratify the AfCFTA Agreement and implement the EAC CET and EAC Schedule of Commitments on Progressive Liberalisation of Trade in Services.
6. The EAC Partner States should harmonize their positions on the remaining AfCFTA Rules of Origin and negotiate the remaining tariff lines as a bloc.

III. IMPLEMENTATION OF THE COMESA-EAC SADC TRIPARTITE FREE TRADE AREA AGREEMENT

The EAC Partner States aim to maximize on trade and investment benefits that arise from being part of regional, bilateral and multilateral trade arrangements. In that regard, the EAC Partner States have successfully negotiated among others the Tripartite Free Trade Aare (TFTA) which was launched in June 2015 by the Heads of states and Government of the three RECs. The TFTA involves Twenty-Seven Member/Partner States drawn from the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC).

The COMESA, EAC and SADC have embarked on fast tracking the establishment of TFTA along three Pillars: Market Integration, Infrastructure Development and Industrial Development. By December 2022, a total of 22 countries have signed the TFTA Agreement and 7 countries, namely, Ethiopia, Eritrea, Lesotho, Mozambique, South Sudan, Tunisia and Somalia were yet to sign it. Eleven (11) countries have ratified the TFTA Agreement, namely, Egypt, Eswatini, Kenya, South Africa, Rwanda, Burundi, Uganda, Botswana, Namibia, Zambia and Zimbabwe. Three (3) more ratifications are required for the TFTA Agreement to enter into force.

IMPLEMENTATION OF THE COMESA-EAC SADC TRIPARTITE FREE TRADE AREA AGREEMENT

Trade Statics show that EAC Partner States trade more with the Tripartite compared to the Rest of Africa. This is mainly attributed to the prevailing preferential trade regime that EAC Partner States have with COMESA and SADC. Five EAC Partner States (DRC, Kenya, Burundi, Rwanda and Uganda) are members of COMESA while DRC and Tanzania are members of SADC. In addition, geographically EAC Partner States are closer to COMESA and SADC Member States to the Rest of Africa, hence proximity attracts more trade. For example, the EAC Partner States' exports to Tripartite over the period 2010-16 valued USD 2.5 billion. In the same period the EAC 's exports to the Rest of Africa were at USD 312.4 million which is less than 13% of what EAC Partner States exported to the Tripartite. Tripartite import more than 99 percent similar products exported by EAC to its market. However, the share of EAC exports to the Tripartite in comparison with Tripartite imports from the world indicates that EAC's trade share over the period 2010-16 accounts for less than 1 percent in this market .This provides an indication that the EAC has a considerable market opportunity to grow its share of exports to the Tripartite market with coming into force of the preferential tariff regime among the three RECs especially for vegetables, meat of bovine animals, pasta, among others.

Challenges:

- Slow ratification of the TFTA Agreement by Member States making it difficult to reach a threshold of 14 countries which will make the TFTA Agreement come into force,
- Low awareness of the EAC Private sector on TFA trading instruments and implications to businesses
- Less media attention and analysis of the TFTA in comparison to AfCFTA,
- Lack of working independent Secretariat to coordinate and follow up implementation of the agreed commitments by TFTA Member States
- EAC Partner States have not fully exploited the Tripartite market.

EABC recommends the following:

- United Republic of Tanzania to expeditiously ratify the TFTA Agreement as is among the signatory of the Agreement.
- Republic of South Sudan to expeditiously sign and ratify the TFTA Agreement as is member of EAC.
- United Republic of Tanzania conclude negotiations of Tariff Offers with Egypt.
- Republics of Burundi, Kenya, Rwanda and Uganda to conclude negotiations of Tariff Offers with Southern African Customs Union (SACU).
- EAC Partner States should champion the establishment of the Tripartite TFTA Secretariat which will coordinate and guide the implementation of the TFTA's commitments.
- EAC Partner States should address challenges associated with competitiveness such as supply-side constraints including costs, efficiency, quality and quantity, among others grow EAC share of exports to the Tripartite market once the TFTA comes into force.

4.0. SMALL & MEDIUM ENTERPRISES (SMES),YOUTH,WOMEN IN BUSINESS IN EAC

Micro, Small, and Medium-sized Enterprises (MSMEs) are the driving force of economic growth, job creation, innovation, regional and national development, social cohesion, and play a great role in nurturing women and young entrepreneurs in the EAC. According to the EAC SME Charter, MSMEs in the EAC create over 60 percent of employment opportunities and account for the largest proportion of newly created jobs. For example, in Kenya and Tanzania, MSMEs account for 92 percent and 62 percent, respectively, of the newly created jobs. In 2015, three-quarters of workers in Kenya and Rwanda were employed in the MSME sector. Additionally, MSMEs also provide goods and services that are better adapted to local markets and stimulate innovation, entrepreneurship, technology development, and research, among other contributions.

MSMEs are a critical part of this entrepreneurship as they account for more than 90 percent of business establishments in the region. The importance of the MSME sector in the transformation of EAC economies has further been well articulated in the East African Industrialization Policy for the period 2012-2032 and in the EAC Development strategy for the period 2012-2016. Most of the MSME enterprises in the EAC (over 90 percent) are micro-enterprises. In Rwanda, for example, around 92 percent of the MSMEs are micro-enterprises, while 6 percent of the total establishments are small enterprises. However, about 90 percent of business establishments are in the informal sector.

SMALL & MEDIUM ENTERPRISES (SMES), YOUTH, WOMEN IN BUSINESS IN EAC

Description of enterprise	No. of Employees	Size of investment US$	Sales/turnover per year (US$)
Micro	1- 4	Not exceeding 2000	Not exceeding 20,000
Small	5-50	2001-150,000	20,001 - 150,000
Medium	51-100	150,001 – 1,000,000	150,001– 1,000,000

Source: EAC SME charter

SMALL & MEDIUM ENTERPRISES (SMES), YOUTH, WOMEN IN BUSINESS IN EAC

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Challenges:

- Cumbersome tax administration and access to finance, which are obstacles to the majority of startups.
- SMEs in the EAC face obstacles in accessing regional and continental markets, as well as internal markets, due to their size and inefficiencies in regulatory and framework conditions.
- Lack of sufficient strategic resources, such as finances, skills, or technology.
- Isolation from policy drafting and consultations, and lack of proper representation from strategic positions where vital decisions are made.
- The majority of MSMEs (90%) are in the informal sector, making it difficult for them to access formal services such as public procurement, concessional loans from financial institutions, and standardization of their products, etc.

EABC recommends the following:

1. EAC Partner States should coordinate, harmonize, and align policies, institutional frameworks, and legislations of SMEs across the EAC to ensure a sound framework for their competitive growth and development.
2. EAC Partner States should set up robust monitoring and evaluation mechanisms that systematically assess policies for their impacts on SMEs, using relevant data and methodologies, and feeding results into new policy initiatives.
3. EAC Partner States should review the EAC SME Charter to take into account new progress related to SMEs in the EAC.
4. EAC Partner States should enhance SMEs' participation in regional, continental, and international trade and global value chains through open markets, conducive regulatory frameworks, trade facilitation, and trade finance, and by strengthening their access to services and networks, including with foreign partners and multinationals.
5. EAC Partner States should enhance access to digital infrastructure to enable SMEs to adopt digital technologies, services, and data in line with their needs, digital maturity, and aspirations.

The Voice of the Private Sector in East Africa

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