Kenya's Trade within the East African Community: Institutional and Regulatory Barriers

Augustus Muluvi, Paul Kamau, Simon Githuku and Moses Ikiara, Kenya Institute for Public Policy Research and Analysis (KIPPRA)*

Regional trade arrangements are instrumental in promoting global trade and foreign direct investment. The East African Community (EAC), one example of such an agreement, is comprised of Burundi, Kenya, Rwanda, Tanzania and Uganda; in 2010 the EAC included an estimated population of more than 130 million people; and, in 2001 it had a combined gross domestic product of $74.5 billion. The EAC was revived in 1999 after having been dissolved for a number of years. It established a customs union in 2005 and a common market in 2010. Its next phases involve the creation of a monetary union in 2012 and a political federation in 2015.

Kenya's Trade Performance within the EAC

Trade among the five EAC partner states grew from $1.81 billion in 2004 to $3.54 billion by the end of 2009, an increase of 96 percent. This growth can be attributed to, among other factors, the establishment of the customs union. However, intra-EAC trade remains low and currently stands at 13 percent of the total trade volume. This compares poorly with other regional trade arrangements such as the European Union and the North America Free Trade Agreement, where intraregional trade accounts, respectively, for 60 percent and 48 percent of total trade portfolios.

Agricultural commodities and manufactured products, to some extent, form the bulk of intra-EAC trade; food, live animals, beverages, tobacco and inedible crude materials dominate its trade. Kenya's exports to the region, however, are more diversified and include chemicals, fuels and lubricants, machinery and transportation equipment.

The EAC is a major destination for Kenya's exports. For instance, in 2010 the EAC accounted for 53 percent of Kenya's total exports to the rest of Africa and 24 percent of its total exports to the world. In the same year, Uganda was Kenya's leading export destination, absorbing 12.7 percent of total exports, while Tanzania and Rwanda came in fourth (8 percent) and 10th (2 percent), respectively. Overall, Kenya's trade value in the region has grown significantly, from $1.2 billion in 2008 to $1.52 billion in 2010, representing a 26.7 percent increase. Kenya accounts for about 45 percent of the total intra-EAC trade.

The EAC's deepening and expansion have widened the scope of trade opportunities for Kenya's businesses during the last 10 years. However, Kenya has not yet fully exploited the opportunities offered by the EAC's integrated market, a problem that is increasingly associated with institutional and regulatory barriers to trade in the region.

* Augustus Muluvi, Paul Kamau and Simon Githuku are policy analysts at the Kenya Institute for Public Policy Research and Analysis (KIPPRA) in Nairobi. Moses Ikiara is the director of KIPPRA. More information about KIPPRA is available at www.kippra.org or +254 20 4936000.

Institutional Barriers to Kenya's Trade in the EAC

Various Kenyan ministries, departments and parastatals regulate and support the country's trade, including the Ministries of Trade, Finance, Justice and Constitutional Affairs, Public Health and Immigration. Specific agencies that are also involved include the Kenya Plant Health Inspectorate Service (KEPHIS), Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KEBS), Kenya Ports Authority (KPA) and Kenya Roads Board (KRB). In performing their functions, these institutions and agencies sometimes hinder the free and smooth flow of goods and services in the EAC. These hindrances occur because of the setting of product standards, technical regulations and conformity assessment procedures that constitute technical barriers to trade.

Of the agencies mentioned, the KRA has the most significant impact on intraregional trade. It is responsible for the enforcement and management of the customs laws and the administration of common external tariffs. Additionally, the clearance of goods by the KRA takes time because of the lack of harmonized import/export documentation and procedures. Currently, the digital data exchange system used by revenue authorities is operational in Rwanda, Uganda and Kenya, but not in Burundi and Tanzania. Only Kenyan customs operates for 24 hours, meaning that even if goods are cleared in Kenya, they are delayed for Burundi and Tanzania by other member states.

Other important agencies that affect the EAC's trade in Kenya include KEPHIS, which inspects plants and issues a plant import permit; KEBS, which tests and grades the quality of goods; KPA, which manages port charges; and the Kenya police, which provide security and inspect cargo by verifying legal documents. Others agencies include the Immigration Department, which issues work permits; KRB, which deals with the application of axle load specifications through the truck scales; and the Public Health Department, which inspects goods to ensure that they are fit for consumption. All these agencies operate independently of each other, without much coordination (thereby occasioning delays). In addition, most of them do not operate 24 hours a day.

The Ministry of the EAC coordinates, facilitates and oversees affairs related to the EAC. Together with similar ministries from partner states, it makes various policies for implementation by relevant agencies. However, there is a disconnect between the officers at the border points and those at the ministry's headquarters; decisions and policies made by the latter are often not communicated to the former.

Regulatory Barriers to Trade

The reduction of tariff barriers following the implementation of the EAC's customs union in 2005 resulted in an increase in the use of nontariff barriers as a tool for regulating trade.

Customs Clearance

Before the importing or exporting of commodities within the EAC, a trader must obtain an import declaration form (IDF) issued by an appointed government agency in the partner states. The issuance of IDFs involves numerous agencies (the government printer, the national bank, KEPHIS, KEBS, KPA and KRA), which conduct the procedures for the inspection, verification of dutiable value and certification of compliance. The result of having all these agencies partake in the issuance of IDFs is often duplication of effort and wasted business time. Additionally, in some cases, inspection bodies have not established inspection posts at major entryways, thus forcing traders to travel long distances for customs clearance.

Standards and Certification

EAC member countries apply numerous certification and conformity assessments to ensure technical quality standards in intra-EAC trade. However, there are differences in product standards and agencies that are accredited to undertake the standardization procedures. Some agencies accredited to conduct standardization in one country are not recognized by officers in another country—a problem that adds to the cost of conducting certification and wastes time.

Rules of Origin

Currently, EAC member countries do not have their own specific rules of origin; instead, they apply the ones adopted by the Common Market for Eastern and Southern Africa. These rules of origin stipulate that a good must wholly be produced or contain imported content of no more than 40 percent of the cost, insurance and freight value of the materials used in production. The procedure for obtaining the certificate of origin is cumbersome and lengthy, which itself is costly for the business community.

Licenses and Permits

Licenses required within the EAC include a business license, an import/export license, a road transportation license and a municipal council license. The procedures for obtaining these various licenses vary across countries. In addition, there is a lack of preferential treatment to EAC-originating businesses. This makes cross-border registration of businesses a difficult, cumbersome and expensive process. In most EAC countries, manual processes are used in business names searches, registration and the payment of relevant charges. Moreover, multiple licenses are required for the production, distribution and sale of goods, resulting in duplication and prohibitive costs of doing business in the region.

Immigration Procedures

For citizens of EAC member countries, visas are not required for travel within the community. However, movement of people across the region is restricted to passport holders or those with temporary travel documents, and a majority of EAC residents do not hold such documentation. In addition, the requirement for the yellow fever vaccination by Tanzania has been identified as a major bottleneck to trade. Although this is justified on the basis of health concerns, the procedures for its application and the fee of $50 for those who apply at the entry points pose a challenge. Therefore, the cost of movement across boundaries has a significant impact on cross-border trade.

Police Checks and Roadblocks

Within the EAC, there are many roadblocks and police checkpoints along the major roads that disrupt the efficient movement of goods. For every 100 kilometers, traders encounter about two, five and seven roadblocks in Tanzania, Uganda and Kenya, respectively (Karugia et al. 2009). These stops are costly in terms of time and money. Making matters worse, police officers often solicit bribes at these locations from transporters and traders, especially those whose vehicles have foreign registrations.

Truck Scales and Inspections

The mandatory weighing of goods along the transit route adds time and cost of upkeep for transporters. These costs are particularly significant on the Kenyan and Tanzanian sides of the transportation corridors. Acceptable weights per axle and the number of axles per metric ton have not yet been harmonized among the EAC member states. Numerous truck scales along the main road transportation routes like the Northern Corridor makes it difficult to move goods to destinations on time. In addition, because the EAC members have not yet harmonized gross vehicle mass, 54 metric tons are allowed in Kenya, 45 metric tons in Uganda, 56 metric tons in Tanzania and 58 metric tons in both Rwanda and Burundi.

Language Barriers

English is the agreed-upon language across the EAC for the purposes of administration, public trade facilitation and private transactions. However, for francophone Burundi, customs officials still insist on documents being translated into French. To fulfill this requirement, traders must incur extra costs and time. Translation can involve traveling to Bujumbura to have the documents certified before transportation commences.

Recommendations

The further expansion of intra-EAC trade will require a sustained effort toward reducing and eventually eliminating the various institutional and regulatory barriers identified in this policy brief. First, all the agencies operating at the border points need to have harmonized inspection processes to hasten the clearance process and reduce delays at the borders. Consideration should be made to establish a one-stop border shop. Second, the agencies should simplify various application forms with a view to reducing lengthy and technical procedures. Third, more point offices (i.e., focal points) for obtaining important information regarding the EAC are required. Currently, there are only two regional offices, in Busia and Namanga, and these lack adequate staff.

On regulatory barriers, Kenya and the other EAC governments should streamline customs clearance procedures, rules of origin and standards by reducing the number of trade documents required and by harmonizing the nature of the information to be contained in these documents. Such documentation should also be designed and standardized in accordance with internationally accepted standards, practices and guidelines and should be adaptable for use in computer systems. In addition, the customs departments in partner states need to harmonize information and communication technology programs. The international community can play a key role in enhancing technical capacity in the region by helping to identify, communicate and advise institutions on how to eliminate barriers to trade.

References

Karugia, J. Waithaka, M. Freeman, A. Prabhu, R. Shiferaw, B. Gbegbelegbe, B. Massaw, S. Kyotalimye, M. Wanjiku, J. Macharia, E. 2009. *Responding to Food Price Crisis in Eastern and Southern Africa: Policy Options for National and Regional Action*. ReSAKSS Working Paper No. 27.