

**Report No. 45708-AFR**

# **NON-TARIFF MEASURES ON GOODS TRADE IN THE EAST AFRICAN COMMUNITY**

## **SYNTHESIS REPORT**

**September 29, 2008**

**PREM 2  
AFRCI  
Africa Region**



**Document of the World Bank**

**Prepared for East African Community  
and Member Governments of Burundi, Rwanda, Kenya, Tanzania, and Uganda**

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## **CURRENCY EQUIVALENTS**

(September 24, 2008)

US\$1.00	=	1139.10	Burundi Francs
US\$1.00	=	549.75	Rwanda Francs
US\$1.00	=	1172.60	Tanzania Shillings
US\$1.00	=	1650.50	Uganda Shillings

## **FISCAL YEAR**

Burundi, Rwanda	:	January 1 - December 31
Kenya, Tanzania, Uganda	:	July 1 - June 30

## **WEIGHTS AND MEASURES**

Metric System

## ABBREVIATIONS & ACRONYMS

ACP	Africa, Caribbean, Pacific	IF	Integrated Framework
AfDB	African Development Bank	ISSO	International Standards Setting Organizations
AFTA	Asian Free Trade Area	ITWG	Interim Technical Working Group
AGOA	African Growth and Opportunity Act	LDCs	less developed countries
ASEAN	Association of Southeast Asian Nations	MDG	Millennium Development Goals
ASYCUDA	Automated Systems for Customs Data	MFN	most favored nation
BIC	business investment climate	MoU	memorandum of understanding
BNPP	Bank-Netherlands Partnership Program	MRA	Mutual Recognition Arrangements
CEPGL	Economic Community for Great Lakes Countries	MS	member state
CEPT	Common Effective Preferential Tariff	NBS	National Bureau of Standards
CET	common external tariff	NMC	National Monitoring Committee
CFS	Container Freight Station	NPV	net present value
COMESA	Common Market for Eastern and Southern Africa	NTMs	non-tariff measures
DRC	Democratic Republic of Congo	OTRI	Overall Trade Restrictiveness Index
DTIS	diagnostic trade integration studies	PRSP	Poverty Reduction Strategy Paper
EABC	East Africa Business Council	REC	regional economic community
EAC	East African Community	SAD	Single Administrative Document
EATTFP	East Africa Transport and Trade Facilitation Project	SADC	Southern African Development Community
ECCAS	Economic Community of Central African States	SEA	Single European Act
ECJ	European Court of Justice	SEM	Single European Market
EEC	European Economic Community	SIMBA	Similarity Based Complex Analysis System
EPA	Economic Partnership Agreement	SITC	Standard International Trade Classification
EPZ	Export Processing Zones	SPS	sanitary and phyto-sanitary measures
EU	European Union	SSA	Sub-Saharan Africa
FDI	foreign direct investment	TBT	technical barriers to trade
FTA	free trade area	TEU	Twenty Foot Equivalent Units
GATT	General Agreement on Tariffs and Trade	TIFA	Trade and Investment Framework Agreement
GDP	gross domestic product	TRAINS	Trade Analysis Information System (of UNCTAD)
GNFS	goods and nonfactor services	TPRs	Trade Policy Reviews
GNI	gross national income	TTRI	Trade Tariff Restrictiveness Index
GSP	Generalized System of Preferences	UNCTAD	United Nations Conference on Trade and Development
HIPC	Highly Indebted Poor Countries	WCO	World Customs Organization
IDPs	internally displaced persons	WDI	World Development Indicators
IDF	Institutional Development Fund	WTO	World Trade Organization

Vice President	: Obiageli Ezekwesili
Country Director	: Mark Tomlinson
Sector Director	: Sudhir Shetty
Sector Manager	: Kathie Krumm
Task Team Leader	: Sumana Dhar

## EXECUTIVE SUMMARY

The purpose of this note is to highlight the key findings of an assessment of non-tariff measures (NTMs) on goods trade in the EAC, and identify priorities for a second stage of work focused on practical steps toward reducing and eliminating these NTMs.

### I. Non-tariff Measures as the Next Main Area of Action for Strengthening EAC's Trade Integration

- **Common market deliberations in EAC.** The EAC wants to consider the elimination of the NTMs within the context of its evolving common trade policy. This (draft) synthesis report is prepared in response to EAC's request for a phased technical assistance from the World Bank. Its objectives are to choose NTMs with high impact on inter-member trade out of the range of NTMs identified in the region; improve the understanding of their persistence over time; and, devise practicable implementation plans for their removal.<sup>1</sup> In concrete steps towards establishing a FTA, the EAC has already made remarkable progress on reducing/eliminating tariffs on traded goods since 2005. The remaining internal tariff walls are to be eliminated by 2010. There is increasing need for the kind of analysis requested by EAC where the REC-wide internal trade liberalization has allowed considerable reduction/elimination of tariffs, but would be offset by NTMs. This, in turn would significantly delay the establishment of the EAC common market.
- **Elimination of NTMs in the EAC Protocol.** The Protocol for the Establishment of the EAC Customs Union provides the legal structure for NTB elimination in Article 13, which stipulates that to establish a full FTA,
  - “1. Except as may be provided for or permitted by this Protocol, each of the Partner States agrees to remove, with immediate effect, all the existing non-tariff barriers to the importation into their respective territories of goods originating in the other Partner States and, thereafter, not to impose any new non-tariff barriers.
  2. The Partner States shall formulate a mechanism for identifying and monitoring the removal of non-tariff barriers.”<sup>2</sup>

The National Monitoring Committees for NTMs in the EAC members were instituted in 2007 – except in Burundi. To develop and embark of their work programs, the NMCs will need prioritization of the NTMs and guidance at the EAC level and strengthening of political commitments at the national level. Strong, targeted financial and technical support for improvement of institutional capacity to monitor implementation of the program at the regional and national levels will also be critical.

- **Building on earlier analysis of NTMs in EAC.** EAC's working definition of NTMs is 'quantitative restrictions and specific limitations that act as obstacles to trade,' other than tariffs, that may be embedded in government laws, regulations, practices and requirements at the national and local level, often for various legitimate reasons like safeguarding health, environment, etc. Identifying and classifying NTMs is not easy anywhere. This assessment

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<sup>1</sup> The phased work program concept has been endorsed by both EAC and Bank reviews. Phase 1 was financed by the Bank and the BNPP. Phase 2 is expected to be financed by the Bank and a MDTF for trade in Africa.

<sup>2</sup> EAC Protocol, 2004, pp. 16. The Protocol was signed in March 2004 and came into effect in January 2005 for the founders: Kenya, Tanzania and Uganda. Burundi and Rwanda accepted it from July 2007.

has drawn on prior analysis of NTMs by the private sector entities in the three founding members, within the context of surveys towards improving overall private sector business environment, as well as country specific trade diagnostic studies. The earlier analysis focused less on the understanding the political economy for persistence of NTMs over time or measuring specific and/or quantitative impact of NTMs for comparative purposes in assessing priorities. The analysis presented in this report complements the earlier work, based on a combination of desk reviews and consultations with member governments and private sector firms in all the five member countries.

## II. Main Characteristics of intra-EAC Trade

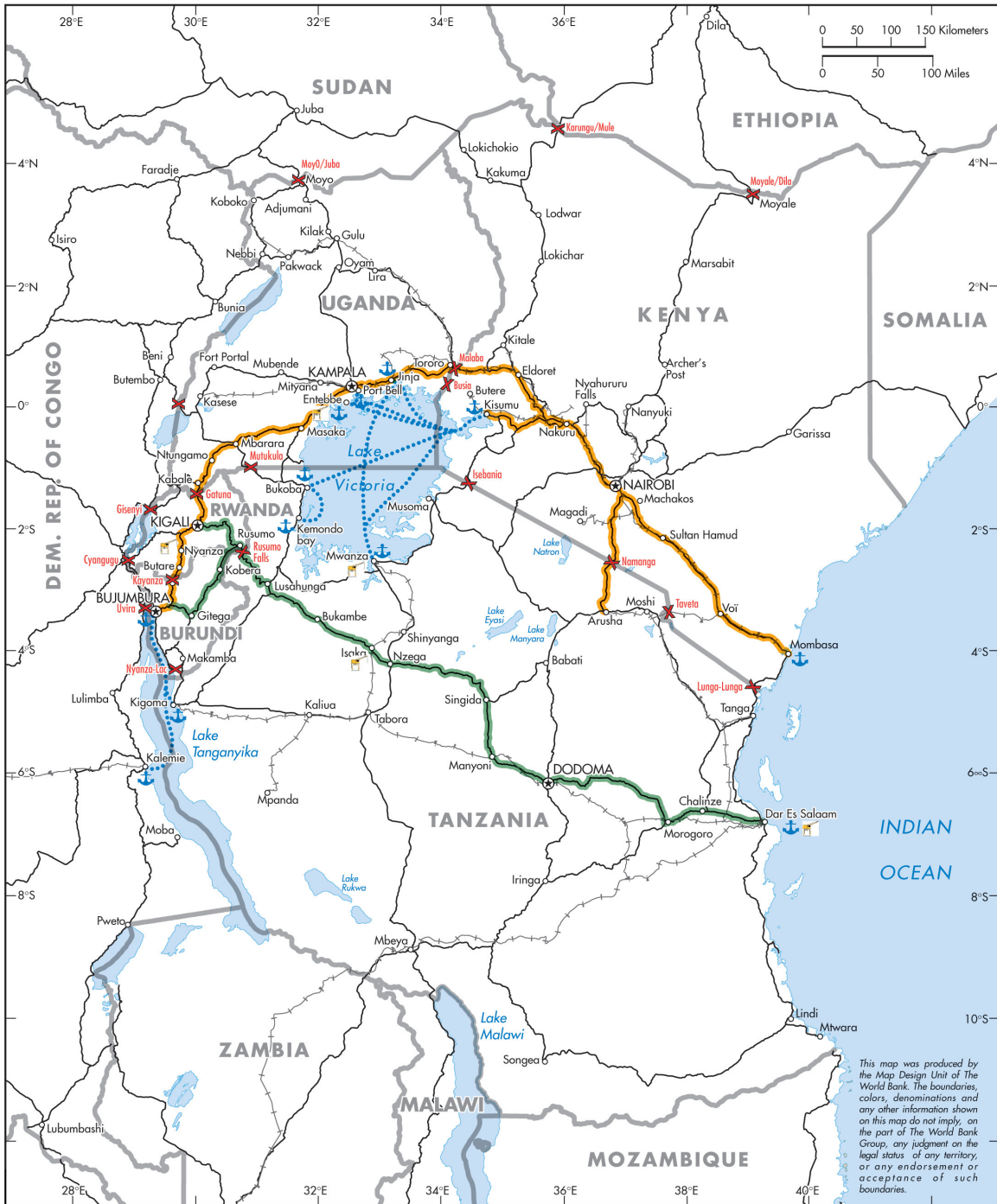
The following aspects of intra-EAC trade are particularly relevant for assessing priorities for NTM removal.

- **Current intra-EAC goods trade in official statistics.** Food and live animals as a group continue to dominate the formal intra-EAC trade of almost all EAC members, except the exports of Kenya, suggesting the importance of assessing NTM impact for those sub-sectors. The two other important groups - especially for the new EAC members - are beverages and tobacco, and inedible crude materials. The intra-EAC exports by Kenya shows increasing diversification into more specialized manufactured goods and articles, and gradually so by Tanzania and Uganda also. Chemicals, fuels and lubricants, as well as machinery and transport equipment are the other significant groups in Kenya's exports to the rest of EAC. Most members sell their top five commodities (by the value share in regional trade) in the Kenyan market. Burundi and Rwanda export the same top commodities to the rest of EAC as they do to the rest of the world. This latter observation - combined with relatively small internal market size relative to other RECs - suggests that the EAC may be able to draw heavily on WTO-consistency as a means for NTM elimination.
- **Informality.** A significant part of the trade within the region in food and live animals tends to be seasonal, largely localized, and often informal. The transit routes are often along traditional cross-border paths, away from the major transport corridors. Hence, such trade remains inadequately captured in the official national statistics. It will be important to understand the implications of NTMs (and their elimination) on these trade flows, especially to the extent that NTMs have been encouraging informality and hence hampering market development.
- **Transport corridors for formal goods trade.** The backbone of formal intra-EAC trade are two overland road and rail routes, the Northern and Central corridors - starting from the ports of Mombasa and Dar es Salam respectively and reaching the border of DRC on the region's western edge - along with a north-south road link through Namanga on the Kenya-Tanzania border. These corridors are also critical for transit of EAC's imports from outside, and its goods exports beyond the region. This suggests a focus on NTMs related to the functioning of these corridors in particular.

An acute constraint for the producers, traders and transporters of goods in EAC is the poor physical condition of the state-run transport and communications infrastructure. The potential for rail transport is recognized, even though the current state of disrepair of railroads along both corridors and inadequacy of rail equipment for use will need to be alleviated before it is a viable alternative again. In addition, constraints include the poor state and maintenance of roads and weighbridges; the small capacity and disrepair of the ports on the Indian Ocean and the lakes; and, the underdeveloped water transportation across Lake Victoria and Tanganyika. While this report does not focus on the state of the physical transport infrastructure in EAC, it clearly is a complementary priority.

Map A

IBRD 36064



This map was produced by the Map Design Unit of The World Bank. The boundaries, colors, denominations and any other information shown on this map do not imply, on the part of The World Bank Group, any judgment on the legal status of any territory, or any endorsement or acceptance of such boundaries.

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### III. NTMs in EAC Today: Synthesis of Findings based on member country interviews

- **Cost of NTMs.** The impact of NTMs in EAC measured by the largest direct and indirect cost to the private sector is the lost man-days during goods transit and clearance at the internal borders and along the transport corridors before reaching the destined market. For example, two days are needed for a 950 km journey between Mombasa and Malaba due to convoys and road blocs; an average of two weeks is needed to clear goods in Mombasa; and, all goods entering through any border post in Burundi needs to be cleared at the Bujumbura port. Next in rank are various nonofficial cost enhancements, arising from scope for fraudulent behavior created through the flexible implementation of national policies. For example, the current flexible application of axle-load restrictions on trucks in Kenya and Uganda; the continued operation of five compulsory weighbridges along the Central corridor between Rusumo and Dar es Salam, as well as seven in Kenya and four in Uganda along the Northern corridor to reach Kigali from Mombasa (at latest count). The other important costs added by NTMs are the range of official payments necessary for goods trade, and the lost business opportunities, the latter most difficult to quantify.
- **Type of existing NTMs.** EAC members harbor a range of generic NTMs that apply to most goods traded across the region's internal borders. These often apply to goods trade beyond the EAC also. A shorter list of NTMs has begun affecting product specific trade in the region in the recent years. They are based on technical quality and SPS standards specified for the goods, and mostly anchored in health and safety concerns stated by the member governments.

The current NTMs that apply to intra-EAC trade - as per the broad categories of the WTO inventory - are ranked below in a decreasing order of importance based on numbers of private sector complaints.

#### A. Generic NTMs

- **Customs and administrative entry and passage procedures.** Prolonged formalities, multiplicity of institutions, duplication of clearance processes, limited capacity at the border posts and travel restrictions through convoy and time of day, continue to add monetary costs and transit time for goods traded in the EAC. In addition, some rules of origin cases have escalated to the need for verification mission to determine adherence; or emerged related to specific origin.<sup>3</sup> In pre-shipment inspection, the efficiency of certain private/ parastatal agencies in charge is questioned by the traders. There is very limited, if any, flexibility in the use of customs agents and bonds. The private firms' complaints identify this group of NTMs as the most important in the region.

The revenue incentives remain important for each member, with a range of specific charges adding to the private cost of trade in EAC. Actual instances of unequal treatment according to the country of origin of the goods and/or truck and its driver remain frequent, as are the vociferous allegations by private firms of such "unfair" treatment arising due to perceived national protectionism and corruption. The opportunities for fraudulent behavior are reported to arise due to the gaps between the respective national revenue authority decisions and their actual application at the border, as well as due to the early stages of acceptable coding and synchronization within the EAC (a responsibility of the EAC Directorate of Customs and Trade).

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<sup>3</sup> Repeated allegations of counterfeit goods from the Far East entering the EAC through Dar es Salam, with the Tanzanian stamp of manufacture questioned by the other EAC members.



The EAC Council of Ministers expects that its region-wide decisions will simplify and synchronize customs documentation, formalities and procedures at the border posts. To date there is considerable lag between the time the relevant rules are harmonized by the EAC Council of Ministers, and the time national customs officers at the border posts develop capacity to apply the EAC regulations and stop applying the national or COMESA taxes/duties and procedures. Many member states are undertaking donor-funded customs systems reform and modernization and border post upgrading. But, the focus and content of such national efforts have been largely bilateral, slow, and uncoordinated across the EAC. Where attempted, the concept of 'one-stop-center' for clearance has not really started working.

- **Government participation in trade and restrictive practices tolerated by it.** The operation of ports (sea ports of Mombasa and Dar es Salam; lake ports of Bujumbura and Kigoma), inland container freight stations (like MAGERWA and Isaka) and the plethora of manned weighbridges by the national governments, parastatals or monopolies authorized by the governments, are identified by the private sector stakeholder responses as the NTMs second in importance in EAC serving as a bottleneck for economic activity in the region. Their response is mindful of the possibility of such NTMs being alleviated as constraint imposed by the physical infrastructure itself is tackled gradually. Transparency and efficiency in clearance and release of goods at the sea ports is hampered by administrative complexity of formalities, especially in Mombasa; limited skills and ineffectiveness of staff and agents prevail, especially in Dar es Salam. Short, inadequate grace periods are provided for the imports prior to the application of demurrage charges. All add lengthy delays, congestion, and high cost of offloading and clearing cargo (already limited by the useable physical infrastructure at these locations) and create considerable scope for discriminatory/fraudulent behavior. Shipment clearance delays also enhance risk of deteriorating product quality, especially for perishable products.

National infrastructure remedies being instituted are addressing brick and mortar issues, but often not the associated operational practices that have the direct impact on intra-EAC trade.<sup>4</sup> In recent years, the governments have opted for private or joint management some of the facilities, or allowed in the first private alternatives, or are looking into such options. However, following such decisions, scarcity of investment funds of the private management company and the lack of co-ordination with other government decisions are often emerging, as are sub-optimal operational business decisions taken by the private monopoly after the replacement of a state monopoly.

- **Distribution constraints.** NTMs originating in national regulations and their application on the transit of goods in the member states constitute the third broad category in importance. The way in which the transit licenses for goods, the truck entrance fees and grace period, the permits for refueling, and the prohibition on transportation of locally produced goods and backloads are applied vary considerably within EAC and can be discriminatory. Multiple police road blocks and mobile control along the transit routes remain a much-discussed but persistent NTM, with ample scope to '*toa kitu kidogo*.'<sup>5</sup> In particular cases, for example in Tanzania, the difference in transit time along the same route and in ease of procedures - hence cost - are so significant that producers and traders make very specific choices on the use of

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<sup>4</sup> Improvements are reported along the Northern corridor.

<sup>5</sup> The customary request in Kiswahili, '*Give something small*.'

trucks registered in certain member countries and drivers who have the particular national citizenship.

At present, a major issue with traders and transporters is that of axle load specifications and Gross Vehicle Mass. The EAC has passed a specific 3 axle–7 tonne per axle load requirement for trucks. All member governments agree that the new restriction is good for protecting the road surface in the region. In addition, the private sector agrees that it will eventually be beneficial for truck maintenance and reduced workshop time. Tanzania has been strictly applying such axle load limits, as a member of SADC, for a while. However, the other four EAC members have traditionally allowed 4-axle trucks with much larger loads. These larger capacity trucks have become an important lifeline for the EAC, as the railways became less and less an alternative for bulk commodity transportation. In the interim - while the rule is being disputed by the Kenyan transporters in the Kenyan courts – the rule is starting to be sporadically applied by Kenya, Uganda, and Rwanda, with decisions at the border not agreeing on application of axle load limits. In extreme cases, entry is temporarily denied, limiting market access.

- **Specific limitations.** Certain restrictions not directly in the arena goods trade and transit are being applied as NTMs within EAC and affecting the intra-region trade. Widespread use is made of the procedures and fees for entry of EAC citizens for business purposes into other member states, and the registration of their businesses there. The restrictions also include the official charges for translation of documents to/from French, since Burundi maintains it as the national language while the official language of communication in EAC is English.

## **B. Product specific NTMs**

- **Technical quality standards and norms and sanitary and phyto-sanitary measures.** The EAC members are starting to apply ‘testing, certification and other conformity assessment’ for technical quality standards and norms in intra-EAC goods trade. The clearances can be periodic, but are mostly by consignment. Most time lost is due to the fact that in national product standard definition and certification, the bureaus of standards operate at very different levels of capacity and ability (with virtually none yet in Burundi) at its laboratories; and in testing and conformity assessment at the border. The EAC harmonized standards are developing very slowly, product by product, and are not necessarily recognized by member agents at the internal borders even when they are in place. The prolonged follow-up often needed - with the shipment stranded at the border - has been ‘allegedly’ used to discourage scope of developing cross-border trade in certain perishable products from time to time.

Moreover, the EAC-wide guidelines on import requirements as well as procedures for introducing import restrictions and bans remain to be finalized. Specific cases that have been in the forefront in the recent years cover trade in milk, poultry, beef, maize, etc. Though the recorded cases are few for now, this area of NTMs must be of particular concern since food and animal products are by far the largest group of goods trade within EAC.

Where health and safety issues are involved under SPS measures - “including chemical residue limits, disease freedom, specified product treatment” - the certification authority, with variations in the center for testing and other conformity assessment, moves to the respective ministries for agriculture and livestock development as well as veterinary services increasing the number of steps and complication. For both TBT and SPS measures, there is largely no mutual recognition of inspection reports and certificates among members.

Another technical standard impedes intra-EAC trade for the new EAC members for now. The issue of driving on the left side of the road in the rest of EAC is mentioned by Burundian and Rwandan drivers as a NTM, as changing sides as per the national driving rules and retrofitting the imported second-hand trucks makes transit susceptible to accidents. The Ministries of Transport in Rwanda and Burundi are also seeking to apply strict right-hand side vehicle importation rules incompatible with the rest of EAC.

#### IV. What the Other RECs are Doing

- **Learning from other RECs.** Generally RECs have been more successful in eliminating NTMs by using a mix of outlawing certain measures and following the mutual recognition principle for others. The EAC's preparation of a realistic plan can derive critical lessons from the actual experience of other RECs, in the identification, classification and measurement of NTMs as well as their choice for reduction and removal. The EU and the ASEAN show that this process is very long drawn and resource intensive, requires steadfast commitment throughout to deal with complex political decisions, and tends to be integrally related to overall plans to establish a single internal market in the REC. There are hardly any successful examples of RECs in SSA attempting NTM reduction.
- **From the EU.** Albeit at a very different level of development, with far stronger REC administration and much larger availability of resources to execute REC-wide decisions, the EAC could learn from the EU experience in development and application of the principle of mutual recognition in standards that facilitates free intra-EU trade in goods. For example, the intra-EAC trade in beer could learn from the EU recognition that alcoholic beverages can be introduced into any other EU member state when they have been lawfully produced and marketed in one of the member states. This streamlined approach to intra-REC trade relies only on "essential requirements" of alcoholic beverages and provides greater freedom to manufacturers to fulfil those requirements. At present, due to the difficulty in trade, beer and beverage producers in EAC mostly opt for separate production facilities in the larger members.

Second, EAC could learn from impacts of the EU enlargement and the foreign competition from outside that REC on the pace and process of elimination of NTMs and the solutions found. New EU members brought challenges to the integration process and functioning of the internal market, due to their lower level of economic development and new constraining measures on internal trade that stretched the EU monitoring capacities. EU recognized that a failure to establish the internal market quickly and effectively would only exacerbate difficulties encountered by European firms from external competition (by Japanese firms entering European markets in cars, etc).

- **From ASEAN.** The ongoing process in the ASEAN illustrates to the EAC the possibilities for developing countries, with limited financial flexibility and weaker administrative capacity. First, like the ASEAN, the EAC has large trading interests outside the REC. Hence, EAC should study how ASEAN's implementation of the principles of open regionalism – encouraging REC members to adopt and adhere to WTO rules - helps in eliminating NTMs. ASEAN's sector based approach to NTMs is an excellent example of the possibilities, when the implementation of REC-wide decisions is limited largely to national governments actions and the political complexity posed by sovereign members is large. Second, ASEAN benefited from a product-specific approach for a select number of goods deemed to have strong regional market potential (e.g., tourism, wood-based products). In the case of EAC, generic NTMs are currently more important than in the ASEAN case, but as noted, there are

select products (like milk, day old chicken, beef, etc among food and live animals) where the ASEAN implementation could be relevant.

## V. The Way Forward: Some Suggestions

- **Prevention of new NTMs.** With respect to the monitoring for new NTMs that may be imposed by member states, the EAC could learn from the EU's adoption of preventive measures which oblige member states to notify all draft regulations and standards related to technical specifications to be introduced on national territories. In this way, the Commission is able to monitor and prevent the emergence of new national barriers to intra-EU trade. The Commission also maintains a score card on adherence to REC-wide rules including those on NTMs on trade, which can be used to name and shame members into compliance.
- **A two-pronged approach for existing NTMs.** The prevailing NTMs in EAC are clearly divided into two groups and are likely to need two distinct approaches in developing implementation plans for monitoring, reduction and removal.
- **For generic NTMs.** All EAC members are WTO signatories also who are taking significant unilateral steps towards enhanced participation in that institution. The team recommends that the Council of Ministers consider and agree on the principle that NTMs that are not WTO-consistent in EAC—whether or not they restrict intra-EAC trade in certain products, and irrespective of the political economy—are to be eliminated *with immediate effect*. WTO consistency requires NTMs to be “transparent,” “non-discriminatory” among the domestic goods flow and intra-EAC/international trade, “scientifically based,” and “with no better alternative.” The preliminary list of NTMs should be investigated for these characteristics. We have seen above that several of the prevailing NTMs can be nontransparent and are mostly discriminatory against other EAC members. This could include interalia the operation of the weighbridges for intra-EAC goods transit, the use of only national clearing agents, the exclusive use of trucks registered and drivers who are citizens in the member state, the imposition of entrance fees on traders from other member states entering with their products, the French translation fee for customs documents, etc.

The generic NTMs in line with the WTO rules still need to be removed, but could be considered on a preferential basis. For ease of follow-through, the EAC members could prioritize those NTM areas for implementation where the Council of Ministers has already taken the EAC-wide policy decision. For those where such a decision from the Council is yet to be reached, the team recommends that the priority for EAC action be determined on the basis of criteria like the overall regulatory objective and/or the intra-EAC trade impact. This would include interalia the application of the axle-load law, the use of EAC-wide bonds and carrier licenses instead of national ones, etc.

- **For product specific NTMs.** In a few goods, like milk, beef, poultry (including day-old chicks), the EAC may want to develop specific region-wide technical and/or SPS standards after detailed investigations. In choosing the specific product it would be important to consider the regulatory objective and /or intra-EAC trade impact of the NTM. Here the guidance from the ongoing process of deliberations and decisions in the ASEAN countries will be useful. This could be based on harmonization with performance requirements, involving a single set of fully harmonized and detailed provisions. This approach is used for products that could put consumers' safety at risk and for which performance-oriented legislation is felt needed. Any capacity building initiatives in the overall area of the technical

and/or SPS standards for goods should be assessed vis-à-vis clear articulated demand from end-users in the public/private sector, rather than from the national bureaus of standards.

Given the fiscal and human capacity constraints that exist in the EAC for now and dependence on implementation of region-wide decisions only by national institutions, it is by no means being suggested that the EAC choose the above course of action for all major goods traded among the five members. For most goods, the “new approach” of the EU could apply to products with similar characteristics and where there is widespread divergence of technical regulations in EAC countries. This streamlined approach would rely only on the “essential requirements” and allow greater freedom for manufacturers on the way to satisfy those requirements. This would significantly reduce the red-tape originating from various standards agencies that mires goods trade in the region in particular and in developing countries in general. Gradually, this approach could provide private firms with a number of choices for attestation methods: self-certification against the essential requirements; generic standards; or using notified bodies for type approval and testing of conformity of type. On the TBT and SPS measures, the WTO guidelines tend to be most relevant for the OECD countries and the EAC is advised to be cautious as not to constrain the potential for growth in the region.

- **Capacity to monitor and prioritize.** Monitoring is a difficult and resource-intensive exercise, based on regular notification, regular reporting, proper classification, appropriate mutual prioritization for removal of non-transparent, discriminatory NTMs, and prior/subsequent monitoring. For the new NTMs that may arise as well as the existing generic and product specific NTMs, are the areas where the Secretariat as well as the member states would need to develop sufficient institutional capacity in the EAC. In the member states, such capacity needs to be developed not only in the NMCs, but also in the individual line ministries like the ministry of transport, ministry of agriculture and livestock, etc. The EU’s internal market scoreboard may prove to be a useful instrument for the EAC Secretariat to emulate. For the EAC, such a scoreboard could report the status of the NTMs action plans and the number of infringement proceedings due to new NTMs initiated against member states. These proceedings could be initiated as a consequence of continuing or new application of a NTM by a member state. In this case, the member state is encouraged to quickly remedy the situation, and if it fails to do so it is referred to the EAC court, which can impose a sanction.
- **Other factors.** It is recognized that in certain cases of locations (like Burundi with Tanzania; Uganda with Kenya) effective bilateral decisions among two members could largely ease the total impact of NTMs for particular members. These could be tried while a five-member consensus being worked on. Second, as the trade links of the EAC members with their external markets are very strong and a significant source of growth for the region, the EAC common market could aim to adopt an open regionalism model like the ASEAN, based on the principle of adherence to WTO rules. Through feasible processes, the EAC could urge its members to adopt the WTO agreements on TBT, SPS, and import licensing procedures as well as develop the related implementation guidelines. Third, large physical investments would go a long way in upgrading the state of EAC’s trade facilitation infrastructure and hence alleviate NTMs associated with these facilities.
- **Concrete progress in select areas to build confidence.** Among the factors that may slow down the process of actions on NTMs is the capacity of national institutions – the regulatory institutions, the customs administration, the bureaus of standards. In addition, the flow of information from the EAC and the national governments to private sector firms and the civil society in EAC needs to be faster, automatic and smooth. Efforts need to be made to address

the widespread perception in the private sector that implementing agents in each member state continue to think and act on behalf of the individual countries and not in terms of the EAC. A focus on some key NTMs (both generic and product specific) will be critical to prioritize EAC and national governments efforts in light of scarce institutional capacity and to build confidence in the seriousness of the NTM elimination program notably with the private sector.