

Laid on Table by
Hon. Dan Kidega on
behalf
the
Chair
The
Committee
28/4/
Kigali
Rwanda
D.S.



**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**



**REPORT OF THE COMMITTEE ON
COMMUNICATIONS, TRADE AND INVESTMENTS
ON THE EAC ONE STOP BORDER POST (OSBP) BILL, 2012**

April, 2013: Kigali, Rwanda

**Clerk's Chambers
3rd Floor, EALA Wing
EAC Headquarters
Arusha, Tanzania**

April, 2013

1.0. INTRODUCTION

The Treaty for the Establishment of the East African Community in *Clause 14 (b)*, mandates the Council to initiate and submit Bills to the Assembly. In this respect, the EAC Council of Ministers developed the EAC One Stop Border Post (OSBP) Bill, 2012. The object of this Bill is to provide for the establishment and implementation of one stop border posts in the Community, in order to facilitate trade through the efficient movement of goods and people within the Community.

In December 2012, the Council referred the Bill to the Assembly for consideration and ultimately passing as one of its core functions is legislation. As part of the legislative process, the Assembly also referred the Bill to the Committee on Communications, Trade and Investments for consideration. Among other means of consideration of Bills, the Committee adopted holding public hearings with a view to involve citizens in the legislative process by getting their inputs on the Bill. Therefore it is against this background that the Committee Members held consultative public hearing workshops from 6th to 12th March 2013 with different stakeholders in all Capitals of the EAC Partner States on the OSBP Bill.

2.0. OBJECTIVES OF THE STAKEHOLDER CONSULTATIONS

The overall objective of the public hearings was to consult the public about the EAC One Stop Border Posts Bill, 2012 but specifically to:-

- (a) gather public opinions, views and inputs that can inform the Bill;
- (b) understand the likely opportunities, challenges, and impact associated with the Bill; and
- (c) come up with relevant recommendations.

3.0. METHODOLOGY

The Members of the Committee on Communications, Trade and Investment divided into two groups. One group covered the Republics of Burundi and Rwanda, while another covered the Republic of Uganda and both groups

converged in the United Republic of Tanzania to hold public hearings on the EAC One Stop Border Posts Bill, 2012. *The Committee later covered the Republic of Kenya.*

All the Public Hearings were held in EAC Partner States' Capitals and were participatory in nature to consult various stakeholders from the government, private sector, civil society including media to bring on board their views on the EAC OSBP Bill.

The stakeholders consulted included among others; EAC Secretariat, Ministries of EAC Affairs, Ministries of Trade, Ministries of Infrastructure and Transport, Roads Authorities, Commercial Truck drivers Associations (Transporters), Vehicle Inspection departments, Weights and Measures agencies, OSBP National Steering Committees, Revenue Authorities, Immigration, Bureau of Standards, Police, Traders, Clearing and Forwarding.

The Committee further engaged the EAC Secretariat technical officers and the Council of Ministers to scrutinize the Bill. From the stakeholder consultations, the following observations and recommendations were made:-

4.0. OBSERVATIONS

1. Stakeholders in all Partner States appreciated and underscored that the OSBP Bill is the cornerstone for Regional Integration and will facilitate the efficient implementation of the EAC Common Market Protocol, especially the free movement of people and goods.
2. Stakeholders also expressed appreciation to EALA Members for allowing them to be involved in the legislative process. This confirms that EALA upholds the principle of EAC being people centered.
3. It is true the OSBP Concept has been operating in some border points on bilateral arrangements within the Partner States; therefore this law is critical because it provides a regional legal framework for the operations of the One Stop Border Posts.
4. Stakeholders observed that there are still NTBs in the EAC Partner States such as un- harmonized standards, practices and procedures; Police road

blocks and check points yellow fever cards, different fees paid at the borders among others, constrain free movement of people and goods in the region.

5. Stakeholders observed that there is shortage of necessary infrastructure and technological facilities to facilitate effective implementation of the OSBP law.
6. Stakeholders noted with concern that the Council delays to come up with regulations to facilitate the efficient and effective implementation of regional laws. Even when the Council makes the regulations, different stakeholders are not consulted for their inputs.

5.0. RECOMMENDATIONS

1. There is need for Partner States to develop, upgrade, and modernize all the required infrastructural facilities and enhance technological advancement to enable efficient and effective implementation of the One Stop Border Posts concept;
2. The Council of Ministers should fast track the process of making regulations necessary in effective implementation of the One Stop Border Posts law.
3. The Council of Ministers should conduct sensitization programs on the OSBP to the EAC populace to ease the implementation of the law

6.0. CONCLUSION

Having comprehensively and carefully considered and analyzed all the concerns, comments and opinions from the stakeholders during the consultations and further having discussed them at length with EAC technical officers including the Council of Ministers who initiated the Bill, the Committee proposed the following amendments as indicated in the *attached Schedule* to facilitate effective implementation of Bill in the EAC Partner States.

SCHEDULE OF AMENDMENTS: OSPB BILL 2012

Clause	Amendment	Justification
2	Delete the definition of “adjoining Partner State” and replace it with the following- “adjoining Partner State” means a Partner State whose officers perform border controls within the control zone in the host Partner State;	The definition of the “adjoining states” was redefined to make it clearer without mentioning the names of adjoining states.
	Delete the definition of “officer” and replace it with- “officer” means a person responsible for conducting border controls in accordance with the national laws of the Partner States or the laws of the Community;	The definition of an “officer” was extended to cover not only Partner States’ laws but also the laws of the Community;
3	<i>Clause 3</i> of the Bill is amended by deleting the words “and with adjoining regions”	The clause was amended to limit the jurisdiction of this Act only to the East African Community excluding the “adjoining regions”
16 (1)	<i>Clause 16(1)</i> is amended to read- “(1) Each Partner State may, in carrying out its controls utilize the single window system.”	The word “shall” after the words Partner States is authoritative therefore should be replaced with the word “may”, and the word “shall” after the word

		controls should be deleted because it serves no purpose there.
21	<p>Clause 21 is amended by deleting all the words appearing after the words “border controls” in the third line of the clause.</p> 	Delete all the words appearing after the words border controls on the third line of the clause because they are details which need not to appear in this law but will be stipulated in regulations to be developed during the implementation of the law.
29	<p>Clause 29 is amended adding the following new subsection to become subsection (2)-</p> <p>(2) “Where the officer is not required to wear uniform by virtue^e of his or her work, such officer shall display the officially issued identification badge”</p>	This section was amended to cater for other officials who are not required to wear uniforms but could be identified by other means ^{of} identification officially issued.

<p>35 (2)</p>	<p>Clause 35(2) is amended by inserting the words “who investigates a matter under subsection (1)” between the words “Partner State” and the words “shall be” appearing in the first line of the clause.</p>	<p>This subsection was amended to make it clear that an officer of a Partner State who investigates a matter should be a competent witness in the proceedings of an offence committed in a control zone of the host Partner State.</p>
<p>36 (1)</p>	<p>Clause 36(1) is amended by replacing it with-</p> <p>“(1) The Partner State shall provide comparable office and other accommodation within the facilities located in the host Partner State, and shall not be subjected to any cost related to the occupation and maintenance of such premises.”</p>	<p>This subsection was amended by replacing the words “waive all costs” with the words “not be subjected to any cost” because the provision of facilities in control zones is not based on waiver.</p>



<p>50</p>	<p>Clause 50 is amended-</p> <p>(a) by replacing the Chapeau with the following:-</p> <p>“For the purposes of this Act, the Council shall mandate the relevant institutions of the Community to-”</p>	<p>The chapeau of this section was amended to capture the role of the Council and also that of relevant institutions of the Community during the coordination and monitoring of one stop border posts.</p>
	<p>(b) By replacing paragraph (e) with the following new paragraph-</p> <p>“(e) Perform such other functions as may be delegated by the Council.”</p>	<p>This subsection was amended to clearly bring out the role of the Council</p>
<p>52</p>	<p>Clause 52 is deleted and replaced with the following-</p> <p>“(1) A Partner State may take temporary measures in the interests of defence, security, public safety, public order or public health”</p> 	<p>This subsection was amended by deleting the words “economic interests”, “public morality”, “and any other circumstances of similar nature” because these words are too wide and not specific therefore they may be misused to defeat the whole purpose of this Act.</p>

	<p>(2) The temporary measures taken under subsection (1) shall not exceed a period of three months and shall include, but not limited to, the reversal of the sequence or location of controls, or the temporary closure of the border posts within that Partner State's territory.</p>	<p>This subsection was amended to provide for time frame of any temporary measure imposed otherwise it could take forever.</p>
	<p>(3) A Partner State may, upon the expiry of the period specified under sub section (2), request the relevant Partner State for an extension for a further period of three months or for such further period as the Partner States may agree.</p>	<p>This subsection was added to provide for an extension of a temporary measure in case of a prolonged situation.</p>
55	<p><i>Clause 55 is amended by adding the following new subsection to become subsection (2)-</i></p> <p>“(2) Notwithstanding the generality of subsection (1), the Council shall make regulations-</p> <p>(a) prescribing operational procedures for the harmonization of documents, mandatory pre- clearance of imported and transit goods and entrenchment of existing arrangements</p>	<p>This subsection was amended by adding the new subsection to emphasize on the role of Council while making regulations especially with regard to operational procedures for the harmonization of documents, mandatory pre-clearance of imported and transit</p>

	<p>for people living around the common border;</p> <p>(b) for the harmonisation of structures and facilities in the control zones.</p>	<p>goods and entrenchment of existing arrangements for people living around the common border, and providing for the harmonization of Structures and facilities in the control zones.</p>
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MEMBERS OF THE COMMITTEE ON COMMUNICATIONS, TRADE AND INVESTMENT

Report on The EAC One Stop Border Post (OSBP) Bill, 2012

March 7th -11th, 2013, in the EAC Partner States

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3. Hon. Dan F. Kidega	-----
4. Hon. Dora K. Byamukama	-----
5. Hon. Dr. James Ndahiro	-----
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8. Hon. Joseph Kiangoi Ombasa	-----
9. Hon. Nancy Abisai	-----
10. Hon. Nusura Tiperu Omar	-----
11. Hon. Patricia Hajabakiga	-----
12. Hon. Peter Mathuki	-----
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