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Briefing

# What are the causes of non-tariff barriers in the East African Community?

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Key messages

- While mechanisms are in place to report non-tariff barriers (NTBs), these can be ineffective or demanding, thus discouraging reporting of NTBs by the private sector.
- The East African Community (EAC) has seen great improvements in the removal of trade barriers, but inadequate infrastructure and customs procedures continue to account for the existence of NTBs.
- Governments' failure to adopt a clear trade facilitation mandate and to establish effective coordination procedures is an important cause of the continued existence of NTBs.
- A holistic approach is needed to ensure not only that improved trade facilitation reduces transport times and costs but also that cost savings are actually passed onto consumers.

*This policy brief summarises findings of our interviews on non-tariff barriers to trade in the East African Community, conducted between July and September 2016 in Kenya, Tanzania and Uganda. This is the second brief produced under the research project 'Resolving the unresolved NTBs in the East African Community' financed by the UK Department for International Development and undertaken by the Overseas Development Institute, the University of Sussex and CUTS Nairobi.*

## Introduction

In an attempt to ensure that the Common Market Protocol is implemented, with free circulation of goods, people, services and capital, the East African Community (EAC) Partner States aim to eliminate all non-tariff barriers (NTBs) to trade – that is, all those barriers to trade that do not have a fiscal nature.

This policy brief summarises some of the findings of interviews conducted with government and the private sector during the months of July, August and September 2016 in Kenya, Tanzania and Uganda. The interviews aimed to obtain more detailed qualitative information about reported NTBs, as well as to identify unreported issues.

## Reporting NTBs

When NTBs arise, mechanisms are needed that allow the private sector to report them in a swift and straightforward fashion. In the EAC, NTBs can be reported through National Monitoring Committees or through a specific website.[1] Tanzania and Uganda have also put in place a phone-based reporting system, through which individual users can report NTBs directly to the national authorities. Partner states then try to identify those NTBs that can be easily resolved through amicable talks and bilateral meetings. Only those NTBs that cannot be resolved quickly are escalated to the National Monitoring Committees level. However, as highlighted in our research, these tend to deal primarily with complaints about the operation of the different institutions and regulations rather than true NTBs.

These systems have challenges of their own. For the phone-based system, some users reported that its practicality in daily operations is limited. If, for example, a lorry driver encounters a problem with a weighbridge and gets delayed, (s)he will worry about resolution of the issue and/or contact the transport company to notify them of the delay. It is unlikely that, during this time, the driver will perceive reporting the NTB as a priority. Additionally, when reporting an NTB through any system (phone-based or otherwise), one is required to present documentary evidence. While this is a sensible requirement, some people may not be able to collect all the necessary evidence before submitting the claim. This is especially true in the case of informal payments and other illegal actions. Therefore, reporting systems need to be more user-friendly and flexible in terms of requirements of those who raise the claims.

## Inadequate infrastructure as a cause of NTBs

During the interviews conducted for this project, we looked into the main causes of NTBs to identify trends. One of the causes that emerged in various forms was the inadequate level of infrastructure to support free movement of goods and services.

The inadequacy of infrastructure takes various forms, and mostly affects transport. During our interviews, many pointed out how weighbridges along the Central and Northern Corridor were not properly calibrated, and could therefore assign different weights to the same cargo. This, together with the issue of cargo shifting on the axles, raises suspicions of cargo being in excess of the legal limit, and forces lorry drivers to interrupt or delay their journey, hence increasing the cost and time of transportation.

Moreover, transporters highlight that, unless there is evidence that their cargo has been tampered with, there is no need to weigh lorries several times. This is particularly true in the case of lorries carrying cargo in transit, which is weighted and sealed at the port of origin and directed to other EAC countries.

Another issue that emerged from our interviews was the inadequacy of the Central Corridor, the corridor connecting Rwanda, Burundi and the Democratic Republic of Congo (DRC) to the Port of Dar es Salaam, passing through Tanzania. Despite having vastly improved in recent years, the Central Corridor remains a difficult route for transporters. It lacks facilities for drivers to rest, and some stretches are surrounded by forest which makes it unsafe to drive at night.

## Customs procedures have improved but can still generate delays

Certain procedures to deal with goods in transit seem to be particularly cumbersome. For example, some interviewees reported that the issuance of transit bonds (or transit permits) was subject to the exit of another cargo in transit at the border. For companies, this means that there is a limit on the number of shipments that can be in transit at any given time. Delays at the border (which should be streamlined for this type of cargo) generate a bottleneck at the port, as a new bond will not be released until another in-transit cargo has been cleared at the border. This increases waiting times at the port and transporters' costs in terms of penalties paid to the shipping lines for late return of containers.

1 The website (http://www.tradebarriers.org/) is shared by three regional economic communities: the EAC, the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA).

In addition, procedures associated with clearing goods at customs can generate considerable delays. For example, we were informed that in some instances, the customs officer who inspects a truck has to be the same one who records the information in the customs system. If this official cannot input the information him or herself (for instance because of personal circumstance or sickness), the lorry and its cargo are not allowed to continue their journey until the same officer returns and records the information in the system. This leads to delays and related costs such as parking, fines from the shipping lines, truck rent, etc.

Finally, it was perceived that trade facilitation was not working for all producers and traders in the same way. Large firms have access to more resources to ensure their cargo is treated more promptly.[2] Smaller firms, however, are more exposed to delays and higher costs. Therefore, interventions need to consider how to facilitate trade in particular for small and medium traders, producers or firms.

## Lack of coordination among government agencies

Several of our interviewees highlighted how one government agency would allow one good to be imported, only to find another agency forbidding entry of the same good on the basis of different regulations. This is exacerbated when there are authorities with similar or overlapping mandates. For example, the Tanzanian Bureau of Standards deals with standards and safety issues, but the Tanzania Food and Drugs Authority deals with food safety. The mandates of these two agencies overlap, causing confusion among producers and importers.

Similarly, many interviewees reported how local government often applies fees for different reasons (environmental, parking fees, transit permits, etc.). While applying fees may be under the mandate of the local government, this shows that there is a lack of coordination between objectives at national and local levels.

## Lack of clear implementation mandate

This brings us to a key challenge in the way the Common Market Protocol is being implemented in Partner States. Government agencies existed before the EAC Customs Union and Common Market, and had mandates of their own. These could range from raising revenues to ensuring customers' protection or enforcing the respect of environmental standards. With the establishment of the EAC Common Market and Customs Union, agencies were confronted with the task of implementing the new regional commitments without clear instructions and with conflicting objectives. For example, revenue authorities were requested to raise domestic revenues while at the same time implementing the new customs regulations to facilitate trade. These two objectives were often conflicting. In addition, customs officers needed retraining in order to change their 'mind-sets' to ensure trade facilitation was mainstreamed as a key objective in daily operations.

According to the Treaty for the Establishment of the East African Community, regional organs, institutions and laws take precedence over national ones on matters of implementation of the EAC. Consequently, in order to strengthen regional integration efforts, Partner States not only need to continue their efforts to translate regional regulations into domestic ones, but also have to make sure their ministries, departments and agencies embed overarching regional objectives into their existing ones. This requires increasing the awareness of staff to regional objectives through targeted training and sensitisation initiatives.

## Need for enhanced sensitisation

Interviews highlighted that there were many obstacles to trade that constitute NTBs but are not reported as such. In some instances, this is because the private sector does not consider the reporting mechanisms an effective tool for the removal of barriers. Other times, however, obstacles to trade are perceived as an integral part of doing business in the region and are not seen as outright breaches of EAC regulations. Therefore, sensitisation is required to make EAC citizens aware of their rights and of the tools they have to ensure these rights are respected.

## Interventions on trade facilitation require a holistic approach

Transport times have fallen dramatically in recent years. For example, the average time taken to export goods out of Rwanda has reduced from 35 to 26 days, and the time to import goods into Rwanda has decreased from 34 to 27 days in the period 2011–14, according to World Bank Doing Business reports (Safari and Knudsen, 2014). In addition, several interventions, such as the establishment of one-stop border posts, have contributed enormously to the reduction of the transport times.

Nevertheless, transport costs remain high. In fact, many interviewees highlighted that costs had not fallen despite the reduction in transport times. This implies that other constraints are impeding the reduction of transport costs. These could include inefficiencies in the transport and logistics markets that prevent transmission of the economic benefits of reduced transport times to producers and users. This question needs to be investigated through a deep analysis of the transport sector in East Africa.

2 Some firms send with their cargo a clearing agent to deal with any unforeseen circumstances and avoid delays.

Overall, this implies that the reduction of transport costs has to be tackled through a holistic approach. Interventions enacted so far have mostly been concerned with the improvement of hard and soft infrastructure. Just as important is understanding the way the transport industry works and tackling the obstacles that prevent benefits from trickling down.

# References


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