Factors affecting the implementation of Harmonised Customs Union in the East African Community – A case study of Kenya

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Abstract: The purpose of the study was to examine factors affecting the implementation of harmonized East African Community (EAC) Customs Union in Kenya. The study sought to assess the effects of Common External Tariff (CET) on goods outside EAC region on the achievement of harmonized Customs Union (CU), examine whether intra-trade border custom procedures had an effect on realization of harmonized CU, determine the implications of multiple memberships on regional blocks among EAC members on implementation of CU, and establish whether application of uniform rules of origin on EAC produced products had an effect on the implementation of harmonized CU. The implementation processes however, had experienced both successes and challenges since the inception of CU in 2005. Among the successes that were cited by the respondents were complete harmonization of the tariff codes; simplification and harmonization of trade documents and procedures; development of the rules of origin; and sharing of information among partner states. The respondents indicated that implementation of CU would increase intra-EAC trade, volume of trade and investment, and employment. It also emergedthatimplementation would have insignificant effect on Kenya's tariff revenue base, as the revenue arising from such trade was currently low in relative terms. To mitigate loss of revenue associated with harmonized CU the respondents felt that the EAC countries needed to adopt a CET on all sensitive products, hasten the integration process, and reduce membership in multiple regionalgroupings.

Keywords: Common External Tariff, Customs Union, East Africa Community, Fiscal revenue, Free Trade, Internal Tariff, Regional Economicintegration,Rulesoforigin.

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Introduction

The East African Countries (EAC) are currently implementing the Common Market stage of integration and should have fully implemented the Customs Union (CU) by July 2010. This chapter brought into perspective the integration agreements in Africa especially EAC. It discussed CU as a level of integration and the protocol establishing the CU. The several instruments that are provided for implementation of CU some of which are still outstanding and are subject to the study were discussed at length. The purpose, objectives to the study, scope, rationale and significance of the study were discussed.

Regional Integration Arrangements (RIAs) constitute an increasingly significant feature of the world trade system. Africa is not an exception to this phenomenon. Regional integration is an arrangement in which countries in the region agree to coordinate their trade, fiscal, and/or monetary policies. Integration removes trade barriers which draws economies closer together creating a greater interdependency on other nations. By countries reducing trade barriers and integrating through regional agreements, capital movements can occur more freely, and hence there is greater potential for tax competition and perhaps harmonization (Baldwin & Krugman, 2004). Regional integration is now universally accepted as a major vehicle for economic, social and political transformation of countries.

One of the driving forces behind regional integration has been the economic benefits associated with it. It has long been seen as a means to "achieving industrialization by freeing trade, liberalizing goods and factor movements, securing economies of scale, harmonizing technological standards and jointly cooperating on economic policies to enhance efficiency and thereby foster economic development and global welfare" (EABC, 2009, p. 67). Indeed, the continent has embraced regional integration so strongly that a new challenge has arisen; some countries have enlisted as members of multiple groupings without prior analysis of possible conflicts of interests that would arise from the subscription.

OECD (2005) estimates that more than half of total world trade occurs through regional trade blocs/agreements and that world trade under RIAs grew from 43 % to 60 % between 2001 and 2005. The African Economic Community Treaty (Abuja Treaty) that came into force in 1994, in particular, seeks to strengthen existing regional integration schemes and to encourage the formation of new ones with the eventual aim of establishing a continental integration unit. By December 2006, out of total 211 RIAs that had been notified to the World Trade Organization (WTO), 14 were in Africa. Among the 14 African RIAs, 8 are Regional Economic Communities (EABC, 2009).

Lyakurwa, MacKay, N'geno, and Kennes (1997) explains that sustaining regional integration schemes in Africa has been poor. They argue that the failure of most RI schemes in sub-Saharan Africa (SSA) is attributed to a number of factors, including restrictions, factor mobility, ineffectiveness of industrial planning, ineffectiveness of Common External Tariffs (CETs) arising from requests for exemption to avoid revenue losses, general failure of import substitution policies, lack of strong and sustainable political commitment and macroeconomic instability. Despite the unsatisfactory performance of RI schemes in

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Africa, there seems to be a new momentum to invigorate the process. East African Community (EAC) is among the most recent RIA notified to the World Trade Organization (WTO). Its revival which started in 1992 and culminated in the formal launch of the Community in 2001 is one of such efforts.

Tax harmonization in the context of a CU can be said to refer to the co-ordination of the taxation systems of the member states for the purpose of preventing any national tax measures that could have a negative effect on the functioning of the Customs Union and that could distort competition. The rationale for harmonization has been said to have benefits such as: economic benefit derived from optimal allocation of resources, efficiencies derived from economies of scale; reduction of administrative/ compliance costs of organizations in dealing with differing tax systems; preventing revenue erosion by tax competition between countries and preventing tax evasion where there are marked differences between tax regimes (Tarimo, 2009).

East African Community

East African Community (EAC) is a regional organization mandated by the Governments of Kenya, Tanzania, Uganda, Rwanda and Burundi to spearhead the East African economic, social and political integration agenda. It has its headquarters in Arusha, Tanzania. These five East African countries cover an area of approximately 2.4 million square kilometers with a population of over 110 million people who share a common history, language, culture and infrastructure (Wangwe, 2001).

Prior to the re-launching of the EAC in 1999, Kenya, Tanzania and Uganda enjoyed a long history of co-operation under successive regional integration arrangements. These included the CU between Kenya and Uganda in 1917, which Tanganyika later joined in 1927; the East African High Commission (1948-1961), the East African Common Services Organization (1961-1967), and the previous EAC that lasted from 1967 until its collapse in 1977. Among the reasons cited for the collapse of the EAC in 1977 were, among many, ideological differences, structural problems that impinged upon the management of common services, limited participation by people in decision-making, and a lack of compensatory mechanisms for addressing inequalities in the sharing of costs and benefits of integration (Wangwe, 2001).

The treaty establishing the current EAC was signed on 30 November 1999 and came into force on 7 July 2001 upon its ratification by the Republics of Kenya, Uganda and Tanzania. Then, Burundi and Rwanda were observers before joining later in 2006 (EAC, 2007). The main objective of the current EAC is to promote cooperation in political, economic and social fields by encouraging economic development. This promotion would include trade liberalization, monetary and financial integration, and the free movement of persons, capital, goods and services science and technology (including infrastructure, health and education); as well as political and legal matters. It envisages deepening regional integration by establishing a CU, Common Market, a Monetary Union and, ultimately a Political Federation among the partner countries (EAC Treaty, 2001).

The new EAC integration has achieved a number of milestones. The strides made are establishment of institutions governing and guiding EAC integration, the success of the EACCU Union, the strengthening of EAC identity, steps towards harmonization of monetary and fiscal policies, the implementation of transport and communications projects and the launching of the Lake Victoria Commission. Other achievements have been in areas of co-operation such as joint promotion of the tourism industry, collective employment and poverty reduction strategies and initiatives towards foreign policy co-ordination and fast tracking for EAC Federation (EAC, 2007).

The most important problem threatening the existence of the EAC is the perceived industrial dominance of Kenya in the region. Due to this, during transitional arrangement of EAC, Kenya allowed several products from other countries to access its territory duty free. However, elimination of the customs duties on imports by one trade partner in EAC could jeopardize both its fiscal stability of the country (UNECA, 2005).

East African Community Customs Union (EACCU)

EACCU Protocol was signed in March 2004 and came into effect on January 1, 2005. The objectives of the CU, as stipulated in the EAC treaty, includes liberalization of intra-regional trade in goods, promoting production efficiency in the Community, enhancing domestic, cross-border and foreign investment and promoting economic development and industrial diversification. There are two broad areas of cooperation highlighted in the CU protocol. First is custom management and general trade matters. Second is the establishing and adopting uniform and common trade procedures in the Community. The CU is underpinned by a CET and elimination of internal tariffs (Wangwe, 2001).

The protocol splits intra-traded products into category A and B goods. Tariffs were completely eliminated on category A goods when the CU agreement came into force in January 2005. A gradual approach to elimination of tariff on Category B goods over a transition period of five years from 2005 was agreed. The agreement allowed for an annual reduction of 2% per annum so that the 10% tariff was eliminated by 2010. The products that appear on category B are from Tanzania and Uganda's view the most sensitive in terms of not being able to withstand immediate competitive pressure from Kenyan producers (EAC, 2005).

The inclusion of category B goods in the agreement not only recognizes differences in competitiveness between the countries but also the damage that could be done to the integration process in the longer term if these are not acknowledged explicitly (KIPPRA, 2010). In short, it is perceived that without accepting some flexibility, the EAC could fail again as in the past. Whether this policy is appropriate to achieve the objective of regional integration is open to question. According to EAC (2004), the CU protocol requires that Kenya eliminate its tariffs on imports originating in Tanzania and Uganda respectively with immediate effect on day one of the Protocol implementation.

However, charges of gradually declining taxes remained for 859 products originating from Kenya and exported to Tanzania and 426 products originating from Kenya and exported to Uganda, based on the asymmetry principle. These taxes started to gradually decline from 5% in 2005 and were expected to reach 0% on 2010. Products originating in third countries that cover approximately 99 % of all tariff lines were to be subject to a CET. This was to be implemented in two phases. The first phase groups all products into three bands, each having its own tariff rate. There are three tariffs bands of 0, 10 and 25 % for raw materials, intermediate goods and finished goods, respectively (EAC, 2005).

The second phase of CET implementation was concerned with a number of sensitive products such as sugar, rice and dairy products that are exempt from the CET and may be imported at other specific tariff levels that are higher than 25% subject to consultation amongst and approval by the member states. In line with the CET, the EAC council reserves the right to review the tariff structure and approve measures aimed at remedying any adverse effects that a partner State may experience consequent to implementing the CET (EAC, 2005). According to Ikiara (2010), Kenyan perspective on an EACCU is favorable. He indicates that the lower the levels of CET, the higher the revenue loss for the country.

Significance of the study

The East African Countries are currently implementing the Common Market stage of integration and ought to have fully implemented the CU by July 2010. However, this has not yet been achieved. The protocol establishing the CU provided for implementation of several instruments such as the application of CET on third countries, elimination of all internal tariffs within member states, adoptions of a common EAC customs law, common rules of origin for products produced within EAC, elimination of non-tariff barriers such as border customs procedures among others. However, the two main measures that enable harmonized trade practices within the community are the elimination of all internal tariffs and other charges of equivalent effect on trade amongst partner states as well as the application of CET for all import goods entering any EAC Partner State from non-EAC member countries (EAC, 2005)

According to KIPPRA (2010), internal trade tariff disparities between member countries continue to hamper trade and the CET has also led to an increase in tariff dispersions from one product to another, across products within sectors and across stages of production. The imbalances are further exacerbated by some EAC countries requesting to stay off application on CET instead of continuing to apply the CET uniformly, thereby having an unfair advantage over others. Despite application of CET, each country continues to review its duty rates of some items. These disparities negatively impact on the achievement of harmonized CU and the subsequent progression to the current integration stage into Common Market. A good example is the recent request by Tanzania to stay off application of CET to importation of sugar where they requested that they be allowed to import industrial sugar applying 0% duty rate instead of the 100% import duty that is applicable to all member countries.

The EAC region remains a fluid operating environment due to evolving regional and international trade agendas. The five member states of EAC also belong to other regional blocks; Kenya, Uganda, Rwanda and Burundi are members of COMESA while Tanzania is a member of SADC. All the three regional blocks had pledged to establish CU, COMESA and the EAC by 2005 and SADC by 2010. Countries that are members of more than one arrangement were required to choose which among them to subscribe to, as it is impractical to claim membership of different CU's. In addition, the five member countries of EAC have recently signed a new agreement, broadening the scope and decision-making practices of the existing custom procedures which implementation is affected by different regional arrangements (KIPPRA, 2010).

Often EAC member states pursue policies that promote their interests at the expense of other members. Parochial interests of the ruling elite have often prevailed over the interests of the masses of the region. This contradicts the spirit of co-operation and unity that EAC espouses and it hampers the development of common values.

It is on the basis of the issues raised above that the researcher carried out this study to examine factors affecting the implementation of harmonized CU in Kenya under the EAC.

The findings would help the country to take stock after the expiry of CU transition period in 2010, of what she has done and/or been doing in promoting the CU in the region and take stock of the benefit thereof. The findings of the study would inform the country and the agencies involved in CU implementation such as Ministries of EAC, EAC Secretariat and Trade on CU on the factors affecting full implementation.

The findings would also help investors make rightful decisions when considering cross-border investment and trade within EAC and outside the EAC. Finally, the study would add to the existing literature on the regional integration, more so, the factors affecting the implementation of CU and the challenges faced by Kenya as one of the partner states.

Theoretical Development

Theory of Economic Integration

Integration removes trade barriers which draws economies closer together creating a greater interdependency on other nations. By countries reducing trade barriers and integrating through regional agreements capital movements can occur more freely, and hence there is greater potential for tax competition and perhaps harmonization.

In general, the theory of economic integration was founded with the seminal contribution of Viner (1950). He distinguishes between two effects, one in which trade between partner countries expands in accordance which international comparative advantage, and the other in which trade between countries expands as a result of the preferential treatment given to imports from within the region as compared to those from the rest of the world. Viner (1950) names the former effect trade creation, where domestic products are substituted by imports of lower-cost goods produced by a country's partner. The latter he calls trade diversion which stands for the shift in imports from the least-cost exporter to the more expensive product from the nation's partner.

While this categorization is a helpful description of the effects of the formation of a customs union, it embraces only a part of the economic effects of such an arrangement. Further likely effects of a customs union are, for example, losses in tariff revenues due to the preferential tariff elimination or economies of scale due to an enhanced economic market. In sum, a country that enters a customs union may experience a welfare gain or loss, depending on the circumstances in each case (Barreix & Villela, 2003). This is the case for EAC country, hence the relevance of this theory to the study.

Trade Theory

The impetus for regional integration draws its rationale from the standard trade theory by Krugman (1991) who states that free trade is superior to all other trade policies. The theory assumes constant returns to scale and focuses on static gains. As an extension of this basic principle, therefore, free trade among two or more countries will improve the welfare of the member countries as long as the arrangement leads to a net trade creation in the Vinerian theory of economic integration in 1950. Krugman (1991) argues that though as the theory of the second best indicates, regional agreements do not guarantee an improvement in the welfare of member countries; they could do so provided trade diversion is minimal and trade-creation tilts the balance.

Krugman (1991) used the traditional theory of tradeto explain the determinants of regional concentration of economic activity. The basic idea of Krugman's hypothesis is that under the assumption of increasing returns to scale, economies of scale and trade cost considerations determine the location of economic activity. The implication of this hypothesis for regional integration is that regional blocks could enhance economies of scale by locating a production activity in one location rather than each activity in each country. Similarly, reducing trade costs will add to production efficiency.

According to Fine and Yeo (1997), standard trade theory fail to guide integration in Africa and due to the observed lack of progress in the integration process in Africa there is need to focus of regional integration in Africa and reorient itself if it is to enhance economic growth. With the new paradigm of regional integration, they argue that regional integration in SSA could contribute to economic growth in a very different way than envisaged previously, namely by helping to underpin stable and sound national macro-economic policies and rapid accumulation of human and physical capital. In addition to reorienting the emphasis of regional integration from trade to macroeconomic coordination, they favour focusing on cooperation in infrastructural and natural resource development, as is the case for EAC.

Customs Union Theory

The customs union theory in the context of economic integration is concerned with welfare gains and losses that follow the formation of customs union (Lipsey, 1987). Lipsey argues that such gains and losses may emerge from a number of sources such as specialization, economies of scale, change in terms of trade, forced changes in efficiency owing to increased competition and change in the rate of economic growth. Based on this a custom union can be defined as the merging of several customs territories into a single customs territory in order to consolidate the free movement of goods, regardless of their origin, provided the goods originating in third countries are cleared in any of the member states. Hence custom union is an economic integration objective. The key element though not the only one in any true customs union is the adoption of a CET. This must be the same across the customs union's whole external borders, because otherwise trade diversion and other perverse phenomena would occur.

Customs Union and the Destination Principle of Taxation

Countries forming a customs union are usually concerned with avoiding fiscal discrimination that causes differences in competitiveness; moreover, fiscal autonomy is to be preserved (Sinn, 1990). These requirements lead to the application of the destination principle in taxation, i.e. foreign sales are tax exempt and all domestically paid taxes are reimbursed with taxation taking place in the importing country, including taxes on the last exchange and a compensation corresponding to the various taxes that a similar product of the importing country would have paid in the preceding phases. This system guarantees the uniformity of taxation for consumers of the same national market. CU's abolish the economic borders but not the fiscal ones; the latter operate as an equalization instrument aimed at eliminating distortions due to the tax factor.

Customs Union and the Origin Principle of Taxation

Harmonization aimed at eliminating indirect discrimination through the tax structure also affects consumption. Pearson and Smith (1990) argue that if the union adopts the origin principle and tax rates are equalized, a common rate is established on trade flows between the member countries and from these to the rest of the world, but this rate can differ from the rate on product flows from the rest of the world to the member countries.

Taxation

There is a certain degree of controversy and a vast array of literature surrounding tax competition and harmonization. The literature can be divided by the following major schools of thought in the field. Firstly, there are two key theoretical concepts which explain the model of tax competition. These are standard model of tax competition and the new economic geography theory. The debate is then divided into welfare versus economic arguments which applies to the question of whether tax competition or harmonization is to be encouraged or not. The final relevant research area is one of a taxonomical nature which is the classification of tax harmonization which helps to identify more accurately what types of policy changes constitute the differing degrees of harmonization(Sinn, 1990).

Tax Harmonization in Regional Integration Context

The International Tax Glossary of the International Bureau of Fiscal Documentation (IBFD) defines tax harmonization as the elimination of differences or inconsistencies between the tax systems of different jurisdictions, or making such differences or inconsistencies compatible with each other. It should be noted that the second part of this definition is subsumed under the first, since the reconciliation of an inconsistency can mean nothing but that the inconsistency has already been removed. According to Musgrave (1983), tax harmonization is the process of adjusting national fiscal systems to conform to a set of common economic aims. Kopits (1992) adds some slightly different shades of meaning when he refers to "concerted" and spontaneous" tax harmonization: the first being a convergence oriented formal agreement not necessarily meaning equalization and the second a convergence in response to competitive pressures. In conclusion, the term "harmonization" has been defined in different ways, but the underlying notion is that there are several possible degrees of harmonization and that are related to the economic background and the level of integration that have been pursued.

Tax harmonization, therefore, is instrumental to economic integration. González (1996) argues that there are two tax harmonization mechanisms, one is uniformity and the second is compatibility. The second, in his opinion, is the one to be applied at the early stages of economic integration, when tax harmonization is also incipient. His position masks some confusion in the analysis of harmonization's aims and instruments: the fact that integration is at an incipient stage does not mean that the degree of tax harmonization, in terms of the obligations assumed or the sovereignty transferred by the state, should be equally weak or lacking in vigor. Gonzalez (1996) opinions that compatibility is most relevant at early stages of economic integration when tax harmonization is just beginning.

Martín (1999) analyzes the relationship between aims and instruments when he examines the role of "soft law" in the European Union's (EU) scheme of tax harmonization instruments, but he does not do so in order to establish a classification of tax harmonization or levels of action. Nor does he seek to analyze the relationship between phases of integration, degrees of harmonization and the instruments most commonly used to attain each level.

Larkin (2005) notes that the standard analyses above also assume that the alternative to tax competition is global tax coordination. Larkin argues that in such an integrated environment policy makers adopt either a policy competition or co-ordination approach. Whilst harmonizing tax rates would mean making them more similar or aligned to other systems there is a discrepancy in the literature as to whether this means co-ordination at some level or making them completely identical. Barreix and Villela (2003) explore the plausibility of adding a new feature to the classic four of a tax system; sufficiency, efficiency, simplicity and equity which is coordinability. This can be defined as a tax jurisdiction's ability to coordinate with the jurisdictions of its main economic partners.

On the other hand, the political commitment criterion allows for a more consistent classification a priori, the degree of political commitment behind each type of action is deemed universally comparable, although it should be admitted that this may be a matter of opinion in some specific cases. It allows for the introduction of new regulatory instruments or new forms of coordination. And it permits a subsequent analysis of the harmonization rationale that is, determining whether the means measured at least by their political cost suit the purposes of integration. (Gonzalez, 1996)

James (2000) ventures a classification of degrees of harmonization which range from no harmonization to complete standardization. James' (2000) analysis is based on the notion that the first step towards harmonization is to define a common set of taxes that is, it is important to start by harmonizing the object of taxation. James' (2000) analysis is interesting because James classifies tax harmonization in the form of a scale that is, with various possible steps thus overcoming the dual or quasi-dual concept that prevailed in earlier studies.

But even though James (2000) briefly mentions the term administrative cooperation it does not examine the new phenomena of non-formal harmonization. Neither does he address the possible relationship between degrees of integration and the instruments available to policymakers to attain the intended harmonization. His review of the degrees of harmonization merely describes the results obtained and fails to explain the methodology used (the guiding criterion seems to be the degree of standardization attained). In sum, his main concern is a different one: whether the coexistence of various types of taxes, such as local taxes and other harmonized taxes is justified, that is, whether there is a rational constraint to tax uniformity. Thus, he notes that tax harmonization processes involve the following steps, arranged in descending order of political commitment:

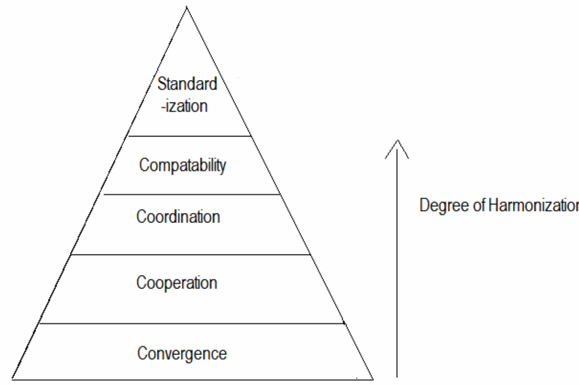

Fig 1.1 *Levels of Tax Harmonization (James, 2000)*

Standardization consists of having the same tax or, in equalizing the tax burdens imposed on the same item, under equal circumstances (González, 1996). It is the highest degree of harmonization. An example is the adoption of a CET.

Compatibility involves 'adjusting the tax structure in order to counteract or compensate for the distortionary effects caused by the tax burden disparities upon the integration process' (González, 1996, p. 215). This does not mean that elements in the tax structure are identical in rate or tax benefits to their full extent. Otherwise there would be no difference from standardization. The reason is that if this were the case, there would be almost no difference between this form of harmonization and the previous one, thus eliminating its distinctive features, that is, the non-exhaustion of its capacity for harmonization, particularly with respect to an extremely sensitive element such as the tax rate, and that it leaves more room for policymakers to make tax policy decisions.

Compatibility is linked with more advanced integration objectives, when internal tax distortions are detected. When free trade areas are created, such as the EU and the AFTA, the compatibility of regulations may occur at an early stage. Lecraw (2003) uses the example of mutual tariff benefits which may not be uniform but are compatible when all parties involved respect the 'global reciprocity' principle.

Coordination in tax literature varies greatly. One explanation by Lecraw (2003) is that coordination is an 'in between' category as it may involve various elements of the other classifications. Coordination involves any harmonizing mechanism which may not be confined to one category of harmonization. According to González (1996), the best way to define this "in-between" category (in the typology herein, it is the third of five) is as follows: "coordination" is everything that does not fit into any of the other four categories. As to the degree of the political commitment involved, it is a step forward relative to the two following categories, as can be easily inferred.

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Cooperation does not involve sharing a common tax policy as this would be a higher level of harmonization but may be practical, as in the above examples, or theoretical. Cooperation entails a condition of mutual assistance, either for reasons of reciprocity. For instance, in regards to sharing information regarding taxation between the countries or out of mutual interest such as when double taxation is detected and two countries undertake to co-operate.(James, 2000)

Lecraw (2003) identifies taxation advice and sharing of best practice examples as theoretical cooperation. Cooperation contributes to consistent application of tax systems across jurisdictions by establishing bilateral and multilateral cooperation mechanisms which can align tax administrations. This is the provision of mutual assistance, either for reasons of reciprocity. For instance, one country supplies tax information in the expectation that it will receive information from its counterpart at some other time or out of mutual interest such as when double taxation is detected and two countries undertake to cooperate. A distinction can also be drawn between practical cooperation and theoretical cooperation such as providing assistance or sharing best practices in taxation (Lecraw, 2003).

Convergence is defined as a spontaneous movement in the same type of taxation policy direction as a result of pressures from globalization and competition. Curiously enough, this end of the harmonization scale has not passed unnoticed by many of the authors mentioned (Lecraw, 2003). This is a spontaneous movement sometimes inevitable, though unwanted towards the same type of solution, as a result of globalization and competition. Convergence is classified in the fifth and last step from the standpoint of voluntary political commitments because no particular harmonization action has been taken for reasons of political will, but because the country cannot escape from the trend or admits (probably unconsciously or against its own wishes) that this is the best approach to take.

Conceptual Framework

Independent Variables Intervening Variables Dependent Variables

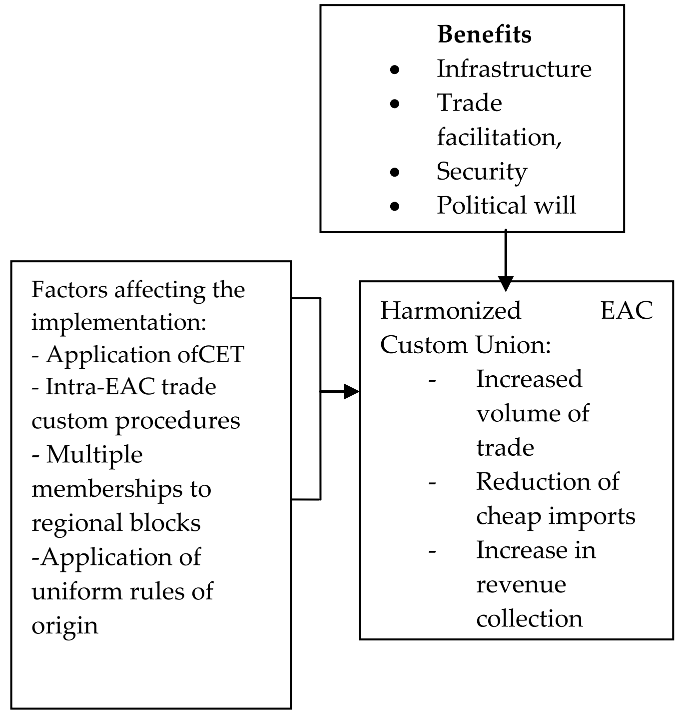

Fig 1.2:*Conceptual Framework*(Author, 2012)

In an economic integration, a customs union can be defined as "the merging of several customs territories into a single customs territory in order to consolidate the free movement of goods, regardless of their origin, provided the goods originating in third countries are cleared in any of the member states" (SIECA, 2006, p.44). To achieve this objective the key element though not the only one in any true customs union is the adoption of a CET and elimination of internal tariffs. CET must be the same across the customs union's whole external border, because otherwise trade diversion and other perverse phenomena would occur, while within internal borders there should be no tariffs.

Hazelwood (1987) argues that these factors are trade creation/performance, improved security tending to minimize trade diversion, political will, nationalism among citizens and improved infrastructure by union members. Hazelwood (1987) calls these as influencing factors:

Products originating in third countries, that cover approximately 99 % of all tariff lines, will be subject to a common external tariff (CET). This was to be implemented in two phases. The first phase groups all products into three bands, each having its own tariff rate. There is a zero rate for raw materials, a 10 % rate for intermediate products, and a 25 % rate for finished goods (EAC, 2005). The second phase of CET implementation came in 2010 when the 25 % rate was reduced to 20 % subject to consultation amongst and approval by the member states

(EAC, 2005). World Bank (2000) emphasizes that fiscal revenue losses will depend crucially on the choice of products excluded from tariff cuts. Although fiscal considerations play a role in selecting the excluded products, other considerations such as industrial policies and lobbying are also at play.

The choice of excluded product will be different if a country negotiates an EPA bilaterally or as part of a regional group. In a bilateral setting, an ACP country can promote its national preferences. In contrast, in a regional framework such as the EAC, the same country will have to negotiate with other members of the group in order to have a consolidated regional list. This will presumably affect how much fiscal revenues are actually safeguarded that is, safeguarded revenue is likely to be lower than what could be potentially safeguarded.

The revenue gain/loss from integration is a major issue in developing countries because in a customs union, internal tariffs are removed for member states and a CET for non-member states is established. Both of these have a direct effect on integration process. Therefore, if members of a RI differ in respect of the importance they attach to trade taxes as a source of revenue, loss of revenue becomes one of the thorniest issues to deal with (Rajaram et al., 1999). Establishment of a CET with integration will affect this. However, if RI leads to trade creation, consumer welfare improvement and industrial development, then these spillover effects can compensate for the loss in direct revenue. Another issue with agreeing on a CET is that there may be a conflict with tariff bindings at WTO. When countries bind their tariff at the WTO, they put a ceiling on their applied tariff rates. Therefore, tariff bindings may get violated if the bound rates are lower than the corresponding rates under the CET.

For intra-EAC trade, the protocol splits traded products into category A and B goods. Tariffs were completely eliminated on category A goods when the customs union agreement came into force in January 2005. Category B goods are though subject to a transition period of five years from 2005 and the agreement allows for an annual reduction of 2 % per annum so that the 10 % tariff was eliminated in 2010. The products that appear on category B list are agricultural products, building materials, plastics, wood, paper, textiles, iron and steel and other manufactures.

These products are from Uganda's view the most sensitive in terms of not being able to withstand immediate competitive pressure from Kenyan producers. The inclusion of category B goods in the agreement not only recognizes differences in competitiveness between the countries but also the damage that could be done to the integration process in the longer term if these are not acknowledged explicitly. In short, it is perceived that without accepting some flexibility, the EAC could fail again as in the past. Whether this policy is appropriate to achieve the objective of regional integration is open to question (EAC, 2005).

According to KIPPRA (2010), burdensome custom procedures at border points are threats to implementation CU protocol. They impose barriers (such as administrative delays, lack of information at border points or delays in getting it, pre-shipment requirements, technical and standardization requirements, and bureaucratic administration of rules of origin) and are a serious bottleneck to the successful implementation of the EAC Treaty.

The East African Community does not exist in isolation; it exists in the world of global competition. To withstand the challenges of globalization, many regional groupings have been formed and EAC countries find themselves belonging to different regional blocks. These have led to overlap in EAC regional group interests among the members, as they try to fit in different or other blocks affecting harmonization of integrated CU.

Until economic union is achieved, collective policy formulation would be difficult to implement. Davies (1996) notes a number of factors that present considerable challenges to the quest for regional integration and common action in East Africa. KIPPRA (2010) argues that membership to multiple RI schemes is likely to adversely affect implementation of EAC Treaty through contradictory obligations, increase in complexity that may adversely affect decision-making by the private sector and therefore affect investment, andthrough diversion of the energy and commitment that is required to pursue depth and width of EAC integration.

"Rules of Origin" are the criteria used to define where a product was made. Determining where a product comes from is no longer easy when raw materials and parts criss-cross the globe to be used as inputs in scattered manufacturing plants. Rules of origin are important in implementing such trade policy instruments as anti-dumping and countervailing duties, origin marking, and safeguard measures. They are an essential part of trade rules because a number of policies discriminate between exporting countries: quotas, preferential tariffs, anti-dumping actions, countervailing duty (charged to counter export subsidies), and more. Rules of origin are also used to compile trade statistics, and for "made in ..." labels that are attached to products. This is complicated by globalization and the way a product can be processed in several countries before it is ready for the market (WTO, 2005).

In SADC, the rules of origin are product specific in response to levels of value addition and complexity of processing and are restrictive in order to protect domestic SADC industries such as textiles and garments, sugar, wheat flour & food products, coffee, tea, motor vehicles & components and certain products in chapter 90. Work on rules of origin is not complete in number of areas (IMF, 2007).

The sustainability of the East African Community and the achievement of a harmonized CU will depend on how well the instruments proposed such as rules of origin and customs law are implemented and how well the challenges are amicably solved. The implementation of the EAC treaty requires successful negotiation of a number of protocols. In order for negotiations to succeed quickly, good structures, common laws and uniform rule of origin are essential. It is a good thing to note that currently all three partner states believe in market-driven policies, good governance and rule of law. These factors help to shape common market ground that will help in shaping regional trade (Ikiara, 2010).

According to KRA the implementation of the EAC CU Protocol is on schedule. The Authority, however, has experienced both successes and challenges since the inception of EAC. Among the challenges associated with application of uniform rule of origin are harmonization of the Tariff Codes, simplification and harmonization of trade documents and procedures due to rule of origin rules and and development of the rules of origin (KIPPRA, 2010).

Methodology

Research Design

This studyadopted a descriptive research design. In this study, description of the current status of implementation of Customs Union under EAC as well as the challenges facing implementation was carried out. Descriptive analysis attempts to investigate the causes of particular phenomena, not simply to describe them. Such research carefully tests causal hypotheses (Kothari, 2010).

This study focused on Kenya's experience and as a result the ministries that are directly related to the implementation were targeted. In Kenya, there are 41 ministries which cover different sectors of the economy; those related to the implementation of harmonized CU are three. Therefore the target respondents were drawn from the three ministries, that is, Ministry of East African Community, Ministry of Trade, and Ministry of Finance.

In the targeted ministries, employees from the ministry and sections of the ministry that dealt with the implementation of harmonized CU were targeted as respondents. Out of the three ministries, the Ministry of Finance had a subdivision that dealt with the implementation of harmonized CU; the Kenya Revenue Authority (KRA). Therefore, employees working in this organization were targeted as respondents.

The study purposively targeted senior managers in the each of the ministries and divisions. The Ministry of Trade had 24 senior managers; the Ministry of East Africa Community had 16 senior managers; while Ministry of Finance had 54 senior managers, 32 of whom were from KRA Customs Section while 22 were working in the Ministry of Finance.

Purposive sampling technique was appliedbecause only those who dealt directly with the implementation of EAC and were more informed were relevant to the study.

Taking into account the purpose of this study, this study was a case study. First, the population was grouped into the four institutions selected. These were KRA, Ministry of EAC, Ministry of Finance and Ministry of Trade. A sample was then selected purposively from each group informed by the respondents' understanding of issues being investigated.

The sample size of 94 was drawn from the target population of administrators and managers, drawn from the above three ministries and KRA. Based on Mugenda and Mugenda (2003) 10%- 30% of the target population for descriptive studies is considered adequate to serve as the sample size. The researcher, therefore, opted for 30% of the accessible population. Out of the 94 administrators and managers found, 30% of the sample size was equivalent to 31 managers. In addition 2 managers from every institution totaling 8 were purposively sampled and then interviewed. The target sample was therefore 39 respondents.

Data Collection

The research used questionnaire and structured interviews.The interviews allowed the researcher to modified questions to suite respondents.

Pre-testing of the questionnaire was conducted to ensure data that was to be collected was aligned to study objectives and respondents were able to respond to questions. The instruments were pre-tested on a sample of four (4) respondents, one from each institution, namely Ministry of Finance, Ministry of East Africa Community, Ministry of trade, and Kenya Revenue Authority. The respondents adequately responded to the tool and data sought was found appropriate to the study. Therefore, the researcher proceeded with data collection. Pre-test respondents were not included as part of the sample.

The researcher utilized descriptive analysis method. The statistical package PASW Statistics 18 was used to analysis the data.

Variables and measures

Factors affecting the implementation of the CU

The study sought to find out generally the status and effects of various factors on the implementation of the CU, then specifically sought on harmonized CU in Kenya by asking respondents to rate different statements. The key for the rating scale was ranging from Strongly Agree(SA)=1, Agree(A)=2, Neutral(N)=3, Disagree(D)=4, and Strongly Disagree(SD)=5. No response was abbreviated as NR.

This measure was composed of eight attributes measuring the rating on the factors that affect the implementation of EACCU. The eight attributes were: (1) Implementation is on schedule; (2) documentation on rules of origin of products is incomplete, because some partners are dragging their feet; (3) there is difficulty in reacing consensus on a CET; (4) implementation of CU can be accelerated through removal of customs procedures at border point; (5) Belonging to different regional blocks is a barrier to CU implementation; (6) dishonesty among members states on intra-EAC trade procedures and negotiations adversely affect CU implementation (7) some customs procedures are barriers affecting CU; and (8) EAC integration can't be realized without achievement of harmonized CU.

Success of EACCU Implementation

The respondents were asked to rate the success of the implementation of EACCU on whether it's successful or very successful.

Achievement of EACCU in Kenya

The study also sought to find out the benefits which EACCU had achieved in Kenya. The key to the rating scale was; Very great extent, Great extent, Average, Little extent and No effect.

To determine the achievement, we developed statements that respondents used to rate the achievement based known best practices. The rated statements were: (1) the harmonization of CU has contributed to the growth in intra-EAC trade in Kenya; (2) the CU has contributed to increased trade and foreign direct investment from outside EAC in Kenya; (3) employment opportunities have increased due to harmonization of CU in Kenya and (4) the harmonization of CU has led to increase in revenue collection in Kenya.

Effects of Common External Tariff (CET) on goods outside EAC region

The study sought to assess the effects of CET on the achievement of harmonized CU in Kenya. We obtained this measure by asking the respondents whether the differences in application of CET on goods outside EAC region by member states affected achievement of harmonized CU. Further to this, on a scale of five from Strongly Agree(SA)=1, Agree(A)=2, Neutral(N)=3, Disagree(D)=4, and Strongly Disagree(SD)=5. No response was abbreviated as NR; we sought to find out whether the effects of implementation of CET brought economic power to member states and improved revenue collection.

Intra-trade border custom procedures

The study was also to examine whether intra-trade border custom procedures had an effect on realization of harmonized CU in Kenya.The questions we sought to ask were if intra-trade border custom procedures hadany influence on realization of harmonized CU.

The rating scale was ranging from Strongly Agree(SA)=1, Agree(A)=2, Neutral(N)=3, Disagree(D)=4, and Strongly Disagree(SD)=5, no response was abbreviated as NR. We used the scaleto measurewhether elimination of customs procedure increased competition, increased volume of cross border trade and foreign direct investment, increase in employment opportunities and increased in tax collection.

Multiple memberships to regional blocks

We were also to determine the effects of multiple memberships to regional blocks among EAC members on implementation of CU in Kenya. We asked the respondents to assess the implications of multiple memberships to regional organizations among EAC members in the realization of harmonized EAC CU.

Rated statements on a scale ranging from strongly agree to strongly disagree asked to the respondents included:belonging to different regional blocks among member states hinders the achievement of harmonized customs union; Membership to COMESA by Kenya, Uganda, Rwanda and Burundi has enhanced the implementation of harmonized EAC customs union; Tanzania's membership to SADC is a challenge in the implementation of harmonized EAC customs union; It is not possible to achieve a harmonized Customs union with member states having multiple memberships to regional groupings; Each Members state should belong to only one CU despite being member of different regional grouping.

Application of uniform Rules of Origin (RO) on EAC

The study was to establish the effects EAC produced products had on application of uniform rules of origin. The respondents were to confirm if application of uniform Rules of Origin on EAC produced products affected the implementation of harmonized CU. The respondents were to rate whether the documentation of Rules of Originis complete or the uniform application of ROprevents re-exportation of cheap imports within the customs union.

Most Prevalent Challenges in the Implementation of Harmonized EACCU

The respondents were also asked to cite most prevalent challenges found within the EAC.

Findings

Information on implementation of harmonized Customs Union

Majority of the respondents (69.6%) generally agreed that the implementation of the harmonized CU was on schedule. On the question of rules of origin, majority of the respondents attributed the delayed completion of the rules of origin to the dragging the feet by some partners. The study also revealed that it was difficult to reach consensus on CET because of delays in the completion of the documentation of rules of origin for products. From the findings, majority of the respondents believed that the implementation of CU could be accelerated through the removal of custom procedures at the border points. It was concluded that belonging to different regional blocks was indeed a hindrance to the realization of the harmonized CU and belonging to one regional block would have made the implementation process easier, hence the realization of EAC was dependent on the achievement of the harmonized CU. The same integration issues were identified by World Bank (2000) which says failure to agree on these issues among countries forming trade blocks was more likely to lead to divergence rather than convergence.

The study revealed that dishonesty among member states on the intra EAC trade procedures and negotiations adversely affected CU implementation. Further, majority of the respondents agreed to a great extent that harmonization of CU had contributed to the growth of EAC-intra trade, increased in trade and foreign investment from outside EAC and enhanced job creation in Kenya. This is in line with the benefits that were expected during the ratification of EACCU (UNECA, 2005).

Effects of Common External Tariff on goods outside EAC region

Kenya's application of common external tariff to non-EAC member countries was found to be incomplete as some products traded in EAC were still exempt of CET. The study revealed that it had several benefits such as free movement of goods, increased trade in Kenya and a decline in revenue collection.

Since some products were still exempted from application of CET, this was indeed a challenge that had significant revenue implications to Kenya, according to the participants interviewed. With respect to implementation of the CET, the findings reported that the major difficulty being experienced was reaching consensus on a common external tariff (CET) of sensitive products. The same challenges were found by McCarthy (2001) when analyzing on EU integration that reaching an agreement among member countries on issues of CET is a challenge because individual countries put their interests first before reaching a consensus.

The research found that the implementation of CET helped combine economic power of member states by enacting favourable tariffs towards non-EAC members. This was supported by Macrary (2005) who explain that when a WTO member joins a CU and adopts the CET, the members take into account the fact that it may also lower the CU tariff on specific products thereby offsetting the adverse trade effects on tariff and combining economic power of member states.

Effects of intra-trade customs border procedures within EAC

Majority indicated that elimination of custom procedures at border points would increase competition in the home market for locally manufactured goods, increase volume of cross border trade and foreign investment. The study concluded that the presence of the custom procedures was a hindrance to the achievement of harmonized CU. A similar study done by International Monetary Fund (2007) agrees to the conclusion that to maintain intra EAC border controls and customs checkpoints requires enforcing rules of origin and developing of a customs pool system which was termed as non-tariff barrier to trade.

The respondents indicated that elimination of tariffs on intra-EAC trade would have insignificant effect on Kenya's tariff revenue base, as the revenue arising from such trade was currently low in relative terms. These findings are in line with Alemayehu and Kibret (2000) who say that loss of revenue from integration for COMESA member states, for instance, is insignificant and may be compensated for by dynamic gains from growth. This may be true also for the EAC since the entire three member countries were in COMESA until Tanzania's recent withdrawal. Moreover, if the EAC tariff is eliminated Kenya will compensate for the loss in revenue by identifying other tax potential sectors such as the informal sector, adjusting domestic tax rates upwards, and enhancing tax administration capacity to improve compliance and reduce evasion.

Other benefits cited by respondents that were associated implementation of harmonized CU included free movement of people, increase in volume of trade and investment, and increase in employment and consumer welfare arising from lower prices in that order of importance. In order to maximize the benefits associated with the trade, the respondents felt that non-tariff barriers needed to be removed, the pace of tariff elimination accelerated, and involvement of private sector increased. Besides the loss of revenue, other perceived costs of tariff elimination included increase in crime as well as collapse of some industries.

To mitigate such loses, the respondents felt that the Kenya needed to adopt a CET, hasten the integration process, and reduce membership in multiple regional groupings. On the issue of compensation of revenue losses associated with CET, KRA respondents believed that mutual concession on tariff on specific products should be adopted. Moreover, revenue loss from tariff elimination should only be addressed when a country proves that there is no revenue leakage due to evasion and corruption and that the country optimally collects all the potential tariff revenue. The same findings are echoed by Baldwin (1997) who argues experience with regional integration demonstrate that the outcome of integration will be influenced substantially by the nature of the participating economies, and hence benefits and cost should be assessed based on each countries level implementation of agreed integration instruments.

Implications of multiple memberships to regional blocks among EAC members

Membership to multiple regional blocks was found to be a challenge to the realization of harmonized CU. This was confirmed by majority of the respondents who agreed to the statement that Tanzania's membership to SADC was a challenge in the implementation of harmonized CU. While membership to COMESA by Kenya, Uganda, Rwanda and Burundi enhanced a harmonized Customs Union, the study revealed that it was not possible to achieve a complete harmonized CU because of Tanzania's membership to SADC. This was echoed by International Monetary Fund (2007) which states that the current overlapping of membership with the CU could result in trade deflection-whereby for example, SADC members could use Tanzania as a transit route to Kenya and Uganda – unless border controls were maintained and rules of origin enforced.

Majority of the respondents interviewed further reported that cost-benefit analysis of membership to multiple integration schemes has not been done and that such membership has affected implementation of EAC protocols through divided loyalties and commitment, and inability and hesitance of some partner states to implement some of the protocols. Almost all the respondents, moreover, reported that membership to many regional integration schemes created conflicts through conflicting policies of different schemes, and interruption of already agreed-upon processes.

To address the issue, the following suggestions were made:merging of EAC, SADC and COMESA; membership to only one scheme for each country and making EAC protocols compatible with existing trade blocks. Membership to multiple integration schemes was also a major characteristic for East African countries. For example, Tanzania was a member of EAC, CBI, COMESA and SADC until recently before quitting COMESA. Both Kenya and Uganda are members of CBI, EAC, IGAD and COMESA (KIPPRA, 2010). According to respondents, membership to multiple schemes hindered integration because of duplication of effort, human and financial costs, and lack of harmony in such policies as rules of origin and customs procedures, information gaps, and changing political positions. This finding reinforces other similar studies done by Alemayehu (1998), Aryeetey and Oduro, (1996).

Effects on application uniform rules of origin on EAC produced products

The study revealed that the documentation of rules of origin was yet to be completed. Further the respondents felt that uniform application of the rules of origin would prevent re-exportation of cheap imports within the CU. Majority of the respondents agreed that establishment of rules of origin affected local industries whereby rules of origin had a positive effect on locally produced goods and local industries. This is in line with the customs union theory and the origin principle of taxation where the union adopts the origin principle and tax rate are equalized in order to have a level playing field for all industries (Pearson & Smith, 1990).

Kenya's experience in the harmonization of tariff codes and simplification and harmonization of trade document procedures was that there was lack of awareness among stakeholders on the subject and there was loss of trade due to simplification and reduced imports from the member states.

Most Prevalent Challenges in the Implementation of Harmonized EACCU

The challenges found most prevalent in implementation of the harmonized EAC Customs in Kenya were: Cumbersome and non-uniformity in customs procedures, internal rules and regulations; poor governance and political interference; inharmonious trade relations among countries and economic/cultural/language differences in member states. These challenges acted as hindrance to development.

Other challenges facing implementation of harmonized Customs Union

Other difficulties cited by respondents were delays due to mistrust, indecision on tariffs, and creation of new documents. Moreover, perceived or real differences in development levels among the countries, and suspicion were reported as the key obstacles to the speedy implementation of the EACCU. Respondents interviewed ranked expansion of trade, increase in investment, and easier movement as the benefits expected from implementation of harmonized CU in the EAC, in that order.

The following were ranked as the most important means of maximizing benefits from the EACCU: Acceleration of elimination of tariffs on intra-EAC trade, Removal of non-tariff barriers, higher integration beyond a customs union, Removal of domestic production constraints and complete implementation of CET. Other relatively less important were greater participation of the private sector, improved efficiency of border clearance, and removal of transport problems. This argument was put forward in favour of integration between eastern European countries as a complement to their free trade with the European Union by Elbadawi (1997).

Other relatively less important costs cited were loss of employment and loss of sovereignty. The costs reportedly already affecting the country included conflict with other regional schemes, loss of revenue, loss of employment, and collapse of industries. Fortunately, most of these costs (with the exception of revenue loss) were expected to decrease with elimination of intra- EAC trade tariff. There were no clear opinions on how the costs associated with the EACCU could be ameliorated although a few respondents suggested a slower integration pace and compensation of losers. On factors that reduce the economic and political viability of such RIs, Venables (1999) and World Bank (2000) observed that RI between low income countries tends to result in divergence rather than convergence in incomes, trade diversion rather than trade creation, and to attract "tariff jumping" foreign direct investment (FDI).

Summary of Findings from the Interviews

All the participants interviewed strongly believed that the implementation of the EAC CU Protocol was on schedule. Kenya has experienced both successes and challenges since the inception of CU in 2005. Among the successes that were cited by the respondents include: Complete harmonization of the Tariff Codes, simplification and harmonization of trade documents and procedures, development of the Rules of Origin, and sharing of information among partner States.

According to participants certain areas of the CU Protocol continue to pose challenges including: establishment of Common External Tariff, particularly the harmonization of rates on sensitive products and exemptions, elimination of Non-Tariff Barriers; and application of rules of origin.The participants indicated that elimination of tariffs on intra-EAC trade would have insignificant effect on Kenya's tariff revenue base, as the revenue arising from such trade is currently low in relative terms. Moreover, if the EAC tariff was eliminated Kenya would compensate for the loss in revenue by: identifying other tax potential sectors such as the informal sector, adjusting domestic tax rates upwards, and enhancing tax administration capacity to improve compliance and reduce evasion. However, it would also confer suffering on the agricultural sector (especially food processing), as the sector faces significant competition from other EAC states.

Other benefits cited by participants that were associated implementation of harmonized CU include free movement of people, increase in volume of trade and investment, and increase in employment and consumer welfare arising from lower prices in that order of importance. In order to maximize the benefits associated with the trade, the respondents felt that non-tariff barriers needed to be removed, the pace of tariff elimination accelerated, and involvement of private sector increased. Besides the loss of revenue, other perceived costs of tariff elimination included increase in crime as well as collapse of some industries.

To mitigate such loses, the participants felt that the Kenya needed to enforce the Common External Tariff to the letter, hasten the integration process, and reduce membership in multiple regional groupings. On the issue of compensation of revenue losses associated with CET, two of the participants believed that mutual concession on tariff on specific products should be adopted. Moreover, revenue loss from tariff elimination should only be addressed when a country proves that there is no revenue leakage due to evasion and corruption and that the country optimally collects all the potential tariff revenue.

Unlike elimination of internal tariffs, adoption of a CET was a challenge and has significant revenue implications to Kenya, according to the participants interviewed. To address the issue of membership in multiple regional groupings and its effect on the EAC, the following initiatives were suggested: formation of tripartite free trade area between three REC's i.e. COMESA, SADC and EAC; negotiation with Tanzania to resign from SADC and resignation of all East African countries from COMESA and SADC.

With respect to implementation of the EAC, the participants reported that the major difficulty being experienced was reaching consensus on a common external tariff (CET) on all products. Other difficulties cited by participants each were delays due to mistrust, indecision on tariffs, and creation of new documents. Moreover, membership to multiple integration schemes, perceived or real differences in development levels among the countries, and suspicion were reported as the key obstacles to the speedy implementation of the EACCU.

Participants interviewed ranked expansion of trade, increase in investment, and easier movement as the benefits expected from implementation of harmonized CU in the EAC, in that order. The following were ranked as the most important means of maximizing benefits from the EAC: acceleration of elimination of tariffs on intra-EAC trade; removal of non-tariff barriers; higher integration beyond a customs union, and removal of domestic production constraints and introduction of a CET. Other relatively less important were greater participation of the private sector, improved efficiency of border clearance, and removal of transport problems.

Participants reported the following perceived costs of the EACCU: conflict with other integration schemes and loss of revenue. Other relatively less important costs cited were loss of employment and loss of sovereignty. The costs reportedly already affecting the country included conflict with other regional schemes, loss of revenue, loss of employment, and collapse of industries. Fortunately, most of these costs (with the exception of revenue loss) are expected to decrease with elimination of intra- EAC trade tariffs. There were no clear opinions on how the costs associated with the EACCU could be ameliorated although they also suggested a slower integration pace and compensation of losers.

Conclusion

The implementation and harmonization of EACCU is good for Kenya. With 70% of the respondents agreeing to the statement, several benefits have been attributed to it: growth of intra-border trade around areas such as Malaba, Busia, Namanga, Loitoktok, Moyale, Lake Victoria etc; increase in direct foreign investment thereby setting Kenya as the economic hub in EAC and as a result doubling the job opportunities in Kenya.

The findings also revealed that 65% of the respondents were in agreement that at least all member countries were applying the CET on imports coming from outside EAC. However, the respondents agree that several products especially the category described as sensitive products were still exempt from application of CET thereby confirming that this was indeed a challenge in the harmonization of EACCU in Kenya where reaching a consensus on which rates to apply across the board has been difficult. This was attributed to mistrust/suspicion among member states and indecisions in tariffs rates to apply.

Burdensome border customs procedures have been confirmed to be a non-tariff barrier towards harmonization of EACCU in Kenya. With 67% of the respondents in agreement that elimination of border customs procedures would facilitate trade by sharing information with traders thereby increasing volumes of cross border trade by increasing competition in the home market for locally manufactured goods and possibly increase in employment opportunities.

Multiple memberships to different regional groupings were indeed a hindrance to the realization of the harmonized CU with 87% of the respondents being in agreement to the statement. This is because it brought about overlap, duplication and inconsistencies of some activities, contradictory obligations thereby complicating the management of regional trade policies. Though belonging to only one regional grouping would make the implementation of a harmonized CU easier, it is not realistic for EAC to exist in isolation in this age of global competition and therefore subscribing to different regional groupings is encouraged but member states should choose common ones.

Although development of rules of origin has taken place as is expected in the CU protocol, the documentation of it is yet to be completed. With the documentation not yet complete, application of the rules therefore affects local industries on products produced in Kenya since there is unfair competition within the region. With the harmonization of the tariff codes according to WTO requirements, simplification and harmonization of trade documents and procedures now complete, the application of rules of origin would be made possible and would prevent re-exportation of cheap imports within the CU.

Lack of political will or political interference in different countries has led to slow implementation of the CU by lack of decision making on issues such as introduction of new tariffs, inharmonious border patrols, varying domestic tariff regimes and cumbersome customs procedures at the border points.

Differences in levels of development in the member states has also contributed to the way countries relate to one another hence slow implementation of harmonized CU. Examples included soft infrastructure such language and culture which has not been harmonized and hence has become a barrier to facilitating policy formulation and decision making.

Recommendations

The following recommendations are made from the key findings:

1. In order to maximize the benefits associated with implementation of harmonized CU, there is need for the removal of non-tariff barriers, the pace of tariff elimination accelerated, and involvement of private sector increased.
2. Political will should be increased and Kenya government to facilitate its negotiations with other partners so as to harmonize and reduce or eliminate tariffs on intra-EAC trade. Also recommended is greater transparency and improved dissemination of information about future EACCU plans.
3. There should be elimination of corruption at border points, improvement of infrastructure, and encouragement of other landlocked countries to join the EACCU.
4. It is recommended that Tanzania should resign from SADC in order to address the issue of membership to multiple RI arrangements and its effects on EAC, as it's the only EAC member in SADC. If not resignation, there should be a

tripartite agreement between the three Regional Economic Communities (REC's); COMESA, SADC and EAC to spur greater cooperation and harmonization of polices. Also recommended is the application of strict rules of origin making EAC protocols compatible with existing REC's.

5. The development of Rules of Origin should be completed especially building capacity at KEBS and KRA by getting more personnel for pre-inspection before any certificate of origin is issued.

Areas for Further Research

This study recommends further research on the integration within East Africa, especially implementation of CU. Issues of revenue loss with implementation of CU is a thorny one and the issue of compensation of losers from integration is critical for the socioeconomic and political sustainability of RI arrangements. To inform Kenya's position in relation to these issues, more research is needed. Some of the issues that need further research include: dynamic analysis of the costs and benefits of integration to the country, and analysis of trade-off between revenue loss and industrial development with different CETs for intermediate goods. Research institutions and academia can take such studies. The Government and EAC secretariat should provide funding to research institutions to carry out the recommended research.

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