

# **THE EAST AFRICAN CUSTOMS UNION**

## ***OPPORTUNITIES AND CHALLENGES FOR SMALL-SCALE WOMEN TRADERS***

Prepared for:

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## **OPPORTUNITIES AND CHALLENGES FOR SMALL-SCALE WOMEN TRADERS WITHIN THE EAST AFRICAN CUSTOMS UNION**

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## **How the paper is organized**

1. This paper presents the gender analysis of the customs union in its entirety. The objective of the gender analysis of the customs union is to sensitise women traders on the customs union so that they can take full advantage of the customs union ideals. It is written within the framework of increasing women's participation in economic activities, specific focus being on regional cross border trade, to as to enhance women's economic autonomy as a key strategy to accelerate economic development within the three East African countries and reduce poverty within the region. It consists of two main parts. Part I starts by giving a background conceptual framework on women and economy. It then proceeds to giving a highlight of Africa regional trade agreements mentioning the East African Community Treaty under the auspices of which the East African Community Customs Union Protocol is formulated. The paper then explores women's participation in trade in the East African region with a bias on women's participation in cross border trade in the region. It thereafter moves to examine some of the challenges that women cross border traders face in the course of their trading activities. The paper then process to highlight some of the goods that women traders trade in across the borders as well as giving a brief introduction on the EAC Customs Union Protocol. Concluding Part I is a glimpse on the impact of the customs union on small scale cross border women traders in the context of the East African Community.
2. Part II exclusively covers extensively the gender analysis findings of the Customs Union Protocol, including the opportunities that exist for women cross border traders as well obstacles that the Customs Union may present to women traders in its implementation. The paper then proceeds to offer practical policy and legislative recommendations that can improve and enhance trade related activities within the region and enhance women's participation in the regional trade with the aim of strengthening regional economies. The paper is wound up with a conclusion, which also outlines the analysts impression on the way forward.



## **Background**

1. There are considerable differences in women's and men's access to and opportunities to exert power over economic structures in their societies. In most parts of the world women are virtually absent or are poorly represented in economic decision-making including the formulation of financial, monetary, commercial and other economic policies as well as tax systems and rules governing pay. Since it often within the framework of such policies that individual women and men make their decisions on how to divide their time between remunerated and unremunerated work, the actual development of these economic structures and policies has a direct impact on women's and men's access to economic resources, their economic power and consequently the extent of equality between them at the individual and family level as well as in society as a whole. This has had far reaching implications on the economic status of countries especially the developing countries.
2. Many women have entered the informal sector owing to the lack of other opportunities. Women's participation and gender concerns are still largely absent from and should be integrated in the policy formulation process of the multilateral institutions that define the terms and in cooperation with governments, set the goals of various programmes, loans and grants.
3. Insufficient attention to gender analysis has meant that women's contributions and concerns remain too often ignored in economic structures, such as financial markets and institutions, trade systems, labour markets, economics as an academic discipline, economic and social infrastructure, taxation and social security systems, as well as in families and households. As a result, many policies and programmes, related to the aforementioned, may continue to contribute to inequalities between women and men. Where progress has been made in integrating gender perspectives in programme and policy formulation, implementation, monitoring and evaluation, effectiveness has also been enhanced

in achieving set policy and programme objectives.

4. Although many women have advanced in economic structures, for the majority women, particularly those who face additional barriers, continuing obstacles have hindered their ability to achieve the economic autonomy and to ensure sustainable livelihoods for themselves and their dependents. Women are active in a variety of economic areas, which they often combine, ranging from wage labour, subsistence farming, fishing, trade, to the informal sector. However, legal and customary barriers to ownership of or access to resources including natural resources, appropriate information, capital, credit, technology and other means of production, as well as wage differentials, contribute to impeding the economic progress of women.
5. Although some new employment opportunities have been created for men and women as a result of the globalisation of the economy, there are also trends that have exacerbated inequalities between men and women. At the same time, globalisation, including economic integration, can create pressures on the employment situation of women in adjusting to new circumstances and in adding new sources of employment as patterns of trade change. This is the case for instance with the coming into force of the East Africa Community Customs Union, which seeks to promote trade within the three East African countries through abolishing tariff and non-tariff barriers to trade. There is, therefore a dire need to focus more on the impact of the regional trade agreement, the customs union, on women's economic status, considering the increasing trend of female-headed households in the region.
6. Female traders especially those in the rural sector and those practising informal cross border trade have for a long time remained the least protected by trade agreements and immigration laws. Women, particularly those who are heads of households with young children, are limited in their economic ventures and trading opportunities for reasons that include inflexible and unfriendly trading

conditions and procedures and inadequate sharing, by men and by society, of family responsibilities.

7. The unfavourable work environment as well as the limited number of employment opportunities available has led many women to seek alternatives. Women have increasingly become self-employed, owners and managers of micro-small and medium scale enterprises and majority participants in small-scale trade. The expansion of the informal sector in many countries and of self-organised and independent enterprises is in large part due to women whose collaborative self-help and trade represent a vital economic resource. When they gain access to and control over relevant and appropriate information, capital, credit, and other resources, technology and training, women can increase production, marketing, and income for sustainable development.
8. In countries that are undergoing fundamental political, economical and social transformation, which is characteristic of the East African countries, the skills of women, if better utilised, could constitute a major contribution to the economic life of their respective countries. Their input should continue to be developed and supported and their potential further realised.
9. To fully realize equality between men and women in their contribution to the economy, active efforts are required for equal recognition and appreciation of the influence that the work, experience, knowledge and values of both women and men, have in society. Therefore in addressing the economic potential and independence of women, it is important for governments and other actors to promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes so that before decisions are taken an analysis is made of the effects on women and men respectively.

## **Regional Trade Agreements/Partnerships**

1. The African countries having sought ways of enhancing their domestic economies came up with the Lagos Plan of Action in 1980 and in 1991 the Abuja Treaty of Declaration. The two policy documents underscored the need for regional integration, by 2020 for Africa but also recognized the regional initiatives already undertaken.
2. The United Nations Economic Commission for Africa, UNECA, emphasized regional Integration in Africa in the 1960s. This was also enshrined in both the OAU Treaty of 1963 and as pointed above, the Abuja Treaty of 1991. Efforts towards regional integration include the ECOWAS (1975), Mano River Union (1973), West Africa Monetary Union (1994), COMESA (1981), SADC (1980), Arab Maghreb Union (1989) and EAC (1967 and then revamped 2000) with the ultimate goal of linking to Africa Union.
3. The main purpose of regional integration is not only to improve the economic status of the partner/member states but also to increase Africa's visibility in the global market.
4. Though regional trade within the continent is marginal, several studies conducted indicate that informal contacts strengthen regional integration networks and relationships. Some aspects of integration are taking place in Eastern and Southern Africa through official efforts aimed at strengthening of institutions to keep records on informal trade and implementing policies. Nonetheless there are several other areas that need institutional reform to accommodate informal cross border trade (ICBT), which still remains invisible despite the contribution it makes in the economy. Studies done in the sector indicate that the informal cross border trade is contributing immensely to the process of regional integration by building on the informal networks that have been developed by people over years.

## **WOMEN AND TRADE IN THE EAST AFRICAN REGION**

1. An analysis of the link between women and trade shows that the society has placed the woman on the two-tier gender hierarchy. The woman clearly has less trade opportunities compared to men. This is due to the fact that most women in the East Africa region are not educated or have limited education. Additionally, traditions, customs and sometimes religious practices are restrictive to women. This therefore limits their knowledge on the trade structures and the trade environment.
2. In the region, majority of women are small-scale traders who depend on the small profits generated from their small-scale trade to make ends meet. Most of the residents in the region rely on agriculture, thus trade being carried out mostly involves agricultural products such as grains, fruits, vegetables, food crops, cash crops, just to name a few.
3. A quick look at the Protocol establishing the East African Customs Union reveals that there is no express mention of the special role of women in trade except in the Preamble and Objectives which jointly mandate the Union to mainstream gender in its programmes politically, culturally and economically. In the legal framework, women are again not well catered for. The law tends to favour the large-scale trade sector, which is largely dominated by the men.
4. In general, women indeed are involved in trade within the region, but need empowering opportunities to improve their economic and social status in the society. Any genuine efforts towards the creation of a functional customs union must fully involve women and their small-scale cross-border trade activities especially in the border towns. Deliberate efforts should also be made by the individual countries to offer concessionary loans and credit to these traders in order to realize their full potential. This will eventually lead to the traders taking advantage of the opportunities created by the Customs Union.

## **WOMEN AND SMALL SCALE ENTERPRISE**

Although there are many economic activities in the region, agriculture remains the main one. In the case of women, agriculture is mainly undertaken in the form of peasant farming for domestic use and for small-scale trade across the borders where such a crop may not be in production. This history of regional trade is therefore popular among communities living near points of entry or exit of the respective countries. These border towns include Busia, Namanga and Isebania.

Majority of the women traders in these towns mainly specialize in agricultural products and textile for which each has a comparative advantage. Owing to the scarce capital, women's stock are usually limited and as such they keep on moving between the borders for merchandise. Thus these border points are congested with these activities most of the time. However, little has been done to provide an enabling environment or to improve the welfare of small-scale traders especially with the introduction of the Customs Union.

### **Women Participation In Cross Border Trade In East Africa**

- The type of cross border trade practiced across the East African borders is the Informal Cross Border Trade (ICBT). The ICBT refers to registered or unregistered business activities undertaken across the borders based mainly on popular economy. One of the main characteristics of this trade is that it is not mandatory to submit tax returns at the end of each financial year hence not entered in national accounts.
- Generally, in the East African region, informal cross border trade is conducted by small-scale quasi-professional traders, who use various means to move small quantities of goods across national frontiers, to conduct trade. It has been established that women constitute the larger proportion of those who practice the small scale cross border trade. Previously disregarded, the cross border trade, with women being the majority participants, has increasingly been seen as a source of development and poverty alleviation within the East African region: part of the

solution, in other words, to the region's many economic problems. Informal cross-border trade is thus coming under the spotlight

- Though the East African Community Customs Union Protocol, Article 3, highlights that trade protocol shall promote efficiency in production, enhance domestic, cross border and foreign investment to promote economic development and diversification in industrialization in the partner states, women continue to face myriad obstacles in informal cross border trade. For this to happen effectively and efficiently, policy and institutional reforms should be undertaken to create an enabling environment for women cross border traders. However the main challenge is dealing with the infrastructural development, which includes road and railway network, lack of warehousing, and lack of information on market intelligence. The women cross border traders are restricted in accessing market information, finding out what is needed, where, in what quantities and packaging standards a trend that ought to be addressed if the Customs Union is to really

## **THE GOODS AND SERVICES**

1. Apart from the agricultural goods used for trade, industrial products are also popular in this arena of regional trade. For example, the salt manufactured at Lake Magadi in Kenya finds its way into Uganda and Tanzania through exportation.
2. Export of foodstuff and importation cannot be ignored. The Tanzanian oranges are a favourite in many Kenyan food markets just as the Kales (*Sukuma wiki*) from Kenya are in Tanzania and especially in Dar-es-Salaam.
3. Other goods common in the regional trade include maize, beans, hides and skins, oil crops, cotton etc. (see appendix)

## **Challenges Faced By Women In Cross Border Trade In The Region**

1. Women practicing cross border trade experience several obstacles, which hamper the women's ability to optimally enjoy the full benefits accruing from the cross-border trade.
2. Some of these obstacles are linked with infrastructure, which then result in market distortion. The cost of goods entering neighbouring countries becomes expensive and returns to investment are reduced significantly. Profit margins remain small leaving limited funds for reinvestment, hence trader tend to remain poor.
3. The women traders also complain of lack of standardization of their products. It is clear that they need support from institutions responsible for standards and quality control. Such services would make their products competitive not only in the region but also in the global market where competition is stiff. The demand for design studios for instance for furniture, crafts, textile materials and jewellery is very important for standardization and the women traders do not have access to such facilities which would help add value to their products.
4. The women traders face challenges in accessing finance to initiate and even expand their businesses. The stringent measures demanded by banks, with banks being reluctant to loan out funds to individuals with little - if any - collateral, makes it difficult for small-scale women traders to access loans and credit since majority of women don't own property and therefore have no security.
5. Another problem that women faces in cross border trade are the tedious and time consuming immigration laws that hamper free movement. The security procedures at the border points are extremely extensive and exhausting causing a lot of delays. Also women traders often complain about pass permits, which stifles their businesses. In addition the pass permits allow entry and residence for a limited period, 90 days. Studies done on ICBT indicate that traders enter these

countries for three to four days and they exit shortly after that. They stay in their home country for two to three weeks and then return for business. For that reason they need a policy framework that allows for multiple entry and to spread the 90 days or 180 days over the year. In that way they would not be seen as breaking legal requirements of entry.

6. The women traders also face excessive harassment especially from the customs officials and police. Generally at the port of entry men officers do body search for any hidden goods. Women traders have complained of embarrassment and discomfort and would prefer any inspection to be done by women colleagues at the border post.
7. Commodities traded by women across the border in the region are diverse including food items (cereals, beans, vegetables, fruits), crafts, furniture, jewellery, electrical goods, perfumes etc. Some goods have to undergo sanitary and phyto-sanitary (SPS) conditions. Hence traders need technical support in this area to improve the quality of their products and the packaging to suit required standards.
8. The majority of the women traders involved in trading food products are engaged in small-scale agricultural production. However research shows that, they do not receive a lot of technical and financial support from their governments. Though women constitutes more that 75% of the labourers in agricultural production in the three countries, their unpaid labour in agricultural production still remains unremunerated and unaccounted for in national accounts. Due to Economic Structural Adjustment Programme (ESAP) and ESAP policies, governments within the East African region have withdrawn agricultural subsidies thereby making export commodities uncompetitive. Technical support is needed especially for out-growers scheme for farmers, access to information, agro-processing etc. This is encouraged even within WTO Agreement on Agriculture. The governments should therefore demand credits from WTO as subsidies in

- agriculture and several other sectors were withdrawn. This refund in credits could be ploughed back into capacity building of the Informal Cross Border Trader, especially women. The need to build the capacity of women Cross Border Traders, in marketing strategies, sources of capital, new markets, business management etc cannot be emphasized.
9. The shortage of foreign currency experienced in some border points compound the situation for this partially developed sector. Concern is that even in countries with adequate foreign currency supply, the many demanding processes of trading particularly penalize women, which negatively impacts on the growth of their businesses. The women cross border traders experience problems with currency exchange due to lack of local currency exchange facilities. Monetary policies that could enable the traders to convert their currencies into the currency of the country in which they would be trading are required. That would facilitate trade and create less demand for hard currencies.
  10. Several countries have no policies to attract money earned from Cross Border Traders hence encouraging the parallel market- illicit cross border trade. One, this leads to tax evasion creating unhealthy competition. This is because tax evaders will sell their commodities at lower prices putting those who have paid tax at an undue disadvantage. In this case, women are greatly disadvantaged suffering immense economic backlash.
  11. In addition it has been established that the parallel market leads to hefty losses in terms of uncollected revenue. Recent findings, shared at a workshop held at the Windsor Golf and Country club Nairobi indicated that illicit cross-border trade and smuggling between Kenya and Uganda is estimated to cost about \$140 million, 63 percent of which was in agricultural products, annually in losses to their national treasuries. This figure is about 60 percent of the value of formal trade between the two countries. The governments of the East African partner states are losing colossal sums of badly needed tax revenues through smuggling.

Smuggling has severely impacted on the East Africa countries efforts at attaining self-reliance, leaving them at the mercy of donors. The illicit trade has not only affected their revenue base but has also posed a threat to human lives. The loss of projected revenue through smuggling and other forms of illegal trade has led to the cutting expenditure to finance crucial sectors such as health, education, roads and agriculture, which are crucial to poverty reduction. Particularly the effect on women has been devastating. Researchers contend that illicit trade has serious implications on the economies of the East African countries. Poor economies lead to escalated poverty levels and considering that poverty has a differential impact on men and women, with women bearing the brunt end of poverty implications, measures to reduce illicit cross border trade need to be looked at in the broad context of trade policies and macro-economic policy issues and governance. With effective monetary and macro economic policies this could be contained.

12. It has been established that majority of the women practicing cross border trade have low or zero literacy levels. However literacy among the women traders is important, as it would facilitate easier completing of documents related to cross border trade. This would better enable them to promote trade and the make strategic decisions for investments with the finances generated from the trade.
  
13. It is a fact that women traders are lacking access to information related to trade, both domestic and regional. This has affected their mode of operation in trade, which has in turn affected their investment options, marketing strategies, available marketing opportunities etc, which have had an impact on their financial well being. The women traders require information about various trade policies and agreements and how they would impact on them, how capital markets operate, alternative investments and the working capital of markets. For instance women involved in the cross-border trade are least enlightened with regard to the essential basics of the Protocol and the opportunities and challenges it poses in their day-to-day activities.

14. To illustrate, the documentation process involved in the trading process is to date cumbersome and complicated for small-scale traders. However, the high tariff rates may not allow her to particularly trade unless the Customs Union and the Protocol establishing it is understood.
15. Costs of production for such small-scale farmers are normally too high or prohibitive for them to compete in the competitive and aggressive markets. The fact that they are not so influential in terms of market power lowers their chances of getting any subsidies from their governments.

The customs union protocol should be in a position to address these obstacles to cross border trade women face.

## **THE EAC CUSTOMS UNION PROTOCOL**

1. Any regional economic grouping has to contend with its distinctiveness within the applicable regional context. The East African regional integration and cooperation must recognize the identifiable bottom-line realities acceptable to all the member states. Firstly, women constitute majority of East Africa's population and plays an important role in cross border trade and internal trade. Secondly, most EA traders are small-scale traders. These are some of the identifiable bottom-line realities of the East African people.
2. The **Protocol establishing the EA Community Customs Union** boldly announces that the Partner States undertake to, *inter alia*, establish amongst themselves a Customs Union, as a transitional stage to, and an integral part of the Community. Thus from the very outset, the Partner States recognize the absolute need for trade cooperation in the form of a customs union on behalf of their members/citizens who first and foremost include women and in particular small-scale women traders. The Customs Union is described as an integral part of the Community. This means the livelihood of the members of the three EA states is expressed to be dependent on the formation and implementation of the envisaged

Customs Union.

3. The Basic Features of the Customs Union include:

- Elimination of all intra-state tariffs and other charges of equivalent effect.
- Abolition all non-tariff barriers (NTBs).
- Harmonized commodity description and coding systems.
- Adoption of a uniform tariff classification of goods called the Common Tariff Nomenclature (CTN).
- Adoption of a Common External Tariff (CET) and a standard system of valuation.
- Harmonized customs services and procedures.
- Uniform national customs legislation.
- Simplified and harmonized trade documentation and procedures.
- Common requirements for transit of goods within the customs territory and re-exportation of goods from member countries.
- Established rules of origin with respect to products originating in the partner states.
- Adoption of uniform standards/requirements for anti-dumping practices, subsidies, countervailing measures, duty drawback, and other export promotion schemes i.e. refund and remission of duties.
- Enhanced movement of persons within the customs territory.
- Effective collection of all import duty at the first points of entry into the customs territory.
- Effective mechanisms for sharing out common customs revenue as collected in entry points.

**Customs and the people**

1. Publicity and citizens' participation in the creation and implementation of the instrument in order to cultivate public acceptance and create a people-driven and people-centred community is critical. The people in whose name and benefit the

Community is forged must be involved in and associated with its formation and actualization. The residents of the three countries must own the integration process and be part of it. The present EAC aims to create a people-centred and people-driven community (See: **Article 7 of the EAC Treaty of 1999**). The entire Community should be a bottom-up affair and not a top-bottom affair. The greatest challenge of the Customs Union is how to effectively involve the people and in particular the small-scale trader in the process of integration and at what stage.

2. From the very outset, the Protocol has provisions that are aimed at accruing financial gains to traders within the Union, particularly women the majority of whom are small-scale traders. Small-scale and informal trade has been found to be central to the success of any trade arrangement including a customs union. For instance, the European Union has recognized this fact by expressly and impliedly recognizing the role of small-scale (or micro) economies in accelerating trade and overall development.

## **THE PROTOCOL RECOGNIZING WOMEN'S ROLE**

1. As already noted earlier, the Protocol recognizes the fact that women too contribute in the cross-border business although in a very limited sense. Difficulties arise in the fact that the women are faced by so many challenges that lower their contribution to trade in the region.
2. However, if the Protocol is properly interpreted and disseminated from a gender perspective, women particularly small-scale cross-border traders can overcome these challenges and exploit the opportunities created by the Union.

## **RECOMMENDATIONS FOR A GENDER FRIENDLY IMPLEMENTATION OF THE PROTOCOL**

1. On the spotlight is the small-scale woman trader. When the customs union will take full effect, there will be rules and regulations that will govern its operationalisation. In case such rules and characteristics are followed or adhered to, the woman-traders will indeed be a match for their male counterparts since the Protocol makes no distinction between the two sexes.
2. Another recommendation is the need to enlighten the small-scale women traders to take advantage of the opportunities created by the Union. The respective governments and organizations have to take the initiative to educate the communities involved in inter-border trade as a matter of urgency.
3. The spill-over effects of such harmonized trade will be felt in both the market and non-market arenas where goods of good quality and in a competitive environment will be available for trade and thus sold at the 'right' price.

## **IMPACT OF THE PROTOCOL ON THE SMALL TRADER**

1. The woman's position in the society, which mostly is based on her individual and collective financial status, will be enhanced. This is because she will have been given the opportunity not to trade only within her borders but to go further and capture the regional markets.
2. At the household level, just as the man, she too will be able to cater for the household needs so that she will earn that respect and financial position she deserves at least to achieve equanimity with the 'hypothetical man of law.'
3. The Protocol gives the woman ample room for expanding her trade ventures. She will be able to add value not only to her life but also to her family and thus society

at large.

4. She will be able to trade alongside her male counterparts and/or dominants and by this create competition, which is healthy for each and every market.

## **PART II**

### **GENDER ANALYSIS OF THE PROTOCOL**

#### **Introduction**

1. The implementation of the East African Customs Union will have profound effects on women who are the majority who practice small scale cross border trade. This is because majority of women conducting cross border trade are small-scale traders. In addition most of them trade in agricultural products. The implementation of the customs union, due to the application of comparative advantage in production of goods within the region will mostly offset market balance especially to the cottage industries most of which are agriculturally based. Though this may favour some of the traders it can greatly disadvantage others leading to escalating rather than reduced poverty levels.
2. The customs union may on the other hand have opportunities, which majority may not be aware of, which when exploited can improve their overall economic well-being.
3. For this case this section raises various issues relating to the implementation of the customs union with special focus on women cross border traders. This section presents the opportunities that exist for women traders, as flagged out of the customs union protocol, that East African women cross border traders can take advantage of and enhance their trade thereby improving their economic status and to an extension that of their respective countries and the region as a whole.
4. In addition this section brings to the fore the obstacles that the customs union may present to women cross border traders, which can adversely affect their trade activities. This is in a bid to prepare the women on the same and enable them come up with counter strategies that would enable them overcome these obstacles.
5. This section also proposes recommendations on how the customs union can

cannot only enhance women's cross border trade but also how it will boost trade in the region and improve economies of the three countries.

6. The objective of this exercise is to sensitise East African entrepreneurs particularly women on the above issues i.e. opportunities, obstacles and the recommendations developed, to enable them take full advantage of the benefits accruing from the implementation of the customs union.

### **Article by article gender analysis of the Customs Union protocol**

1. The Preamble to the EA Protocol notes that the formation of the Customs Union is intended to be progressive in the course of the transitional period of five (5) years (See also **Article 11 (1)**). The idea of progressive realization of the Union is aimed at a smooth transition especially for small-scale trade and industry in member countries that have fairly low levels of technology and expertise. The East African entrepreneurs and in particular women traders should be progressively sensitised on trade cooperation principles to enable them take full advantage of the Union's ideals.
2. **Articles 2 and 10** envisage the elimination of both tariff and non-tariff barriers, customs duties and other charges of equivalent effect in order to create the most favourable environment for regional trade. Small-scale women traders have in the past encountered numerous deficiencies and difficulties in raising the requisite tariffs and import duties. The creation of a tariff-free environment is therefore aimed at making trade more competitive in the region.
3. The following is an example of the phasing-out plan for import duty over five years in some selected goods, so that from the sixth year we would have realised a free trade area.

### **4. Uganda's Tariff Offers to Kenya**

5. The following categories of goods exported from Kenya to Uganda will attract a

10%, 8%, 6%, 4% 2% and 0% customs duty in years one, two, three, four, five and six respectively upon coming into force (January 2005) of the Customs Union.

- (a) Dairy products;
- (b) Tea and its products;
- (c) Vegetable oils and fats;
- (d) Confectioneries
- (e) Fruit juices;
- (f) Mineral water and aerated waters;
- (g) Tobacco and its products;
- (h) Domestic and industrial detergents;
- (i) Water pipes (non-metal), tubes, hoses etc;
- (j) Exercise books and stationeries;
- (k) Clothes and fabrics in general including khanga, kikoi and kitenges.

6. The progressive tax reduction will have a lot of positive impact especially on Kenyan women cross border traders. This is because Kenyan traders exporting these goods to Uganda and Tanzania are taxed but Ugandan and Tanzanian traders bringing these goods into Kenya enjoy tax exemption. The benefit to Kenyan women traders would be in the following ways.
7. Women will be in position to trade in larger quantities of goods than before since the tax will be less. In favourable trade they will realise larger profit margins due to economies of scale.
8. Women who initially could not engage in regional trade due to the high tariffs will be able to join the trade due to the decreasing tax regimes and eventually tax free cross border trade.
9. This will create economic autonomy to larger cross-section of women which will improve the quality of life not only at the family unit level but also at national and regional level.

## **10. Tanzania's Tariff Treatment on Imports**

11. The following categories of goods imported into Tanzania will attract a 25%, 20%, 15%, 10%, 5% and 0% customs duty in years one, two, three, four, five and six respectively upon coming into force (January 2005) of the Customs Union:

- (a) Mixture of juices;
- (b) Tomato Ketchup and other tomato sauces;
- (c) Dairy products;
- (d) Crude oil, vegetable and animal fats/oils and their fractions;
- (e) Sausages and similar products;
- (f) Chewing gum, whether or not sugar coated;
- (g) Whiskies, rum, gin, vodka, liqueurs and cordials, distilled spirits e.g. Konyagi, Waragi etc;
- (h) Lubricating oils;
- (i) Perfumes, deodorants, manicure or pedicure preparations, shampoos, pre- and after-shave preparations etc; and
- (j) Polymers of vinyl chloride, ethylene etc;

12. Duty to these products to Tanzania is very higher which can discourage women from trading in such items, considering the fact most women have limited or no access and control of resources including capital. However reduction and eventual exemption of tax on these commodities will encourage women to start trading in such commodities because they would not be worried of the high tax regimes. This would have the same effect as highlighted above.

13. Duties on most other products range between 10 % and 1%. Readers are encouraged to access the annexures to the Customs Union Protocol for a comprehensive exposition of the applicable duties and their phasing out plans. (see appendices)

14. **Article 3** of the Protocol envisages trade liberalization, efficiency in production,

enhanced domestic, cross-border and foreign investment and promotion of economic development and diversification. These objectives open up a very wide window of opportunities for small-scale women traders in terms enhanced production and consumption of varied goods and services, quality and even the volume of production.

15. **Article 4** provides a very wide scope of cooperation within the CU relating to matters of trade liberalisation. Specific mention is made of cooperation in training facilities and programmes on customs and trade. Women should be first and foremost in such programmes because they constitute both the majority of the population in EA and majority of small-scale traders. Such training and technical know-how will go a long way towards enhancing the real and potential capabilities of small-scale women traders.

16. **Article 4(2)(b)** talks of a standard system of valuation of goods based on principles of equity, uniformity and simplicity. No one appreciates and deserves the exercise of the principles of equity, simplicity, uniformity and consistency more than the small-scale female trader. This is particularly because the inequalities existing in trade rules and regulations have for a long time placed women at the periphery of mainstream trade. But when equity is guaranteed and ensured this will encourage women to venture in trade more confidently. Also the simplification of application procedures will encourage more women to practise cross border trade. The tedious and time consuming procedures at the customs border points keep at bay many women from practising cross border trade considering women have other crucial roles and responsibilities at the domestic level. The adoption and implementation of the above mention principles in Article 4 (2) (b) will be a major incentive to women to engage in cross border trade. This will then enhance women's economic status in general and translate to strengthened regional economies.

17. **Article 6** addresses to the need for trade facilitation through reducing the number

and volume of documentation in respect to trade and the adoption of common standards of trade documentation and procedures. Firstly, heavy documentation has to a considerable extent hampered trade locally, regionally and internationally. The situation becomes worse when we deal with small-scale women traders. In the premise, it is only logical that documentation be reduced and simplified in order to make it small-scale user-friendly. Secondly, the adoption of uniform or common trading standards is necessary to enable women from the three different EA states to transact business on terms that they can easily understand, appreciate and identify with.

18. The collection and dissemination of trade information on terms that are easy to comprehend and fathom is very necessary and small-scale traders, particularly women stand to benefit immensely from such dissemination in terms of access to reliable and user-friendly information on products availability, quality assurance, standardisation etc.
19. The availability of such information and gender desegregated data would be very beneficial to women since it will enable them make informed choices on issues related to trade. As earlier identified lack of information on regional trade to especially have led to stagnation or retardation of cross border related activities particularly among women. information is power and without information women traders can make uninformed choices as well as they stand a higher chance to be cheated or exploited which has been happening at border points. Ignorance leads to hefty resources losses, which has continued to chain women at the lowest ebb of the economic ladder. Therefore the need to simplify and disseminate trade related information for easy access to women cannot be gainsaid.
- 20. Article 7** obliges state parties to simplify, standardize and harmonize trade information and documentation. The challenge, as noted in the foregoing, is to do so in a language and through measures that are capable of being understood by the common masses. Another challenge is how small-scale traders will access the customs data bank to be established at the Secretariat pursuant to **Sub-article**

**3(b).**

21. **Article 14** provides that for purposes of the Protocol, goods shall be eligible for Community tariff treatment only if they originate in the Partner States. This section aims to preserve the identity of the Community's goods and to preserve or conserve the accrued benefits of economic integration so as to ensure that EA traders, particularly small-scale traders, get the most of the Union's benefit and gains.
22. The Protocol at **Article 15** recognizes the National Treatment principle of non-discrimination. Uganda cannot discriminate against goods from Kenya and vice-versa. This technically means that the small-scale women traders from either country can criss-cross the EA territory with whatever wares or merchandise that they have to sell or buy without any discrimination provided they comply with the customs requirements.
23. By **Article 16**, Partner states are permitted to take anti-dumping measures in case there is potential or real injury to their domestic industries. The third world, EA inclusive, has been a fertile dumping ground for cheap Western products which has led to the collapse of key EA industries like the textile industry. The anti-dumping measures envisaged under the Protocol are intended to prevent dumping and to restore equilibrium in case the same occurs. Small-scale industries stand to gain as they will be allowed to thrive and eventually be restored to equilibrium if dumping occurs, much to the advantage of small-scale traders in EA, majority of whom are women.
24. The provision of subsidies by partner states is sanctioned by **Article 17** provided the obligation of notification to other partner states is met. Small-scale women traders often find themselves in situations whereby they can hardly raise the necessary capital to start or sustain business. This is where subsidies (in the form of provision of capital/business loans, waiver of business levies, assistance in

- marketing) may come in handy. The notification of the same to fellow Union members serves the dual purpose of setting for them a good example worth emulating and secondly, enabling them to put in place countervailing measures (pursuant to **Article 18**) of commensurate value to the subsidy in order to off-set the effect of the subsidy.
25. Safeguard measures too are allowed under the joint-provisions of **Articles 19** and **36** (which is referred to as the ‘Safeguard Clause’ in trade terminology) in order to protect industries that are likely to suffer in case of a sudden surge of a product imported into a Partner state. More often than not, the industries that stand to suffer more harm in case of a sudden surge of imported goods are small-scale industries whose architects or proprietors, in the majority of cases, have just one line of livelihood to depend on. The situation becomes worse when these micro-industries belong to small-scale women traders. Therefore, the safeguard measures would come in most handy for small-scale women traders. Moreover, under **Article 20**, the Partner States are supposed to cooperate in the detection, investigation and solution of dumping and subsidies measures and in the application of safeguard measures.
26. The Protocol intends and supports free trade. Under **Article 21**, competition is to be encouraged. Any practice that adversely affects free trade or prevents, restricts or distorts competition is prohibited. Great economies are built on the idea of competition. Competition results in increased production and productivity, diversified production, better quality, aggressive marketing, increased profits, the economies of scale and ultimately, lower prices. Thus, the practical benefits that will accrue to the small-scale female buyer or seller of a Union commodity cannot be gainsaid.
27. But, competition being a double-edged sword can also work against small-scale women traders. Those whose productivity and efficiency is low cannot survive and are in the long run driven out of business.

28. Disputes will inevitably arise out of regional interaction. When disputes take on an inter-state or multi-state character, the conflict becomes compounded because complexities of jurisdictional and choice of law nature arise within the same gamut of legal controversy. A regional policy on dispute resolution would help manage the multifarious legal and economic problems that may arise from the constant criss-crossing of people and their affairs among territorially-organized legal systems. The combined letter and spirit of **Articles 24** and **41** reveals a two-level approach to the settlement of disputes relating to rules of origin, dumping, subsidies and safeguard measures etc. Under **Article 24**, there is established a Committee on Trade Remedies which works through various investigating authorities within the territories of the partner states. But, the claimants before the Committee can only be the Partner States and not individual citizens. Therefore, traders are obliged to channel their grievances through their parent states for redress by the Committee.
29. The establishment of Export Promotion Schemes and Bond Schemes is to be encouraged under **Articles 25** (see also **Article 29**) and **28** of the Protocol respectively. **Article 29 (2)** goes further to provide that entry into an EPZ shall allow total relief from payment of duty on imported goods to be used directly in the production of export goods. Small-scale women traders can take advantage of these provisions by forming closely-knit production outfits that would guarantee them access to external markets (with their huge gains) and at the same time attract the usual spill-over effects of export promotion schemes, like the development of local and micro-economies and provision of employment to locals. The challenge for EA is to identify and establish more Export Processing Zones in order to attract, *inter alia*, the said benefits. This could perhaps help resuscitate the dying cotton and textile industries in Kenya.
30. **Article 26** permits the draw-back of import duties upon exportation to external markets on such amounts and upon such conditions as may be prescribed by the

competent authority. The challenge is to ensure that these draw-backs trickle down to the individual exporters. That is more the reason why small-scale women traders should be encouraged to take advantage of existing and yet-to-be established export schemes.

31. Small-scale women traders should be encouraged to pay tax (i.e. duty and V.A.T) as provided for under the remission schemes to be established pursuant to **Article 27** of the Protocol. They should pay tax with zeal and enthusiasm in order to, not only enable their governments to establish small-scale trade-conducive environments, but also sustain such environments in the interests of small-scale traders, for the eventual benefit of the Community as a whole.
  
32. **Article 31** allows for the establishment of Free ports at seas, rivers, airports etc for the purpose of facilitating international trade and accelerating development. Under **Sub-article 3**, goods entering a free port shall be granted total relief from payment of duty and other import levies except where the goods are removed from the free port for home use. Who needs duty-exemption or tax relief much more than a small-scale female trader? They need to participate more in importation and exportation in order to take advantage of the free storage, warehousing, simplified customs procedures and supply chain centres services offered by the freeports. This would lead to lowered production costs and therefore higher profits.
  
33. **Article 32** gives the EA Council ample room to, from time to time and as circumstances may so require, approve the establishment of other special economic arrangements for purposes of the development of the economies of the partner states. ‘Special’ means, *inter alia*, a special group of people like small-scale women traders. ‘Special’ may also mean special circumstances like the circumstances of small-scale women traders, either individually or collectively. The best proactive action that these traders can take is to form formidable associations with more bargaining power(s) sufficient to canvass their case and

convince the Council that they deserve preferential treatment like exemption of import goods from duty provided for under **Article 33**.

34. The Protocol at **Article 37** envisages the formation and continuation of trade linkages with other parts of the world and the world at large. The three partner states are members of the WTO and the ACP-EU trade arrangement. Tanzania is also a member of the SADC. The WTO recognizes the role played by small-scale trade in the global economy and allows for the provision of preferential terms to small-scale traders, but in most cases, through their umbrella countries. The small-scale women trading groups should go a long way towards tapping such potential benefits. However, a glaring challenge that merits comment is the multiple membership of a country (and therefore its citizens/traders) in different economic groupings. Each grouping has its own objectives and operational principles. Take, for instance, the issue of tariffs; each group has its own tariff structure. For a country to apply different tariff structures is not only confusing but also administratively cumbersome and may only serve to disadvantage traders both in the short-term and long-term, especially small-scale traders.

35. **Article 38** allows for the establishment of inter-linkages in various areas of cooperation. These include the critical governance areas of the environment and natural resources management, standardisation, sanitary and phyto-sanitary measures and intellectual property rights. The environment has been described as a woman's kiss of life. Sound and prudent environmental management facilitates trade and ensures that the gains made are not reversed. From the perspective of the small-scale female trader, the Community's resolution to establish and maintain a clean and healthy environment, adherence to quality maintenance and sound sanitary and phyto-sanitary measures translates the EA customs union not only into a Cape of Good Hope but also a safe and conducive haven for meaningful trade.

## **OTHER EMERGENT CHALLENGES/RECOMMENDATIONS**

1. Aggressive publicity and dissemination of the EAC Treaty, the Protocol, the Community's policies and other applicable laws and principles as provided for under **Article 39** of the Protocol will need to be put in place in order to make small-scale traders part and parcel of the Union and its trade. This has to be done in a language that is simple and accessible.
2. The challenge of improving the welfare of citizens and traders in particular, more so the small-scale women traders. In brief, the provisions and ideals of the Protocol should be applied to confer real economic benefit/change on the small-scale trader?
3. One of the reasons that led to the collapse of the former EAC was the non-involvement of the people in its formation, implementation and dissolution. Regional trade should be a bottom-up affair rather than a top-bottom affair. Similarly, the people at the bottom of the social ladder, mostly small-scale women traders, should be actively involved in the whole processes ranging from design to implementation. Publicity of the Protocol should start with the small-scale woman trader.
4. The recognition that Agriculture is key to economic growth and that majority of women depend on agriculture for their subsistence and survival. Recognizing the role agriculture could play in the development of evolving economies would mean recognizing the cardinal role played by women in transforming micro and macro-economies.

## **CONCLUSION**

Finally, even though the Protocol for the Establishment of a Customs Union makes no express mention of the place, role and importance of small-scale traders in general and small-scale women traders in particular, it is full of opportunities and provisions that women could take advantage of in order to realise meaningful benefits. However, as emphasized herein, much depends on what they are capable of fighting for collectively as a group than as individual traders.

In conclusion, East African regional integration processes should ensure quantitative and

qualitative participation of all actors (men and women), all sectors of the economy as well as governments. The business community in the mainstream and informal sectors, the civil society organizations, (including labour, CBOs/NGOs, Faith institutions, cultural groups etc.) must be actively involved and gender perspectives should be integrated at all levels.

The economic policy initiatives, within the East African region such as the East African Community and the East African Community Customs Union must be demystified to encourage more participation and input from the ordinary people, particularly women traders. It is an initiative that could provide opportunity to rebuild not only the East African region but also the continent. BUT conversely it could easily be used to marginalize the very people who are to benefit from its implementation.

The EAC Customs Union will zealously address some of the challenges that the women cross border traders face and therefore the need for women to know what the customs union has in store for them cannot be gainsaid. On the other hand the Customs Union can amplify these challenges perpetuating the same marginalisation that women traders have suffered for so long in their trade. It is important for them to be aware of such implications so that they can be adeptly prepared to challenge them and also develop counter strategies and coping mechanisms to ensure their survival in the cross border trade and therefore reap maximum benefits from it.

When the issues raised above are addressed, the region would not only be on an effective path towards integration but also it would ensure economic autonomy of all citizens of the three countries, which would contribute immensely to poverty reduction within the region. When this is achieved then significant strides would have been made towards achieving the Millennium Development Goals (MDGs), particularly Goal 1 (Eradicate extreme poverty and hunger), Goal 2 (Universal primary education) and Goal 3 (Gender equality and empowerment of women). These are the precursors to achieving all the other MDGs targets.

## **BIBLIOGRAPHY**

Protocol on the Establishment of the East African Community Union

Manenji M. F.: The effects of globalization on culture in Africa in the eyes of an African woman

Mutume G.: How to boost trade within Africa: *Lower barriers and diversify production*

Mwaniki J.: The impact of Informal Cross Border Trade on Regional Integration in SADC and implications for wealth creation.– IRED-ESA

Nduru M.: Cross-Border Traders No Longer Small Fry

### **Print media references**

[The Monitor](#) (Kampala) May 9, 2005 - Kenya, Uganda Lose \$140m in Illicit Trade