



**EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY**

**REPORT OF THE COMMITTEE ON
COMMUNICATIONS, TRADE AND INVESTMENTS
ON THE ON-SPOT ASSESSMENT OF THE EAC SINGLE
CUSTOMS TERRITORY (SCT)**

February 5th to 9th 2014, Mombasa - KENYA

Clerk's Chambers
EALA Wing
EAC Headquarters
Arusha, Tanzania

April 2014

1.0 BACKGROUND

Members of the business community are engaged in cross-border trade within the East African Community countries although businesses are severely hampered by inefficient trade facilitation systems. In bid to implement the EAC Customs Union Protocol, EAC Partner States have embarked on fast tracking the Single Customs Territory (SCT) whose framework was adopted by the EAC Summit of Heads of States in November 2013.

Under the SCT arrangement, the EAC member states will adopt a destination model of clearance of imports whereby the assessment and collection of tax revenues on such consignments will be done at the first point of entry. This allows free circulation of goods within the single EAC market, with variations to accommodate exports from one partner state to another. In that regard, Customs administrations in destination states retain control over the assessment of taxes. This will crystallize the gains of regional integration characterized by minimal internal border controls and more efficient institutional mechanisms for clearing goods out of Customs control.

Pursuant to article 49 (2) (e), " the Assembly may for purposes of carrying out its functions, establish any Committee or committees for such purposes as it may deem necessary to exercise both legislative and oversight functions on all matters within the scope of the EAC through meetings, studies, workshops; tours, on spot assessment activities, to mention but a few.

In order to exercise its oversight mandate the EALA Committee on Communications, Trade and Investment has found it imperative to undertake an on spot assessment on the Port of Mombasa to engage Ports and Customs Authorities, EAC SCT Technical Working Groups, Private Sector on the preparedness and processes for the implementation of EAC SCT. Ports administration play a significant role in the operationalisation of the Single Custom Territory to improve business environment in the EAC region.

1.1 Objectives of the On-Spot Assessment

The objectives of the on spot assessment were to:-

- (a) Understand the framework in place for the operationalisation of the Single Custom Territory;
- (b) Find out the operations and processes that will be involved in the implementation of the EAC Single Customs Territory;
- (c) Identify the expectations, fears/challenges that will be involved and recommendations to address them;
- (d) Visit Ports and Customs Authorities site installations and facilities to acquaint themselves with cargo handling and clearance procedures.

1.2 Methodology

The Members of the Committee on Communications, Trade and Investment held meetings from 5th to 9th February 2014 with various stakeholders. Amongst them were Kenya Revenue Authority (Customs), EAC Technical Working Groups on the SCT, Kenya Ports Authority and the Business Community. The Committee also carried out a guided tour on site installations and facilities in place including cargo handling and clearance processes and procedures. From these visits and meetings, the committee took stock of the observations and recommendations.

2.0 FINDINGS

2.1 Framework for the Operationalization of the SCT

2.1.1 Introduction

The Treaty for the establishment of the EAC was signed on 30th November 1999 and entered into force on 7th July 2000. Under Article 5(2) of the Treaty establishing the East African Community, EAC Partner States undertook to establish; a Customs Union, a Common Market, a Monetary Union, and ultimately a Political Federation.

The Protocol on establishment of the EAC Customs Union was concluded in 2004 and implementation commenced in January 2005 with the enactment of the EAC Customs Management Act. In addition, to achieve a fully fledged

Customs Union there was need to attain a Single Customs Territory (SCT) which is attainable by the removal of duties and other restrictive regulations and/or minimization of internal border customs controls on goods moving between Partner States with an ultimate realization of free circulation of goods.

In April 2012, the Summit adopted the Destination Model of clearance of goods where assessment and collection of revenue is at the first point of entry. In November 2013, the summit received the report on attainment of the SCT and took note that the framework for the operationalization of the SCT had been finalised and adopted by the Council in November 2013; and the Summit directed that the SCT commences on 1st January 2014 and that all operational requirements be finalised by June 2014.

2.1.2 Purpose and Objectives of the SCT

The main purpose of the Framework is to act as a tool and policy document that spells out the Scope of EAC SCT, and commitment of Partner States to fully operationalize the Customs Union and Common Market. Specific objectives include;-

1. Reducing the cost of doing business;
2. Enhanced application of cross border ICT systems and quality data collection at the regional level;
3. Enhanced capacity and improved coordination of the private and public sector agencies;
4. Enhanced compliance to regional standards and instruments.

2.1.3 Benefits of the SCT

1. Reduced cost of doing business by eliminating duplication of processes;
2. Reduced administrative costs and regulatory requirements;
3. Enhanced capacity of the private and public sector agencies
4. Creation of a mechanism for prevention of smuggling at a regional level;
5. Reduced risks associated with non-compliance on the transit of goods;
6. Enhanced application of Information Technology (IT) and data collection at the regional level;

7. Realization of economies of scale and optimal use of resources in clearance of goods in the EAC.

2.1.4 Pillars of The SCT

The framework is hinged on the following Pillars; -

1. **Free circulation of goods.** The following goods are classified as follows ; -
 - i) **Imports into the EAC;**- these include goods for direct home use, warehousing, transit, and goods for temporary importation.
 - ii) **Intra-EAC transfer of goods;** - these include transfer of duty paid goods, ex-warehousing between Partner States, treatment of goods in Special Economic Zones, Export Processing Zones and Free Ports, temporary transfer, transfer of locally produced goods, movement of exempted goods and country specific remissions or stay of application of the Common External Tariff (CET).
 - iii) **Export of goods from Partner State to markets outside the EAC;**- this involves preparation of export entries and goods dispatched under seal depending on the level of risk of the consignment, Exports covered by either a single regional bond guarantee and/or monitored by the Electronic Cargo Tracking System (ECTS).
 - iv) **Port and Border Operations;**- there are a number of agencies involved in the port and border operations and these include;- Customs, Port/Airport Authorities, Bureau of Standards, Public health, security, Food and Drugs Authorities, Pest Control bodies, Radiation Authorities, Clearing agencies, Shipping agencies; Banks, Transport, Shipping and handling companies.

There are principles that apply under free circulation of goods and these include; One Stop Border Post Model which will apply where established, Multi agency Coordinated Border Management (CBM) Model which will apply at the Ports through a Single Window System, a mechanism for mutual recognition in respect of certificates and other administrative instruments; Partner States may have representation of their governments and licensed agencies at the ports of entry or exit.

2. Revenue Management in SCT

On the issue of Revenue Management, Partner States agreed to adopt a destination principle where assessment and collection of revenue is at the first point of entry, this policy takes into account the following; efficiency in clearance of goods, confirmation and notification of payments, tracking of goods after release from the first point of entry, and reconciliation of customs transactions among Partner States.

Effective information and communication systems among the Partner States where declaration process of goods will be initiated in the Partner States of destination and taxes will be paid to the respective Partner States, and finally goods will be released upon confirmation that taxes have been paid and appropriate customs procedures have been fulfilled.

The preconditions for the operationalization of free circulation of goods and revenue management in the SCT include;-

- i. ICT requirements such as Compatible and interfaced Customs systems, all major customs stations must have functioning ICT systems,
- ii. Regional Cargo tracking systems,
- iii. Implementation of the Regional Customs Transit Guarantee Scheme to enable the operationalization of a regional bond.

With regard to road map of the SCT, all key activities that enable the implementation of the SCT will be accomplished by June 30th 2014.

2.1.5 Milestones achieved in the SCT

The progress so far made with regard to the framework for the implementation of the SCT is highlighted as below; -

1. The EAC meeting of the Committee on Customs composed of Commissioner Generals of Revenue Authorities and Commissioners for Customs was held on 17th January 2014 and the Technical Working Groups (TWGs) were established;
2. Each Partner State was assigned to take lead of the work of TWG;
3. Each Partner State and the Secretariat appointed the focal persons;

4. The scope of work of the TWGs was developed;
5. The sessions of the TWGs and Committee on Customs were agreed.

2.1.6. Other Key Issues Agreed

1. **Piloting.** The implementation process of the SCT will apply a phased approach based on the priorities to be piloted as determined by the TWGs in consultations with Commissioners of Customs of Partner States;
2. **Resources.** The SCT has financial implications, therefore the Secretariat will mobilise resources to cover activities of the TWGs and the need for logistical support from Partner States;
3. **Monitoring and Evaluation (M&E).** The Commissioners of Customs constitute the M&E Team in liaison with the EAC Directorate of Customs;
4. **Capacity Building.** Strengthen the human resource capacity of the EAC Directorate of Customs.

2.1.7 Establishment of the Technical Working Groups (TWGS) and Scope of Work

The Committee was informed that the establishment of TWGs was a response to the directives of the 28th Council of Ministers and the 15th Ordinary Summit both held on 28th and 30th November 2013 respectively; that the SCT commences on 1st January 2014 and that all operational requirements be finalized by June 2014.

The EAC meeting of the Commissioner Generals constituted Technical Working Groups (TWG) and agreed that each Partner States shall take a lead to spearhead the work of TWGs. In order to ensure efficient and effective coordination of the TWGs activities, Partner States appointed focal persons at Senior Management level to work closely with the EAC Directorate of Customs. The approved TWGs and focal persons are as indicated below:

S/N	TWGs Name	Country to take Leadership	Country/Secretariat Coordinators
1	Business Flows and Legal	Uganda	Ms. Sarah Mwesigye
2	ICT	Rwanda	Robert Mugabe
3	Compliance and Enforcement-	Kenya	Mr. Nicholas Kinoti
4	Capacity Building and change Management-	Burundi	Mr. Leonce Niyonzima
5	Inter-agency Cooperation	Tanzania	Dr. Patrick Mugoya
6	SCT Coordinator	EAC	James Kuleiye-

2.1.8 Scope of Work of the TWGs

Partner States further agreed on the scope of work that will be undertaken by the TWGs as indicated below:-

S/N	Name of TWGs	Areas to be covered
1.	Business Flows and Legal	a) Review and develop SCT Business Flows b) Review and propose an appropriate regional Bond Management Systems. c) Integration of other regional trade facilitation initiatives in the SCT operational mechanism. d) Develop a detailed schedule of activities leading to the operationalisation of the SCT including process documentation, inspection of facilities, testing and piloting. a) Review existing laws and regulations to cater for: <ul style="list-style-type: none"> • Cross border ICT, • Regional Bond, • Operations of Customs from other Partner States at the first point of entry e) Identify and review any other legal instruments relevant to the operationalization of the SCT f) Any other work relevant to the achievement of SCT
2	ICT	a) Develop solutions for interconnecting customs systems including Cargo tracking systems and any other trade facilitation systems b) Any other work relevant to the achievement of SCT
3	Compliance and Enforcement	a) Review Enforcement and Compliance Regulations and processes to cater for the SCT. b) Develop monitoring mechanism for compliance. c) Any other work relevant to the achievement of SCT
4	Capacity Building and Change Management	a) Identify, develop and implement capacity building interventions to support the SCT b) Any other work relevant to the achievement of SCT
5	Inter-agency cooperation	a) To develop mechanisms for inter-agency cooperation to facilitate the SCT. b) Any other work relevant to the achievement of SCT

2.1.9 Other findings observed during the On-spot Assessment

1. It was observed that Kenya Revenue Authority (KRA) introduced the cash bonds to prevent against the possibility of dumping of imports transiting through Mombasa destined to the hinterland, a scenario called “short landing”, where importers deliver less or no cargo to the final destination. If no dumping or short landing happens, the money paid for the cash bonds is refundable; but refund is an arduous process and therefore a disguised non-tariff barrier that cripples the hinterland import sector.
2. The Simba System used by KRA does not allow automatic bond cancellation. It is therefore done manually and this causes delays on bond cancellation.
3. Non-implementation of the EAC Common Market Protocol. For example unharmonized work permits’ requirements in the EAC still hindering the business people to operate in any country of their choice.
4. High communication costs in the EAC region may affect the operationalisation of the single customs territory.
5. A study on cost reduction is in the offing and it intends to come up with quantitative analysis on the central corridor as a result of the Single Customs Territory.
6. The legal team is in the process of amending the EAC Customs Union Protocol to support the operationalisation of SCT especially to cater for extra territorial and single bond issues among others.
7. Some items are being piloted on single customs territory operational basis. This piloting started on 1st February 2014 and the items being piloted include; Clinker, Petroleum products, and wheat.
8. Clearing agents decried difficulties of accessing *seals* and *passwords* for respective Partner States to clear goods using Asycuda World System. However clearing agents from Uganda have already started training programs in Mombasa to train their fellow clearing agents.
9. Full implementation of the EAC Single Customs Territory is slated for July 2014.
10. Partner States agreed to come up with their respective cargo tracking systems that would be integrated and harmonized for purposes of the SCT.

11. The capacity of the port of Mombasa has been expanded to meet the increased number of ships due to completion of bath no.19, ICT upgrading has been made, and Kenya Ports Authority has established offices in all EAC Partner States. All these are aimed to handle the fast growing demand at the port of Mombasa.
12. The committee visited the One Stop Centre in Mombasa where all government agencies are housed including those of Uganda Revenue Authority and Rwanda Revenue Authority. The Manifest Management System (MMS) is in place, a system that facilitates the process of the scanning and cargo clearing in a single customs territory.

3.0 RECOMMENDATIONS

1. Capacity building and sensitization programs undertaken to various stakeholders on the operations and processes involved in the SCT should be continuous and given timeframes;
2. Efforts should be made to fully implement the East African Common Market Protocol i.e free movement of people, goods, capital and services to enable the operationalisation of the SCT;
3. EALA should keep track of the progress of the SCT until is fully implemented and liaise with the TWGs to determine the required legal instruments necessary for its operationalization;
4. The Committee should also visit the port of Dar es Salaam for purposes of EAC Single Customs Territory.

4.0 ACKNOWLEDGEMENTS

1. The committee wishes to express its utmost appreciation for efforts and commitment made by EAC Partner States in the process of fast tracking the EAC Single Customs Territory.
2. The committee is also indebted to all stakeholders who spared their precious time to participate in this activity and also for their support and cooperation throughout the activity period.
3. Special thanks go to EALA management for the tireless efforts in mobilizing resources and all logistical arrangements to make this activity a reality.

**MEMBERS OF THE COMMITTEE ON COMMUNICATIONS, TRADE AND
INVESTMENT**

Report for On-spot Assessment on the Single Customs Territory (SCT)

February 5th – 9th 2014, Mombasa - Kenya

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