FACTORS INFLUENCING EFFECTIVENESS IN THE EXECUTION OF MANDATE OF STATE REGULATORY AND ENFORCEMENT AGENCIES WITHIN MARITIME TRADE IN KENYA

BY

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DECLARATION

This research project is my original work and has not been presented for a degree in any other University.

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I am thankful to the Almighty God for His enabling Grace.

DEDICATION

This project is dedicated to my Parents Elikanah and Constance Mwashigadi, for their sacrifice to see me through my initial learning life and for shaping me to what I am today.

To Eileen my wife,and son Elikanah Mfori whose support and honest encouragement enabled me to complete the course. To my entire family for unwavering understanding and patience.You have each made my life better and abundantly fruitful.

ABSTRACT

The purpose of my research was to find out the Factors that are influencing effectiveness in the execution of Mandate of state regulatory and enforcement agencies within the maritime trade in Kenya. There are several state regulatory and enforcement agencies that are involved in international trade, and the nature of regulation differs amongst the state Agencies. The study thus sought to find out the nature of regulation within the maritime trade in Kenya and how this is integrated among the different agencies by reviewing the activities of ten state agencies.

I conducted the research by making inference to ten state agencies involved in trade regulation and enforcement within the maritime trade through descriptive survey. The study used primary data collected through a semi-structured questionnaire to capture and review quantitative and qualitative aspects in the areas of focus.

Using the primary data from the census survey, I was able to generate frequency tables and graphs which revealed the macro and micro organizational factors that influence the effectiveness in the execution of Mandate of the subject state agencies. Lack of proper ICT infrastructure and poor integration of a harmonized regulatory framework among the state agencies were noted to be a significant hindrance in trade facilitation. Bureaucracy and political interference were also found to have significant influence, and need to take a back stage in order to achieve better effectiveness of the state agencies for desired ease of doing business.

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LIST OF ABBREVIATIONS

GOK	Government of Kenya
KEBS	Kenya Bureau of standards
KENTRADE	Kenya Trade Network Agency
KEPHIS	Kenya Plant Health Inspectorate Services
KMA	Kenya Maritime Authority
KPA	Kenya Ports Authority
KRA	Kenya Revenue Authority
MDG'S	Millennium Development Goals
MOF	Ministry of Finance
MOT	Ministry of Trade

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CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

The Trade Sector plays a crucial role towards attainment of national development objectives, and in Kenya particularly as envisaged in the Vision 2030. This is also in addition to the realization of the Millennium Development Goals (MDGs). In gearing towards achievement of the development goals, State trade policies need to be clearly thought out and effectively pursued. Therefore Government involvement in trade needs strategic analysis, decisions, and consequently actions that create and sustain competitive advantages. The State policies should be part of a long term planning with definite set of integrated and harmonized processes to facilitate both internal as well as the significant maritime trade.

According to World Bank (2014), the poor ranking of Kenya on the ease of doing business report at 136 out of 189 benchmarked world economies is an indication that the regulatory environment in the country is still not favorable with its current business regulations. The ranking has in fact been worsening since year 2012. In year 2013, Kenya was ranked at position 121 out of 185 economies, sliding four ranks from year 2012 ranked at 117. Therefore, there seems to be perennial inefficiency in trade procedures in Kenya with lengthy, corrupt, manual and uncoordinated trade processes and procedures. The regulatory and enforcement agencies tend to operate in silos, and therefore resulting to ineffective delivery of intended objectives. This aspect has led to negative impact on the economy due to high cost of trade transactions. This position is depicted by the less attractive ranking on the specific trade indicators such as trading across borders ranked at 153, starting a business at 143 and paying taxes at 102 out of 189 economies.

According to GOK (2009), the focus on managing conflict of mandates in operations and management of state regulatory agencies within issues of economic regulation (the control of markets) is a key factor in enhancement of both internal and international trade. In realization of this factor, the Government of Kenya (GOK) is formulating and implementing strategic policies towards trade processes harmonization, and through appropriate integration of the State agencies. The trade improvement processes are being managed under the auspices of the Ministry of Trade policy of 2009. The effort by the GOK in harmonization of the trade processes is to ensure achievement of its mission under the ministry of Trade, external trade department. The mission is envisaged to facilitate orderly development and promotion of External Trade for enhancement of socio-economic development.

1.1.1 State Regulation of Trade

Activities in some industries are determined in large part by direct government regulation of industry players. This is often the case, for example, in portions of the electricity, gas, sanitation, telecommunications, transport, and water industries. Trade Regulations are policies enacted by a state to ensure a free and competitive economy. According Mitnick (1980), in legal and economic literature there is no fixed definition of the term regulation. Some researchers devote considerable attention to the various definitions and attempt through systematization to make the term amenable to further analysis. Other researchers, however, entirely abstain from a further definition of regulation (Joskow and Noll, 1981).

The state of an economy is influenced by a number of factors specific to that particular country. According to Yabs (2007), these factors indirectly affect demand and supply, and therefore influence activities in the market. State regulation and enforcement interventions in trade will therefore ominously impose onerous and counter-productive trade transactional processes if the many state agencies involved are not properly harmonized and coordinated.

According to Barnock et al (2002), trade regulation is an application of standards of behavior on a market. Monson et al (2007) also explain that such legal imposition by a government or a regulatory agency is supported by penalties. This could be contrasted to self-regulation of an industry. According to Hufler (2001), Self-regulation arise when an industry designs rules that go beyond the current minimum regulatory requirements for itself or when an industry establishes new standards in areas where government rules are lacking. This could nonetheless also be backed by formal or informal enforcement mechanisms.

According to Porter (1998), Government has been discussed primarily in terms of its possible impact on entry barriers, but from the 1970s and 1980s Government at all levels must be recognized as potentially influencing many if not all aspects of industry structure both directly and indirectly. In regulating industries, Governments impose rules which are backed by definite penalties with intention to modify the economic behavior of industry and firms in the private sector.

The trade regulatory and enforcement state agencies operate in disjoint execution of their mandates in trade. Much more is needed in terms of institutional coordination and direction of action toward well targeted goals and outputs (Nyongo and Coughlin, 1991). Where enforcement and regulatory agencies are not harmonized, there are chances of mandate overlap which will invariably bring about conflicts of interest. Conflicts of interest are both the foundation and the main opponent of the independent regulatory authorities. It is therefore likely that where regulatory authorities tend to operate in silos, ineffective delivery of intended objectives may result.

According to Culyer (1985), Governments either use instruments of regulation, subsidization, pricing or taxation alternatives in allocation of rights and wealth. In regulating industries, a State will impose rules which are backed by definite penalties, and these are meant to modify the economic behavior of industry and firms in the private sector. These ostensibly aim at improving the efficiency with which society's resources are optimized. According to Porter (1998), well-designed regulation could actually enhance competitiveness. Therefore it follows that the industry regulations need to be adequately coherent within context of the particular industry environment.

Strategic management will continuously be playing a very important role in giving the direction in which an economy will be developing. In Kenya, the Long-term strategy of vision 2030 will require the Government to have in place institutions that can churn out appropriate strategies that can take Kenya to the envisioned middle-income economy by 2030 (Yabs, 2007).

1.1.2 External Trade Regulation in Kenya

The Ministry of Trade in Kenya has substantiated in its policy papers on the need for formulation of a National Trade Policy that is founded on a notion that promoting trade is key to Kenya's development in an environment characterized by rapid technology, progress and globalization. The intensification of competitive pressures in liberalized regimes, also make it more important to mount a trade policy. The policy recognizes the need for a coherent trade policy. Current interventions affecting trade development and competitiveness in Kenya can be found in numerous policy documents and the implementation and coordination is scattered to a number of institutions and ministries. This hinders the successful implementation of the trade policies.

The current trade policy instruments in Kenya are contained in various policy documents and legislation's, which are administered by various institutions.

There are several state regulatory bodies that are mandated with enforcement and regulation of international trade, and in the course of implementation of policy instruments have faced problems of effective coordination and harmonious decision-making. This has led to conflicting rules and practices affecting trade.

1.1.3 Maritime Trade Regulatory Agencies in Kenya

According to GOK (2009), the policy on International Trade is anchored on liberalization and globalization and driven by competitiveness. The policy recognizes that Industrialization and rapid economic growth in developed and newly industrializing countries has been mainly attributed to international trade through export-led strategies. The international trade policy regime and institutional arrangements in Kenya include international trade agreements, the import policies and procedures, the export policies and procedures and other measures affecting production. The trade policy aims at transforming the country into a more open, competitive and export-led economy. Kenya's National Trade policy (2009) is anchored on the principles and objectives of the WTO. The country is committed to gradual reduction of Tariff and Non-Tariff barriers and progressive liberalization of trade in services.

According to GOK (2009), the mandate of state regulatory agencies in trade is focused on such issues as consumer protection, competition and Fair Trade. Others include countervailing and anti-dumping duties to mitigate against trade subsidies and dumping respectively. Safeguards and remedies, investment related issues, intellectual property, environmental and biodiversity, gender and labor standards, and trade disputes settlement mechanisms have equally been covered.

According to GOK (2009), the institutions responsible for consumer protection in Kenya include; Weights and Measures Department, Kenya Bureau of Standards (KEBS), Kenya Industrial Property Institute (KIPI), Kenya Plant Health Inspectorate Service (KEPHIS) and Ministry of Public Health among others.The Weights and Measures Department is mandated to ensure fair trade practices, use of accurate weighing and measuring equipment in trade and consumer protection under the Weights and Measures Act Cap 513 and the Trade Description Act Cap 505. KEBS is mandated to promote trade through standardization in commerce and industry, provision of testing and calibration facilities, control of use of standardization marks and undertakes educational work in standardization under the Kenya Bureau Standards Act, CAP 496. KIPI is responsible for administering industrial property rights, provide technological information to the public, promotes inventiveness and innovativeness and provides training on industrial property under the industrial property Act 2001. KEPHIS is mandated to coordinate all matters relating to crop pests and disease control under various acts such as Pest Control Products Act 1985 and Plant Control Act Cap 324 among others. In addition to the above Government agencies dealing in consumer welfare, there are also private sector agencies involved in consumer protection such as the Consumer Information Network of Kenya. These agencies are limited in outreach and also lack the necessary legal mandate to effectively enforce consumer welfare. The ministry of Trade (MOT) functions include coordinating trade development in all sectors in Kenya and negotiations bilaterally, regionally and in the Multilateral Trading Systems (World Trade Organization, WTO). Secondly, it is also charged with Generation of policy innovations that will accelerate trade development in the country. It further has responsibility of advising the Government on the strategic trade development models to pursue in light of the dynamics in the international business arena. The forth responsibility of the MOT is through the relevant specialized agencies, to direct research on thematic issues directly affecting trade development and propose mitigation or enhancement measures. The other responsibility is to receive, synthesize and evaluate policy proposals from the Trade Consultative Forums and make appropriate recommendations to the Cabinet for approval.

The state regulatory and enforcement institutions within maritime trade include; The Ministry of finance (MOF), Kenya ports authority (KPA), Kenya revenue authority (KRA), Ministry of trade, Ministry of transport, Kenya maritime authority (KMA), Kenya bureau of standards (KEBS), Kenya plant health inspectorate services (KEPHIS) and recently the Kenya Trade Network Agency (KENTRADE).

1.2 Research Problem

Grundy (2006) states that the Porter's five forces model explain the ideal criteria for assessing each of the five major competitive forces, and shows how the core force of the model- competitive rivalry- is a function of the other four forces. The other four dependent variables in the model, namely industry entry barriers, substitutes, and bargaining power of buyers and suppliers, influence the particular industry attractiveness. Michael Porter's five forces detail the causal micro economic variables that explain superior and inferior performance in industry competitiveness. The model accounts for long-term variances in economic returns of one industry versus another. Under ideal circumstances, a perfectly competitive market reaches an equilibrium that is both productively efficient and allocatively efficient. Unfortunately, market conditions are not always ideal (or even approximately so), and perfectly competitive markets then fail to bring about social economic efficiency. This provides the case for Governments regulation in businesses which, depending on extent and efficiency of interventions, greatly influence specific industry attractiveness. Porter (1998) states that Government is not best understood as a sixth force because government involvement is neither inherently good nor bad for industry profitability. The best way to understand the influence of government on competition is to analyze how specific government policies affect the five competitive forces.

Government operates at multiple levels and through many different policies, each of which will affect industry structure in different ways. The Government's imposition of rules backed by use of penalties is intended specifically to modify the economic behavior of industry and firms in the private sector. Such rules are intended to improve the efficiency with which society's resources are allocated. Porter (1998) state that a well-designed regulation could actually enhance competitiveness. However, the reality of Government interventions has been far from expected. According to Armstrong & Porter (2007), in practice regulators seldom have perfect information about consumer demand in the industry or about the technological capabilities of regulated producers. In particular, the regulators typically have less information about such key industry data than does the regulated firm(s). Thus, a critical issue is how, if at all, the regulator can best induce the regulated firm(s) to employ its privileged information to further the broad interests of society, rather than to pursue its own interests.

Some of the studies relating to Trade regulation that have been reviewed include; Kinuthia (2002) whose study focused on the case of Dry cell industry in Nairobi in regard to sources of conflict & conflict resolution strategies between Distributors and retailers. Gichuru (2006) reviewed on Trade related Barriers to Kenya's export of fruits & Vegetables to the European Union. Also reviewed the study by Nganga (2006) who looked at Analysis of the operations of export promotion Organization in Kenya. The study by Mwangi (2002) which looked at the Effects of Tobacco regulation on the marketing mix of tobacco firms was also reviewed. Further the case study on Matatu owners in Nairobi by Muchilwa (2004) focusing on Matatu Operators response to changing government regulation in Kenya was also reviewed. Koima (2003) conducted a study on the challenges in the regulation of the insurance industry in Kenya.

Surprisingly few researchers focus on the factors influencing corporate level effectiveness of mandate execution. The research by Okwachi (2009) is reviewed to have focused on relating study on an evaluation of the effectiveness of state regulation of insurance industry in Kenya. However, none of these studies has looked at factors influencing effectiveness in execution of mandate in State regulatory and enforcement agencies within the significant maritime bound international trade.

The interest of the proposed study is therefore to fill the gap by determining what factors are influencing the effectiveness of mandate execution among the state regulatory and enforcement Agencies within the maritime trade. The research will also seek to determine how the identified factors affect the Kenya Government's effort to harmonize the cross functional trade processes. Given the importance of regulation process and its influence to international trade, this study is seeking to fill the gap by finding answers to the question as to what the nature of trade regulation in the maritime trade is like. The study will also be finding answers to the question as to what factors are influencing the effectiveness in execution of mandate among the regulatory and enforcement agencies within the maritime trade in Kenya.

1.3 Research Objectives

The objectives of the study were the following;

1. To determine the nature of regulation within the maritime trade in Kenya.
2. To determine the factors influencing effectiveness in the execution of mandate among the regulatory and enforcement agencies within the maritime trade in Kenya.

1.4 Value of the Study

The study was expected to be useful to Policy makers in the State ministries with mandates that influence the international trade sector, and other stakeholders within trade sector. This will provide a highlight on the factors influencing mandate execution of State regulatory and enforcement agencies and help formulate strategies that facilitate trade within organisational levels as well as different organisational types. This should facilitate effective utilization of resources and successful performance of public organizations.

This study was also expected to be useful to the management of Kenya Trade Network Agency who will be expected to benefit with opportunity providing an insight on likely challenges they must focus on within the regulatory and enforcement agencies. This will facilitate successful execution of the Agency’s mandates, and specifically in the implementation of the new National single window system.

The study was also expected to be important to researchers and academicians in the concept of Trade regulation, where the nature and emerging factors influencing execution of institutional mandate in state Agencies within maritime trade in this study could be used for further research in other contexts.

CHAPTER TWO
LITERATURE REVIEW

2.1 Introduction

The chapter provides an appraisal of some relevant literature available on Trade regulation. This chapter will review available theoretical literature on industry regulation theories followed by empirical reviews on maritime trade regulation in Kenya.

2.2 Theories on Trade Regulation

Posner (1974) states that a major challenge to Social theory is to explain the pattern of government intervention in the market, and which may also be referred to as economic regulation. Properly defined, the term refers to taxes and subsidies of all sorts as well as to explicit legislative and administrative controls over rates, entry, and other facets of economic activity.

Hill (2011) state that Mercantilism was propagated in the 16th and 17th century to prompt countries to simultaneously encourage exports and discourage imports. Though an old and largely discredited doctrine, its echoes remain in modern political debate and in trade policies of many countries. Adam Smith's theory of 1776 was the foremost to explain why unrestricted free trade is beneficial to a country by arguing that the invisible hand of the market mechanism, rather than government policy should determine what a country imports and what it exports. In the 19th Century, David Ricardo further advanced Adam Smith’s work with his theory of comparative advantage which is the intellectual basis of the modern argument for unrestricted free trade.

Hertog (1999) explains that there are three types of theories of regulation: Public interest theories, the Chicago theory of regulation and the public choice theories. The Chicago theory is mainly directed at the explanation of economic regulation, whereas Public interest theories and public choice theories envisage in addition to that an account of social regulation. The Public Interest theory and Public Choice theories are referred to as Social regulation theories, while the Chicago theory is referred to as Economic regulation theory. A distinction is often made between economic and social regulation.

Economic regulation consists of two types of regulations: structural regulation and conduct regulation. Structural regulation is used for regulating market structure. Examples are restrictions on entry and exit and rules against individuals supplying professional services in the absence of recognized qualifications. 'Conduct regulation' is used for regulating behaviour in the market. Examples are price control, rules against advertising and minimum quality standards. Economic regulation is mainly exercised on natural monopolies and market structures with limited or excessive competition.

The Economic regulations theories are in two groups. Posner (1974) states that the two variations of economic regulation include the public interest theories and Private interest theories. The Public interest theories are regulations supplied in response to the demand of the public for the correction of inefficient or inequitable market practices. Hertog (1999) states that the Public interest regulation theories account for regulation from the point of view of aiming for public interest. This public interest can be further described as the best possible allocation of scarce resources for individual and collective goods. In theory, it can be demonstrated that, under certain circumstances, the allocation of resources by means of the market mechanism is optimal. Because these conditions are frequently not adhered to in practice, the allocation of resources is not optimal and a demand for methods for improving the allocation arises. One of the methods of achieving efficiency in the allocation of resources is government regulation. According to public interest theory, government regulation is the instrument for overcoming the disadvantages of imperfect competition, unbalanced market operation, missing markets and undesirable market results.

According to Hertog (1999), one of the public interest theories is the theory of regulating imperfect competition which is aimed at improving the allocation of resources by facilitating, maintaining, or imitating market operation.The exchange of goods and production factors in markets assumes the definition, allocation and assertion of individual property rights and freedom to contract. The guarantee of property rights and any necessary enforcement of contract compliance can be more efficiently organized collectively than individually.

The second variant of economic regulation theories is the private interest theories, where the Capture theory of regulation is derived. According to Posner (1974), the capture theory, was espoused by an odd mixture of welfare state liberals, Marxists, and free-market economists. This theory holds that regulation is supplied in response to the demands of interest groups struggling among themselves to maximize the incomes of their members.

According to Hertog (1999), after the public interest theory had fallen into disrepute through empirical and theoretical research, the private interest theories were developed. The capture theory is one of the private interest theories, and this was developed mainly by political scientists. This theory assumes that in the course of time, regulation will come to serve the interests of the branch of industry involved. For example, it is assumed that legislators subject the branch to additional regulation by an agency if misuse of the economic position of power is detected. In the course of time, other political priorities arrive on the agenda and the monitoring of the regulatory agency by legislators is relaxed. The agency will tend to avoid conflicts with the regulated company because it is dependent on this company for its information. Furthermore, there are career opportunities for the regulators in the regulated companies. This leads in time to the regulatory agency coming to represent the interests of the branch.

In the theories of economic regulation, a distinction can further be made between positive and normative theories under the variant of conduct regulation theories. The positive variant is directed to the economic explanation of regulation and deriving the consequences of regulation. The normative variant investigates which type of regulation is the most efficient. The latter variant is called normative because there is usually an implicit assumption that efficient regulation would also be desirable (Hertog, 1999).

The New trade theory of 1980 by Nobel peace prize winner Paul Krugman stresses that in some cases countries specialize in the production and export of particular products not because of underlying differences in factor endowments, but because in certain industries the world market can support only a limited number of firms. The first entry firms capture the first-mover advantages and build a competitive advantage, such as in aircraft building industry (Hill, 2011).

Governments intervene in trade to attain economical, social, or political objectives. Officials apply trade policies that they reason will have the best chance to benefit their nation and its citizens-and, in some cases, their political longevity. Determining whether and how to influence trade is complicated by uncertain and conflicting policy outcomes (Daniels et al., 2013).

According to Hill (2011), although all these theories agree that international trade is beneficial to a country, they lack agreement in their recommendation for government policy.

Both the new trade theory and Porters theory of national competitive advantage can be interpretedas justifying some limited governments intervention to support the development of certain export-oriented industries. This argument is known as strategic trade policy. The need to put together national trade policy is informed by the belief that trade facilitation has profound impact to a country's development. The business environment dynamics that are feted with ever improving technology and liberalized trade regimes brings about intensification of competition among firms, industries and among Countries. This does make it necessary for any country to formulate enduring trade policy.

2.3 State Trade Regulation

Regulation is justified for reasons such as Market failure, monopolies, information asymmetry, Public good and unseen externalities. Barnock et al (2002) state that regulation is necessary in order to regularize, harmonize, order, or govern an activity so as to bring into conformity with certain rules, ideas or principles as it applies standards of behavior on a market. It can be used to arrive at collective desires, enhance or eliminate opportunities arising from diverse experiences. It is also used to eliminate or promote social subordination, endogenous preferences, interest group transfers and to deal with irreversibility of consequences of current actions in future.

El-Darwiche et al (2007) is cited stating that the gap between effective and ineffective regulation is determined by how the government, the regulator and the service providers tackle or address challenges that face the industry. These challenges can be reduced if not eliminated if each of the parties understand, take on their roles and carry them out effectively.

The Government can limit or even foreclose entry to industries with such controls as license requirements and limits on access to raw materials. The role of the Government is to create regulatory independence, reduce ownership of incumbent's and identify appropriate financial obligation for the operators.The regulators role is to abide by values such as efficiency, transparency, independence and non-discrimination. The regulator also needs to identify and sanction anti-competitive practices, ensure access to resources and adopt neutral licensing and regulatory frameworks. The operator's role it to build up effective regulatory management capabilities and communicate proactively and intensively with the regulators (Pearce & Robinson, 2005).

Access to overseas markets has been a key element fore merging economies to create economic growth. Trade plays a significant role in a country's growth and development through its linkages with all the sectors of the economy. A growing trade volume benefits standards of living in many ways. Trade supports agriculture, manufacturing and service industries by creating markets through which goods and services get to the consumer and therefore provide the channel through which effects of economic growth are transmitted to various players in the economy.

The GOK (2009) trade policy recognizes the fact that for trade to be effective, it is imperative that the factors affecting the inter-relationship in the manufacturing, agriculture and service value chain are comprehensively addressed. The GOK (2009) trade policy also distinguishes the fact that Trade plays a critical role in poverty reduction through employment creation in informal, retail, and wholesale trade. In addition, trade provides MSMEs with opportunities of accessing more favorable prices in international markets. The GOK has continued to establish trade facilitation initiatives that have seen some significant developments. For Example, trade policy of 2009 notes that Progressive liberalization in Kenya has significantly reduced tariff levels, eliminated price controls and licensing requirements. As a result, imports grew from an average of 6.1% to 22.5% between the periods 1998-2002 and 2003-2007 respectively. Over the same periods exports grew from an average of 6.6% to 10%. The high growth in imports relative to exports resulted in the widening of overall trade imbalance from an average of Kshs.45 billion to Kshs.87 billion between the period 1998-2002 and 2003-2007 respectively.

According to the GOK Trade Policy (GOK, 2009), Kenya's trade policy development is depicted to be tracing back to the Sessional Paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya. The Paper focused on ensuring rapid economic development and social progress for all Kenyan's. It placed emphasis on promotion and protection of the domestic industries. The policy was a key influence on the development of the country's trade regime over the first decade of independence.

The second major phase in the evolution of the trade policy in Kenya was through the Structural Adjustment Programmers (SAPs) introduced in the mid 1980's by Sessional Paper No.1 of 1986 on Economic Management for Renewed Growth. It emphasized a change from reliance on import substitution and protectionism towards a policy that led to industries being encouraged to manufacture for export with reform programmes aimed at improving efficiency, stimulating private investment and increasing the sector's foreign exchange earnings. It also meant economic liberalization bringing to an end the central role of the public sector institutions which had hitherto managed and coordinated trade distribution networks and related trade facilitation and promotion activities. Presently Kenya's Trade regime is guided by market-driven principles of liberalization under the World Trade Organization (WTO), which came into effect in 1995. The liberalization phase has led to lowering of tariffs and reduction of non-tariff barriers in Kenya's export markets thereby improving market access to Kenya's products. The phase also coincided with increased efforts in the regional economic integration initiatives that resulted in the establishment of the East African Community (EAC), Common Market for Eastern and Southern Africa COMESA) and the Inter-governmental Authority on Development (IGAD).

The GOK Trade Policy (GOK 2009) is indicatively guided by international best practices of trade policy formulation and the dynamics in global business trends. The policy details its priority to maximize on the emerging trends such as rise in south-south trade, global production networks, growing trade in services and wider use of e-commerce. The policy further places emphasis on the need to enhance a conducive investment climate, mainstream Micro, Small and Medium Enterprises (MSMEs) in the global trade in view of their critical role in job creation, poverty reduction and furtherance of export diversification and economic development. Porter (1991) states that well-designed regulation could actually enhance competitiveness, and therefore it follows that the industry regulations need to be adequately coherent within the context of a particular industry environment.

2.4 Effectiveness of Maritime Trade Regulation

Maritime transport is a catalyst of world trade, and it has been so for thousands of years. This is why it is important for States to maintain a conducive maritime trade environment. Koima (2003) state that maintenance of a 'stable' market is viewed as of prime importance in a number of countries and that regulator's should ensure that markets develop towards optimal effectiveness and efficiency. The Kenya trade policy (GOK 2009) recognizes the essence of Trade policy on international trade, which is to lay strategies to enhance export growth through value addition in export oriented manufactures and in the services sector as well as pursuing diversification, to fully exploit the export opportunities in the emerging markets.

Okwachi (2009) indicates that Government trade regulation is in two variants; as ex ante and ex post. Ex ante regulation is anticipatory intervention that uses Government specified control to prevent socially undesirable actions or outcomes or to direct a market activity towards socially desirable ends. It is concerned with Market structure, for example number of firms, concentration, entry conditions and product differentiation. In Kenya it's carried out though acts of Parliament such as the Merchant shipping Act, Income Tax act, companies Act etc. Ex post regulation is designed to address specific allegation of anti-competitive behavior or market abuse. It aims at addressing proven misconduct through various enforcement options such as fines, injunctions or bans. It's mainly concerned with market conduct. This is behavior of a firm with respect to both its competitors and customers. In Kenya it is carried out by Self-regulatory organizations such as Kenya shippers Association, Kenya transporters Association, Kenya Manufacturers Association, East African Tea Trade Association, and Kenya Shippers council among others.

Persson, Norling&Ringborg (2009) in their study on Trade facilitation & Maritime Transport in Sub- Saharan Africa state that Control of foreign trade has, throughout history, been a strong interest of the State – to collect tolls, to protect the country's domestic industry, to produce trade statistics. They note that border crossing trade has been a bureaucratic jungle for the traders and that the Bottlenecks in trade chain in developing countries are numerous. This includes high cost of transport and Transit, need of reform and modernization of boarder agencies. The Ports are also noted to be a frequent and common bottleneck and the concern on rent-seeking and corruption. A further concern is on non-transparent and cumbersome documentation requirement among the trade agencies. Thus Governments need to focus efforts towards reducing the complexity and cost of the trade transaction process and making the procedures more efficient, transparent and predictable. Over the years however, development in international trade and transport has been promoted by several factors. Tariffs and other barriers to trade have decreased through multilateral negotiations in the WTO and through regional and bilateral agreements.

2.4.1 Factors Influencing effectiveness of Maritime Trade regulations.

Persson, Norling&Ringborg (2009) indicate that the simplification, standardization and harmonization of procedures and associated information flow required to move goods from seller to buyer and to make payment is important to international trade facilitation. The GOK (2009) Trade policy takes in cognizance existing policy challenges, and the need to develop coherent trade regulations with a view to creating a policy environment that facilitates development of private sector.

Thompson & Strickland (1997) states that the challenge of strategy implementation is to create series of tight fits between strategy and budgetary allocation, strategy and the organization's competencies, capabilities and structure, strategy and policy between strategy and the reward structure, between strategy and internal support systems, and between strategy and reward structure. These factors do also apply to execution of mandate by state agencies.

According to Koske (2003) and Johnson & Scholes (2002), weak management roles in implementation, lack of communication and commitment to the strategy, unawareness or misunderstanding of strategy, coordination and sharing of responsibilities, inadequate capabilities, competing activities and uncontrollable environmental factors contribute to the successful execution of strategies. This thinking will also apply to the effectiveness of mandate execution of trade regulation and enforcement agencies in maritime trade and influence the process and procedures in export and import trade. In addition, costs of maritime transport, processes of quality inspections and costs applicable, security imposition and its cost on goods in transit, taxes and levies by Government Agencies and the time taken to release import- export goods will be affected by the foregoing factors.

The effectiveness in execution of mandate by Maritime trade regulation and enforcement agencies is further influenced by the global and regional trade initiatives, commodity Acts and regulations that are contained in various Acts under the administration of several ministries and public institutions. This structuring of policies does influence the resource allocation, organizational politics, organizational leadership styles, culture and commitment to mandate execution. Therefore in maritime trade facilitation, the Government works towards ensuring that trade Regulations and controls guarantee business efficiency, information asymmetry facilitated by communication technologies as well as payment systems.

2.5 Summary of Literature Review and Research Gap

Competitive advantages do arise in an industry where a Government facilitates effectiveness and efficiency of trade processes. Kenyan businesses will be affected by trade barriers with regard to effectiveness in execution of state regulation and enforcements in Maritime trade in terms of procedures required for exports and imports, costs of maritime transport, processes of quality inspections and costs applicable, security imposition and its cost on goods in transit, taxes and levies by Government Agencies and the time taken to release import- export goods. Studies done by other scholars in Kenya have been reviewed, and effectiveness in mandate execution of state agencies in external trade regulation and enforcement seem not to have received much attention.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter sets out the research methodology that was adopted to meet the objectives stated in chapter one of this study. This will define the research design, population of study, data collection instruments used and the data analysis methods applied to accomplish the objective of the study.

3.2 Research Design

i. The research was conducted through a descriptive survey. According to Cooper and Schindler (2003), descriptive survey is concerned with finding out aspects of who, what, where, when and how. This study dealt with the 'what' aspect, and the descriptive survey was expected to provide opportunity to collect large amounts of data from a sizeable population in a highly economical way and to achieve the desired objectives.

3.3 Study Population

The study made inference to state regulatory and enforcement agencies in maritime Trade. According to the Ministry of Trade policy document of 2009 (GOK 2009), there are ten State international trade regulating and enforcement agencies in Kenya. Therefore, the population of interest in this study was all ten maritime trade State regulatory and enforcement Agencies.

The study was conducted through a census survey involving the entire population since the target population was considered small to use sampling procedures. The researcher targeted a minimum of two heads of departments in each of the ten state agencies.

3.4 Data Collection

The study used primary data since secondary data was non-existent. The data was collected using semi-structured questionnaires. Both open and closed ended questions were used in the questionnaire with the intention to capture both quantitative and qualitative data on the areas of interest. The questions were designed to deal with each specific objective which represented an attribute drawn from the theory driving the research, which was factors influencing mandate execution of State regulatory and enforcement agencies.

The questionnaire was divided into three parts. This was purposed to collect data within the areas of interest in mandate of state regulatory and enforcement agencies. The study interest was to look at what factors influence execution of Agencies mandates, and how these factors influence harmonization of trade process in the Maritime trade. Part ‘A’ of the Questionnaire queried on Bio-data and general questions about the state agency. Part ‘B’ entailed the Mandate of the regulatory and enforcement Agencies and factors that influenced execution of the mandates. Part ‘C’ comprised of the factors that influence harmonization of trade process. As a tool of data collection, the questionnaires provided the researcher uniformity of questions and answer standardization.

The questionnaires were dropped and picked by the researcher to the target respondents in the respective Agencies. The data collection targeted at least two heads of department involved in regulatory issues, Operations and the legal departments in each agency. These offices were chosen because they are the ones which interacted with the regulated industry. Drop and Pick method was used in the survey process and this allowed the respondents ample time to fill in the questionnaires.

3.5 Data Analysis

The feedback from completed questionnaires formed the basis for qualitative content analysis. Completed Questionnaires were sorted, edited and the collected data processed for completeness and consistency to generate the required information to the study. Descriptive statistics was used to analyze the data. Frequency and tables of percentages were used to analyze the data in part A of the questionnaire and to summarize the demographic profiles of the respondents. Data in part B and C was analyzed using mean scores, frequencies and percentages.

Descriptive statistics was used for variables covered under part C. Data collected in Part A & B was analyzed on basis of relationships to generate themes which helped reflect a clear statement of the study objectives

CHAPTER FOUR

DATA ANALYSIS, FINDINGS AND DISCUSSION

4.1 Introduction

The chapter contains an analysis of the data collected and the results of the study. The results have been displayed in frequencies, percentages, and means and presented in tables, graphs and charts. The chapter also contains discussion on the results of the study.

4.2 Profile of State Regulatory and Enforcement Agencies in Maritime Trade.

Different agencies play different roles of regulation and enforcement. Some agencies are charged with the role of security whilst others in the issue of taxation and quality assurance. The mandate of each agency is strictly defined in the constitution and each agency is meant to interact harmoniously with the others to bring about order and efficiency in the maritime sector. Table 4.2.1 below shows the list of the State agencies and their types of roles. There were four Agencies involved in facilitative roles and a similar number in regulatory roles. Only two agencies were involved in enforcement roles. Eight of these agencies have been in existence for more than 15 years as illustrated in Table 4.2.2.

Table 4.2.1: List of State Regulatory & Enforcement Agencies with specified roles

	Role			
AGENCY	Enforcement	Regulatory	Facilitative	Others
Kenya Plant Health Inspectorate Services	YES			
Kenya Police	YES			
Kenya Revenue Authority		YES		
Kenya Maritime Authority		YES		
Kenya Bureau of standards		YES		
Port Health Department		YES		
Kenya Ports Authority			YES	
Ministry of Finance			YES	
Ministry of Trade			YES	
Kenya Trade Network Agency			YES	
Total	2	4	4	0

Table 4.2.2 shows that 80% of the agencies have been in existence for more than 15 years with only 2 having been established in the last 5 years.

Table 4.2.2: State Agencies Period in Existence.

	Frequency	Percent	Cumulative %
LESS THAN 5	2	20%	20%
5 TO 10	0	0%	20%
10 TO 15	0	0%	20%
15 TO 20	3	30%	50%
MORE THAN 20	5	50%	100%
Total	**10**	**100%**	

Among the four facilitative agencies in the maritime agencies is the Kenya Ports Authority (KPA). This is a state corporation with the responsibility to "maintain, operate, improve and regulate all scheduled seaports" on the Indian Ocean coastline of Kenya, including principally Kilindini Harbor at Mombasa. It was established on 20th January 1978 under KPA Act (Cap 391) and falls under the ministry of Transport and Infrastructre. The Agency has a facilitative role in cargo conveyance in maritime trade, and also onto next modes of transportation. The port authority brings about order through proper scheduling of the sea ports and ensuring that safety regulations and measures are adhered to within the ports. The State policies that guide KPA include various maritime policies, weight restriction policies and general trade policies. This is the body charged with finance allocations for different sectors in the public sector. It plans the government finances through budgeting and works hand in hand with the Kenya revenue authority which is charged with the mandate of revenue collection as described above.

The ministry of Finance and the ministry of Trade also play a facilitative role in the maritime sector. The ministry of finance is involved in planning and assessing the countries financial requirements and adjusting accordingly, whereas the ministry of Trade is charged with the responsibility of fostering trade within trading blocks and regions. It plays an instrumental role in promoting trade and advising on subsidy and tax waivers, and also ensuring that the domestic market is protected from exploitation from import markets. Kenya Trade Network Agency (KENTRADE) is more recent facilitative agency in the maritime trade in Kenya. KENTRADE is a state Corporation under the National Treasury that is mandated to facilitate cross border trade and establish, manage and implement the National Electronic Single Window System as a Vision 2030 flagship project under the economic pillar. The Executive Order establishing KENTRADE was signed by the President of the Republic of Kenya, H.E. MwaiKibaki, on 14th January 2011 and gazetted as Legal Notice No 6 of 2011 on 28th January 2011. The agency is quite instrumental since it ensures that ICT infrastructure is set and cross border trade is facilitated.

In the regulatory Agency category, The Kenya Revenue Authority (officially abbreviated as KRA) is the leading agency among three others. The Agency is a tax collection agency of Kenya that was formed on July 1, 1995 under KRA Act (Cap 469) and mandated with enhancement of tax collection on behalf of the Government of Kenya. It collects a number of taxes and duties including: value added tax, income tax and customs within its two subsector interests; customs and Domestics Taxes departments. It's also charged with issuance of compliance certificates within the maritime trade and Border protection. The Agency draws is policy guides from the East Africa community customs management Act.

The Kenya Maritime Authority (KMA) is also a regulatory agency. The Authority was established in June 2004 as the semi-autonomous agency in charge of regulatory oversight over the Kenyan maritime industry. It is charged with the role of administration of the maritime industry and transformation of Kenya into a globally competitive nation. It ensures sustainably safe, secure, clean and efficient water transport for the benefit of stakeholders through effective regulation, coordination and oversight of maritime affairs. The third agency in this category of regulatory nature is the Kenya Bureau of Standards (KEBS). The bureau is a statutory regulatory body established under the Standards Act (CAP 496) of the laws of Kenya. KEBS commenced its operations in July 1974 and falls under the ministry of Industrialisation. The bureau works in close inter-phase with other state agencies within the maritime trade to safeguard quality assurance regulatory roles in trade activities and products. The fourth regulatory agency is the Port health department which was established under CAP 242, 254 & 365 of the Laws of Kenya. Port health department operates under the ministry of public health and sanitation, and is charged with all health related issues at the port including; sanitation, food quality control, insect and rodent vector control and vaccinations. Food policy, Hygiene and sanitation policies thus guide the port Health in maritime trade regulation and enforcement.

There were two enforcement agencies found within the maritime trade, and Kenya Plant Health Inspectorate Service (KEPHIS) is one of this. KEPHIS is a government Parastatal which was established in the year 1996 under Cap 319, 324 and 326 of the laws of Kenya. KEPHIS falls under the ministry of Agriculture, fisheries and Livestock and is charged with the responsibility to assure the quality of agricultural inputs and produce to prevent adverse impact on the economy, the environment and human health. Agriculture being the leading foreign exchange earner in Kenya, assessment of quality of produce is essential and KEPHIS plays an important role of ensuring this happens through trade licensing and permit requirements in phytosanitary activities, as well as Agricultural quality assurance through inspection of imports and exports.

The Kenya Port Police is the other enforcement agency, and they are law enforcers in the maritime sector charged with the role of law enforcement and administration of order. The agency is established under the National police Service Act 2011, and falls under the Ministry of Interior & national Government coordination. The maritime police unit is charged with the responsibility of ensuring that the law is enforced in the maritime sector. Being the Law enforcers therefore, the agency draws its policy guides from the National police service Act and all the other laws as in the maritime trade.

4.3 Nature of Regulation Within The Maritime Trade in Kenya

The study on the nature of regulation within the maritime trade revealed that there were eight key areas of regulations by the different state agencies. The Health, commercial presence, labor, operational regulations, taxation, economic protection, monitoring and quality assurance. Different state agencies either directly or indirectly affect the above key areas highlighted.
Table 4.3.1 shows that majority of the state agencies within the maritime trade are involved in either regulatory or facilitative roles, which combined make 80%. Only 2 agencies comprising 20% of the agencies are involved in enforcement roles.

Table 4.3.1: State Agencies by Type of Roles.

	Frequency	**Percent**	**Cum %**
REGULATORY	4	40%	40%
ENFORCEMENT	2	20%	60%
OTHER –FACILITATIVE	4	40%	100%
Total	**10**	**100%**	

In reference as to which nature of regulation had the most emphasis by the state agencies, Table 4.3.2 shows that Licensing & permit requirements, tax and levy collection was most significant in the regulation and enforcement agencies at 24%. Labor regulation and commercial presence regulation was less emphasized with a proportion of 8%.

Table 4.3.2: Proportions of Emphasis of State Agencies by Nature of Regulation

	Mean Score	Proportion of Emphasis	Cumulative %
Health, safety & Environment regulations	1.2	15%	15%
Commercial Presence regulations	0.64	8%	23%
Labor regulations	0.64	8%	31%
Input and operational (domestic content) restrictions/regulations	1.2	15%	46%
Licensing & permit requirements, statutory Taxation, duty & levies	1.92	24%	70%
Economic protection	0.8	10%	80%
Monitoring, Transparency & Accountability	0.72	9%	89%
Quality Assurance; Standardization	0.88	11%	100%
Total		100%	

In the sector of health, safety and environmental regulations, The Port health department under the Ministry of public health and sanitation takes a lead role. Other state agencies such as Kenya Bureau of Standards, National Environmental Management Authority (NEMA) also have a role in ensuring that this regulation is overseen. They ensure that the quality of goods is up to the required standards and fit for human consumption in the case of consumables and also that the goods will not negatively affect the environment. This sector had a significant emphasis at 15% amongst the agencies.

The sector of commercial presence regulation had the lowest emphasis at 8% among the agencies. The Ministry of Trade is primarily responsible in this regulation alongside other economic regulation roles. The Ministry regulates and monitors the economy and from time to time impose restrictions that restore the economic balance or encourage another trading block through offering trading incentives for imports from that region.

Labor regulation was found to be by all state agencies at the organizational level, and they ensure that competent staffs are working in the maritime sector. The ministry of labor offers the frame work and the agencies implement the ministry may be involved with the appointment of Board members for the different state agencies from time to time directly or indirectly. There was 8% emphasis noted among the agencies in the sector of labor regulation.

The study revealed a 15% emphasis on input and operational (domestic content) restrictions/regulations. Any state agency may impose restrictions or regulation in the maritime sector as long as the restriction falls under its jurisdictions. Specifically, the ministry of trade and finance normally use restrictions to regulate the flow of trade and to either encourage or discourage trade with a specific trading block.

Licensing and permit requirements, statutory taxation, duty and levies had the highest emphasis at 24% among the state agencies. Different state agencies are charged with the role of licensing depending on the nature of trade. Kenya Revenue authority (KRA) is mostly involved in collection of all taxation and duty. However permits and licenses may be given by any state agency depending on the nature of trade. The state agencies are in the same capacity government and thus can perform all functions of governance within their jurisdiction.

Economic protection had fifth highest emphasis among the state regulatory and enforcement agencies at 10%. The ministry of trade and finance perform this vital role by ensuring that there is a balance of trade and that the Kenyan market is insulated from unfair competition from the imports. The Bureau of standards also plays a big role in economic protection since it ensures that the economy is protected from counterfeit products.

It was found that all the ten state agencies are charged with responsibility of Monitoring, Transparency and accountability, and there was 9% emphasis on this role among the state agencies. On the other hand, Quality assurance had a significant fourth consideration on emphasis at 11%. The Kenya Bureau of Standards is charged with the responsibility of overseeing the quality standards of commodities in Kenya, and KEPHIS also assist on this role. Whereas the greatest burden lies with these two agencies in the maritime industry, it is worthy to note that all state agencies are charged with the responsibility of ensuring that the right kind of goods are imported or exported.

4.4 Factors Influencing Effectiveness in the Execution of mandate

The study sought to find out from the respondents what factors influenced the effectiveness in execution of mandate of the state regulatory and enforcement agencies within maritime trade in Kenya. The study revealed that several factors (lack or presence of) have influenced success of the efficiency and effectiveness among them:- Clarity of policies, political influence, adequacy of budget, private sector partnership, supportive ICT infrastructure, autonomy, corruption among other factors.

4.4.1 Findings on Factors Influencing Effectiveness in Execution of Mandate

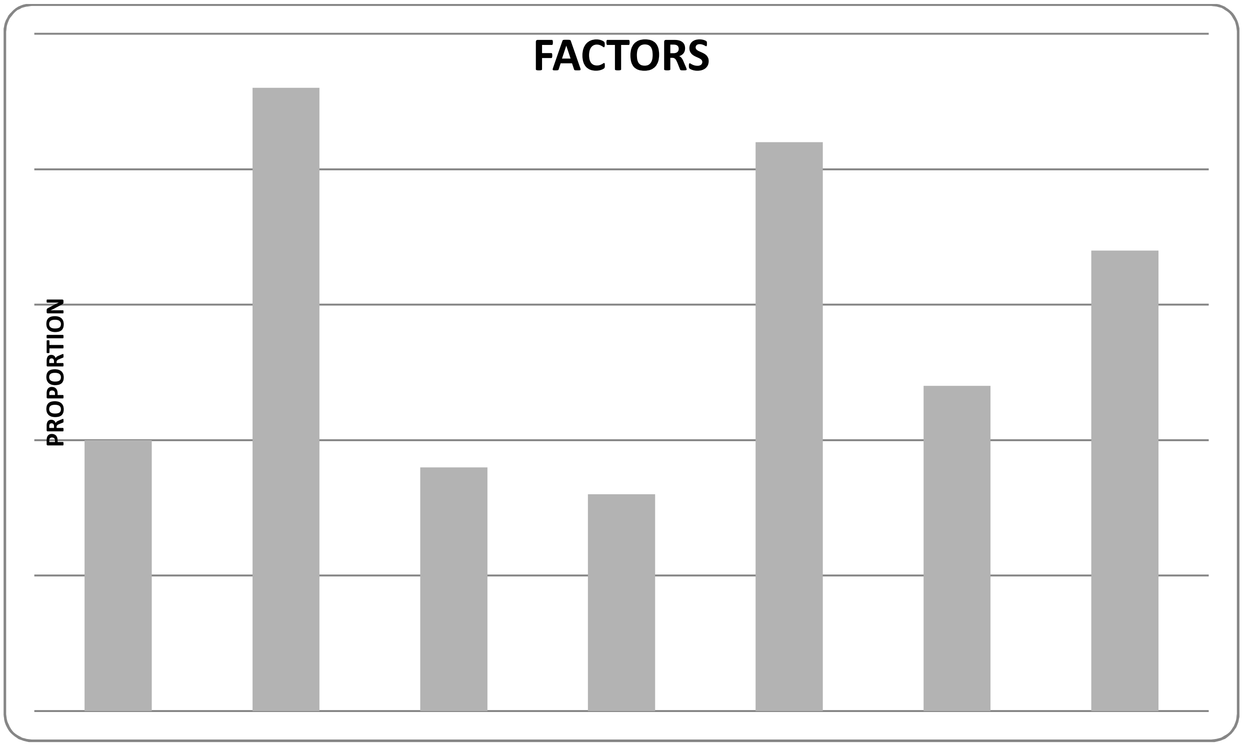
The study reveals that various factors influence the effectiveness in the execution of mandate of state regulatory and enforcement agencies within the maritime trade in Kenya. Table 4.4.1.1 below highlights the factors influencing the effectiveness in execution of mandate by the State regulatory and enforcement agencies. The study revealed that among the most influential factor is political influence, and Lack of a proper functioning ICT system came a close second as one of the major factors affecting effectiveness of the state agencies.

Table 4.4.1.1.: Factors Influencing Effectiveness of Mandate Execution

Factors Influencing Effectiveness	Mean Score	Proportion	Cumulative %
Clarity of policies	0.7	10%	10%
Political influence	1.61	23%	33%
Adequacy of Budget	0.63	9%	42%
Private sector Partnership	0.56	8%	50%
Supportive ICT infrastructure	1.47	21%	71%
Autonomy and Independence	0.84	12%	83%
Harmony of Mandates with Government policies	1.19	17%	100%
Total		100%	

Political influence accounted for 23% of the inefficiencies being experienced in the maritime field, whereas lack of ICT infrastructure constituted 21%. This showed a clear indication of the sectors that need immediate improvement if success is to be achieved in the sector. Harmony of mandates with government policies as well as autonomy and independence made an equally significant contribution in the dysfunction being experienced in the maritime field. Figure 4.4.1.2 below gives a more visual depiction of the findings.

Figure 4.4.1.2.: Factors Influencing Effectiveness in Execution of Mandate



The research reveals that despite there being a load of challenges in the area, proper ICT infrastructure will go a long way in streamlining the sector. Lack of a proper functioning ICT system was the second most significant factor influencing effectiveness of mandate execution in the state agencies. The importance of a deepened information infrastructure will encourage efficiency by making it easy to process and transmit cargo clearance documents and to render service to trade stakeholders. This is feasible since integration of various agencies can be achieved, and inter-state agencies communication time thus reduced. Once effective information flow is achieved, corruption is likely to be reduced and facilitate easier audit of processes. Another imminent highlight that the study reveals is the fact that the solution lies in different state agents working together with political will to improve and bring about the much needed change. This requires top Government support to mobilize for a common vision of the agencies.

A proper functioning ICT system would go a long way in ensuring that data integration, storage and security are achieved. A proper functioning ICT system would ensure that data is easily shared within the state agencies and thus greatly reduce the time required to process cargo clearance documents necessary to facilitate trade. Investing in a proper ICT infrastructure will also greatly reduce corruption cases and improve audits. 21% of respondents felt that a strong ICT infrastructure was fundamental if effectiveness was to be achieved in the maritime trade. Other factors highlighted were clarity in policies, adequacy of budget and harmony of mandates.

The findings on significance on effectiveness in execution of mandate among the state regulatory and enforcement agencies in maritime trade revealed mixed reactions from different respondents. Opinions were rated on a scale of 1-3 on significance with 1 being the highest level of efficiency and 3 being the lowest level of efficiency, and the results were analyzed and depicted below in Table 4.4.1.3. The Kenya Maritime Authority, The Ports Authority and The Kenya Revenue seemed to elicit an even negative and positive reaction. The three were on average ranked as the most effective as well significantly inefficient. They obtained a high score on either side; both 1 and 3. This is partly due to the fact that they are the most involved organs as far as maritime trade is concerned and thus the respondents had a varied opinion based on their experiences with the organs. The monopoly enjoyed by these state organs has made them inefficient and a part from KEBS that seemed to depict a linear curve of opinion, all the rest were skewed towards inefficiency.

Table 4.4.1.3: Agency Rankings on Effectiveness in Mandate Execution

	Rankings		
	1	**2**	**3**
Kenya Ports Authority	30%	40%	30%
Kenya Revenue Authority	20%	35%	45%
Ministry of Finance	8%	50%	42%
Ministry of Trade	9%	48%	43%
Kenya Maritime Authority	32%	22%	46%
Kenya Bureau of standards	28%	50%	22%
Kenya Plant health inspectorate services	20%	35%	45%
Kenya Trade Network Agency	20%	45%	35%
Port health Department	10%	46%	44%
Kenya Police	18%	22%	60%

The significance of internal organizational factors to harmonization of trade processes amongst the State regulatory and enforcement agencies revealed that there were micro factors within an organizational framework that affected effectiveness and performance of the state agencies. These micro factors accounted for a 3% proportion of the overall factors affecting effectiveness in state agencies. The micro-factors include organizational structure, culture, politics, leadership style, commitment to trade facilitation and resource allocation. Their opinions were rated on a scale of 1-3 on significance with 3 being the highest influence.

Table 4.4.1.4: Rating on factors significant to Harmonization of Trade processes

	Rating		
	1	**2**	**3**
Organizational structure	30%	40%	30%
Organizational culture	20%	35%	45%
Resource allocation	15%	50%	35%
Organizational politics	10%	30%	60%
Organization's leadership styles	18%	22%	60%
Organization Commitment to Trade facilitation	40%	50%	10%

4.5 Discussion on Factors Influencing Effectiveness in Execution of Mandate

A lot of factors influencing effectiveness in the Execution of Mandate of state agencies came to play, but more than 50% of the causes of ineffectiveness of state regulatory and enforcement agencies in maritime trade include political influence, lack of a supportive ICT infrastructure and Lack of harmony of mandates among the regulatory agencies. The three factors were interpreted to carry the greatest sense of responsibility as far as influencing effectiveness of mandate execution of the agencies. These factors are important in simplification, standardization, and harmonization of procedures and associated information flow in facilitation of international trade. Therefore, these are the areas that will require more focus to improve in order to improve on the specific indicators of trading across borders in the ranking on ease of doing business.

Most factors highlighted in internal organizational framework show that they share a significant proportion of importance. Organizational politics and leadership style however seemed to elicit emotions in most respondents, showing how important it is to have a transparent structure that provides for equitable rewarding system and functions purely on merit. Should this factor be achieved in the state run agencies, it will drastically increase effectiveness by increasing the human resource personal will and drive to perform, and in turn create a culture of efficiency within the organizations.

The Government seemed to place more emphasis on the licensing and taxation due to the sensitive nature of that department. However Health, quality assurance and operational regulations also have a significant consideration by the Government agencies. The nature of regulations seemed to be evenly proportional since no agency can effectively work in isolation, and therefore the need to find better ways of integration between the state departments.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMENDATIONS

5.1 Introduction

The chapter contains summary on the study, conclusion and recommendations based on the study findings. The chapter hopes to highlight the areas that need improvement in the state agencies and the areas that need emphasis to enhance effectiveness in execution of mandate of the regulatory and enforcement agencies in maritime trade in Kenya.

5.2 Summary on the Study

The study reveals the importance of harmonization in the functions of different state agencies. The ineffectiveness reported is a function of poor infrastructure and lack of political will to bring about the much desired change. The assumption that change in a few state agencies will overhaul the entire sector is false and thus bringing to light the need to develop a holistic solution that will touch on all agencies.

The first recommendation would be to invest in proper integrated ICT infrastructure. The cost of doing business can directly be impacted by infrastructure, and ICT is one such fundamental infrastructure. A proper functional ICT infrastructure will ensure that data is accurately stored and easier to retrieve and share within the agencies through a national integrated system. A proper ICT infrastructure allowing information sharing perspective will go a long way in reducing the cost of running the state Agencies, improve the quality of service delivery and increase capacity of task execution. Importantly therefore, such ICT infrastructure among the state agencies should allow inter-operability of the agencies systems to create value. Availability and access to information by decision makers will promote better decision making within the state agencies, improve transparency, allow collaboration and prosperity. The value that will be drawn from having proper information system is immense and the vices it will curb are immeasurable, and thus the issue of having integrated information systems in place is not a question of why but when. The government should allocate a significant proportion of its budget to e-governance and the building of ICT infrastructure because the future of development is based on a proper foundation on ICT. This shall ensure fluidity of cargo, and increase competitiveness. The process might be lengthy and may take a huge allocation of the countries resources, but it will in turn save the cost of doing business by creating effective cargo clearance documentation processes through effective and consistent information chain. This will bring about the desired effectiveness in mandate execution of Government regulatory and enforcement agencies.

Secondly the state agencies should work to improve the organizational structures, culture and leadership styles. A proper ICT will only be perfect if the organization has in place proper structures and a well motivated team to run the system. This brings out the importance of having a functional internal control system and structure. A proper internal structure will minimize organizational politics and to a large extent encourage equitable resource allocation within the organization. Staff should be motivated through capacity building and a transparent rewarding system. The thought of career development will positively motivate the staff and encourage a culture of development throughout the state agencies. It will encourage competition among the state agency and increase overall output.

Bureaucracy and political interference should take a back stage as they form a huge hindrance to development in the state agencies. Politics originates from the grass root voters and rises to the highest office in the land, and therefore for there to be a political paradigm shift the voter should change and elect leaders based on merit and not tribal grounds. This will bring about a better functional government and ensure that competent personnel are positioned in areas of influence. This is probably the hardest task to achieve as Kenyans are getting more educated and issues politics is taking a central stage. This electoral dynamics have been seen from election to election in the last eight years, and hopefully in future the Kenyan population will have matured politically to make sound political choices.

The hindrance and barriers of trade such as corruption, Licenses, taxation and levies should be minimized and the regime should ensure that the laws in place are not in themselves barriers of trade but a source of sustenance and efficiency. The policies of inspection should be in such a manner that they are efficient and effective to discourage corruption, the penalties for fraudulent dealings should be severe as well.

5.3 Conclusion on The Study

The study seems to conclude that effectiveness in the execution of mandate of state regulatory and enforcement agencies within the maritime trade in Kenya is a mammoth task that calls upon all stakeholders involvement to achieve. The challenges of effectiveness are from a macro and micro organizational level. The Macro organizational level calls upon the government to provide proper ICT infrastructure to aid in quality service delivery by enhancing data storage, information security, transfer and analysis. The call for proper functional policies and fight on graft is imminent if success is to be achieved in the sector. From a micro level, the state agencies need to cultivate a culture of hard work and promote proper leadership styles. The state agencies should promote transparency and a proper rewarding system. Formulation of proper organizational structure will not only promote efficiency but also tackle vices such as corruption and wastage of resources. Proper policies and task definition within the organization and the entire state agencies will promote effectiveness and drastically reduce overlapping of roles which cause confusion and are a constant source of inefficiency.

The burden of change lies in everyone and if everyone was to perform their part accordingly, then the much desired change may be achieved and not only on the maritime trade but for the entire economy since the factors that affect one sector are duplicated in others. Real change begins in each and every stakeholder and if all stakeholders play their roles then change can be crystallized.

5.4 Recommendation For Further Study

The study reveals the importance ICT infrastructure has on economic development, and therefore the study recommends that more research be conducted on that school of thought since very little literature is available on the role of ICT as a foundation of development and growth in governance. The effect of having an e-governance should also be studied and the advantages and disadvantages of the same highlighted in subsequent studies.

5.5 Limitation of The Study

The study faced the constraints of resources in terms of finance needed to move from point to point to collect the data within the limit of time. The data collection was also challenging since most of the respondents are normally busy individuals, and get a forum with them was not easy. There was also a misgiving as to the motive of this study, and information was not easily shared from the Government agencies. The study was however done to the satisfaction of the researcher and limitations overcome in one way or the other.

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APPENDICES

APPENDIX 1: DATA COLLECTION INSTRUMENT (QUESTIONARE)

This is research study aimed at understanding mandate of State regulation & enforcement Agencies within the maritime Trade in Kenya. The results will be treated confidentially and are strictly for academic use. I will sincerely appreciate your truthful participation in this study.

SECTION A: BACKGROUND INFORMATION ON THE AGENCY

1. Name of State Agency: ……………………………………………………………
   Address: ……………………………………Telephone: …………………………..
   E-mail:……………………………......................................

2. Name of respondent: ……………………………………………………………….
   Title: ……………………………………………………………………………………

3. Type of Agency: (Please tick appropriate)
   Regulatory ☐ Enforcement ☐ Other (s) ☐
   Others (Please specify): ……………………………………………………………

4. Legislative Acts establishing the Agency:
   ……………………………………………………………………………………

5. Establishment Date/Year: ……………………………………………………

6. State any specific Sub-Sector interests:
   ………..………………………………………………………………………
   ……………………………………………………………………………………

7. State No of Departments and List areas of responsibility:
   ……………………………………………………………………………………
   ……………………………………………………………………………………

ii. SECTION B: NATURE OF REGULATION BY THE AGENCY.

8. What State Policies guide the Agency in Maritime trade Regulation or Enforcement?
   ....
   ....
   ………………………………………………………………………………………………
9. Please advise if the specific roles fall under the following;
   Export trade ☐ Import Trade ☐ Both ☐

10. Under which Ministry does the agency fall: ……………………………………..…

11. Please indicate which of the following best describe the Nature of Regulation of your agency?

    ☐ Health, safety & Environment regulations
    ☐ Commercial Presence regulations
    ☐ Labour regulations
    ☐ Input and operational (domestic content) restrictions/regulations
    ☐ Licensing & permit requirements, statutory Taxation, duty & levies
    ☐ Economic protection
    ☐ Monitoring, Transparency & Accountability
    ☐ Quality Assurance; Standardization

12. Please indicate if the agency is involved with any of the listed areas below;
    Starting a business ☐
    Issuance of trade Permits ☐
    Registering property ☐

Protecting investors ☐

Collection of Taxes ☐

Enforcing contracts ☐

Resolving trade conflicts ☐

13. What are the Key Result Areas for the Agency and measurement for each:

i. ………………………………………………………………………………

ii. ………………………………………………………………………………

iii. ………………………………………………………………………………

iv. ………………………………………………………………………………

v. ………………………………………………………………………………

vi. ………………………………………………………………………………

14. Kindly rate how successful the Agency has been in executing its Mandate?

1=No significant success	2=marginal success	3=Average	4=successful	5=very successful

15. Does the Agency Levy any Tariff/charges/Taxes?

Yes ☐ No ☐

If Answer is yes from above, Please state the charges:

----

16. Please advise Annual state Budget for the Agency:

Ksh:………………………………………………………………………………

17. Please list the Other State Agencies that your Department regularly inter-phase with in Maritime trade regulation or enforcement.

i. ....

ii. ………………………………………………………………………………

iii. ……………………………………………………………………………

iv. ………………………………………………………………………………

v. ………………………………………………………………………………

vi. ………………………………………………………………………………

18. What will be the most appropriate working hours for your agency to deliver service to its customers?

1=(0800-1700hrs) Week Days only	2=(0800-1700hrs) All days	3=(0800-2300hrs) All days	4=(24hrs)Week Days only	5=(24hrs) All Days

SECTION C: FACTORS INFLUENCING EXECUTION OF MANDATE, AND CHALLENGES OF HARMONISATION OF REGULATION WITHIN MARITIME TRADE.

19. Which of the following factors (lack or presence of) has influenced success or failure of your agency?
    - ☐ Clarity of policies
    - ☐ Political influences
    - ☐ Adequacy of Budget
    - ☐ Private sector Partnership
    - ☐ Supportive ICT infrastructure
    - ☐ Autonomy and Independence
    - ☐ Harmony of mandate with other Government policies

20. Please State if difference in any of the below factors among state regulatory agencies will impede harmonization of Trade processes in the maritime trade and rate the level of influence.

			Rating 1-3 on significance with 3 being Highest influence		
Yes	No	**Factor**	1	2	3
		Organizational structure			
		Organizational culture			
		Resource allocation			
		Organizational politics			
		Organization’s leadership styles			
		Organization Commitment to Trade facilitation			

21. Do you think harmonization of mandates among the state regulatory and enforcement agencies is practicable?

    Yes ☐ No ☐

22. Please rate how the other state Regulatory and Enforcement Agencies affect your Key result areas in facilitation of trade to stakeholders in following aspects;

i. Delays in offloading cargo from ships:

1=insignificant	2=marginal	3=Average	4=Significant	5=Greatly significant

ii. Delays in Loading cargo to ships:

1=insignificant	2=marginal	3=Average	4=Significant	5=Greatly significant

iii. Delays in processing documents for shippers/importers:

1=insignificant	2=marginal	3=Average	4=Significant	5=Greatly significant

iv. Poor communication with stakeholders:

1=insignificant	2=marginal	3=Average	4=Significant	5=Greatly significant

v. Poor customer service management:

1=insignificant	2=marginal	3=Average	4=Significant	5=Greatly significant

vi. Unpredictable charges/Levies/taxes:

1=insignificant	2=marginal	3=Average	4=Significant	5=Greatly significant

vii. ICT infrastructure and compatibility of systems with other State Agents.

1=insignificant	2=marginal	3=Average	4=Significant	5=Greatly significant

viii. Corruption:

1=insignificant	2=marginal	3=Average	4=Significant	5=Greatly significant

THANK YOU FOR YOUR COOPERATION

Appendix 2: List of Regulatory and enforcement agencies in Maritime trade.

1. Kenya Ports Authority
2. Kenya Revenue Authority
3. Ministry of Finance
4. Ministry of Trade
5. Kenya Maritime Authority
6. Kenya Bureau of standards
7. Kenya Plant Health Inspectorate Services
8. Kenya Trade Network Agency
9. Port Health Department
10. Kenya Police

iii. Appendix 3:Letter to respondents

Dominic M Mwashigadi
P.O.Box 90492-80100
Mombasa
TEL: 0722-484026

AUGUST 29TH 2014.

Dear Respondent,

<u>RE: INTRODUCTION- DOMINIC MWASHIGADI</u>

I am a final year postgraduate student pursuing a degree of Master of Business Administration in the School of Business at the University of Nairobi. I am currently conducting a research project proposal in partial fulfillment of the requirement of this course.

My approved topic in the area of strategic management is '*FACTORS INFLUENCING EFFECTIVENESS IN THE EXECUTION OF MANDATE OF STATE REGULATORY AND ENFORCEMENT TRADE AGENCIES WITHIN THE MARITIME TRADE IN KENYA*''

The purpose of this letter, therefore, is to request you to respond to the attached questionnaire. The information you give will be treated in strict confidence and at no time will your name or that of your organization be referred to directly. The information will strictly be used for academic purposes only.

Thank you very much in expectation.

Yours sincerely

Dominic Mwashigadi