



UNIVERSITY OF NAIROBI

DEPARTMENT OF DIPLOMACY AND INTERNATIONAL STUDIES

COOPERATION AND MANAGEMENT OF FORMAL AND INFORMAL TRADE FOR  
PROMOTION OF DEVELOPMENT IN AFRICA: A CASE STUDY OF KENYA AND  
TANZANIA

BY

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Research project presented in partial fulfilment of the degree of Master of Arts in  
International Studies

University of Nairobi

2021

## DECLARATION

I Josephine M. Manyasi declare that this research is my original work and has not been submitted for a degree in any other university

Signature



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This research has been submitted for examination with my approval as a university supervisor in partial fulfilment of the Examination Board requirements for the award of the degree of Master of Arts in International Studies in the University of Nairobi, Kenya.

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Date: **19.11.2021**

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## **DEDICATION**

I dedicate this research to my dear family, friends and workmates for their love, patience, and understanding; and for the encouragement including prayers throughout my studies at National Defence College-Kenya. May the Almighty God bless them.

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## **LIST OF ABBREVIATIONS AND ACRONYMS**

AU	African Union
BCI	Border Climate Index
BRN	Big Results Now
CMP	Common Market Protocol
COMESA	Common Market of Eastern and Southern Africa
EABC	East African Business Council
EAC	East Africa Community
EU	European Union
FTA	Free Trade Area
ICT	Information and Communication Technology
JBC	Joint Business Council
KEBS	Kenya Bureau of Standards
KEPHIS	Kenya Plant Health Inspectorate
KEPSA	Kenya Private Sector Alliance
KRA	Kenya Revenue Authority
NTB	Non-tariff barriers
OECD	Organization of Economic Cooperation and Development
SADC	Southern African Development Community
SCT	Single Customs Territory
TBT	Technical Barriers to Trade
TFDA	Tanzania Food and Drugs Authority
TPSF	Tanzania Private Sector Foundation
TRA	Tanzania Revenue Authority
UN	United Nations
USSR	United States of Soviet Republic
WTO	World Trade Organization

## **ABSTRACT**

In the international system, state actors form bilateral cooperation for various reasons such as economic development and security. The study analyzed formal and informal trade cooperation between Kenya and Tanzania and its impact on development. International cooperation especially between immediate neighbouring countries plays a significant role in the trade sector by filling the gap left behind by lack of formal institutions. The study was guided by three specific objectives. These included; analysing the effect of customs procedures and non-tariff barriers on trade between Kenya and Tanzania, examining how technical regulations cooperation affect the level of trade between Kenya and Tanzania and evaluating how transparency of trade management laws affect the level of trade between Kenya and Tanzania. The study was anchored on the “soft power” theory. Data was obtained from books, e-books, journals, government publications, magazines and questionnaires. The collected data was analysed thematically so as to establish the effect of cooperation and management of formal and informal trade for promotion of development in Africa. From the collected and analysed data, it was evident that found that there exists an electronic continuous exchange platform that ensures an uninterrupted clearance of trading goods across the borders and that there are various other custom procedures and non-tariff barriers between the two countries including joint investment in parking sheds and parking yards, harmonized export licenses and established communication between the NTB focal points in each country. Additionally, other transparency measures to enhance formal and informal trade between the two countries according to the study findings include transparency in government policies relating to trade, equal treatment of either country products or minimum favoritism in government officials decisions. The study findings generally show that there are various strategies implemented by the governments of the two countries aimed at facilitating cross border trade through transparency of laws, regulations and administrative rulings.

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background of the Study

Globally, integration of economic activities is facilitated by the fast dynamic changes in free trade. As a component of the way toward acknowledging full advantages of monetary incorporation, the EAC in 2005 turned into a Customs Union, a facilitated commerce territory with basic external taxes that enabled member nations to utilize distinctive import portions. Non-trade barriers are the primary instrument for liberalization of trade in any Customs Union, including nations partnering with the end goal to improve the efficiency of the economy and make political and socio-cultural connections among the partnering nations.<sup>1</sup>

Definition of non-tariff barriers (NTB) is controversial among scholars. Hillman characterizes NTBs as all limitations, other than customary traditions obligations, that mutilate trade. Specifically, he characterizes NTB as measures by the government, other than duties and taxes, which confine or misshape global trade among local and imported merchandise and services. As per Carbaugh<sup>2</sup>, most meanings of NTBs incorporate market-particular exchange and policies within a country, for example, import quotas, restrains on voluntary exports, prohibitive nation trading intercessions, export endowments, countervailing obligations, technical trade barriers, policies that are sterile and Phytosanitary, origin rules, and local substance necessity plans. Bureau and Beghin<sup>3</sup> characterize NTBs to be any approach by a government or practice except a tariff which specifically obstructs the

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<sup>1</sup> East African Community Secretariat , Protocol on the establishment of the East African Community Customs Union , Arusha 2004.

<sup>2</sup> Carbaugh, J.R.. International Economics, 9th edition. South-Western College Publishing International, 2004.

<sup>3</sup> Beghin, J.C. and B.J. Christophe, Quantification of Sanitary, Phytosanitary and Technical Barriers to Trade Policy Analysis, Working Paper 01-WP 291(2001).

passage of imported products and services into a nation and which oppresses imports without making a difference with equivalent power on local distribution or production. The EAC has received an expansive rule to characterize NTBs as quantitative confinements and particular impediments that go about as hindrances to trade.

International trade is often affected by changes in interstate cooperation to the extent that the state of international political relationship is thought to affect the level of trade ties almost on daily basis. The position has been that trade flows are affected by the decision of social actors that range from individuals, interest groups to the relationship existing between states<sup>4</sup>. Political condition and diplomatic environment existing is thought to shape nature of businesses existing since importers and exporters not only take into consideration the cost, quality of goods and services as well as the political cooperation between the importing and exporting countries. Evidence suggests that trade ties change as a result of foreign policy change or alignment because as far back as 1973 when Egypt realigned itself politically after the war with Israel, radical trade reorientation followed in the subsequent years<sup>5</sup>. Similarly, US-Iranian trade ties plummeted following the 1979 revolution and this resulted in the Iranian regime changing its trading partners. Another example that evidences the need for cooperation between trading nations was evident when British and Argentina went to war in which the level of trade was affected significantly between the two countries.

International cooperation theory advocates the use of international institutions to further their own goals and design treaties and other legal arrangements to solve specific substantive and political problems. Consequently, pursuit of cooperation can be used as a strategy to solve

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<sup>4</sup> Broz, J. Lawrence, and Jeffrey A. Frieden. "The political economy of international monetary relations." *Annual Review of Political Science* 4.1 (2001): 317-343.

<sup>5</sup> Barnett, Michael N., and Jack S. Levy. "Domestic sources of alliances and alignments: The case of Egypt, 1962-73." *International Organization* 45.3 (1991): 369-395.

shared problems and achieve joint gains. In between two neighbouring countries, the shared interests are diverse ranging from economic ties, trade, political similarities, cultural or historical connections, geographic proximity, and so on<sup>6</sup>. Despite the existence of these common connections that might encourage cooperation between the countries, states nonetheless often fail to cooperate. The need to remedy shared problems and achieve common goals is not easy because efforts may be hindered by noncompliance and disagreements over dissemination of benefits.

Globally, cooperation in trade is identified as a key component of execution of any Nation's development agenda because it is an important enabler for economic growth for both developed and less developed economies. Indeed if the economic block ultimate goal is to raise the state of economic growth among the member states, then international trade is definitely the tool that will accelerate this objective. This applies to both developed and developing countries like Kenya and Tanzania. The international relations pillars that define the relationship between Kenyan and Tanzanian target social, economic and political diplomacy working together to promote and strengthen bilateral relationship between these two countries. The relationship is also entrenched in the diplomatic mission for East Africa that prioritizes integration of the region, growth of the economy all aimed at establishing a stable economic zone towards realization of regional peace, security and stability<sup>7</sup>. In addition, the bilateral relationship between Kenya and Tanzania has its general objectives stipulated in their trade policies geared towards achieving the much desired regional

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<sup>6</sup> White, Gregory. *Comparative Political Economy of Tunisia and Morocco, A: On the Outside of Europe Looking In*. SUNY Press, 2014.

<sup>7</sup> Mjema, G., B. Mahona, and P. Bagumhe. "Determinants of East African Community Trade: A Gravity Model Analysis of Trade Flows between Tanzania and Kenya." *Management* 23.25 (2012).



integration and mutual benefits<sup>8</sup>. This calls upon individual members in an economic block to work towards realization of the policies that will be beneficial to all the trading partners to guarantee sustainability of the bilateral relation. Trade policies governing both formal and informal trade between Kenya and Tanzania are informed by the dynamic global trends. To streamline trade policies in the global scene, the two countries have embraced strategies that regionally are geared towards integration in the quest to realize their national interests<sup>9</sup>.

## **1.2 Statement of the Problem**

Over time, economists have been trying to analyse the determinants of trade flows among nations. In this effort, Adam Smith and later David Ricardo highlighting the absolute and comparative advantage concepts to explain the level of trade between nations<sup>10</sup>. The principle of absolute advantage denotes a country's capability to produce some goods more efficiently than another country while comparative advantage relates to a country's capability to produce a specific commodity with a lower opportunity cost than another. A lower opportunity cost of trade between two countries refers to the lost benefit resulting from pursuing a particular cause of action as compared to an alternative.<sup>11</sup> The level of cooperation between two countries determines the cost of doing businesses and if there is an efficient joint management and cooperation between the countries, then it may affect the cost of doing businesses. It is on this basis that the research will seek to explore how cooperation and joint management influence the level of trade between Kenya and Tanzania.

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<sup>8</sup> Mawdsley, Emma. "Non-DAC donors and the changing landscape of foreign aid: the (in) significance of India's development cooperation with Kenya." *Journal of Eastern African Studies* 4.2 (2010): 361-379.

<sup>9</sup>Gökhan Bacik, Isa Afacan, "Turkey Discovers Sub-Saharan Africa: The Critical Role of Agents in the Construction of Turkish-Foreign Policy Discourse", *Turkish Studies*, Vol. 14, No. 3,2013, p.483-50

<sup>10</sup> Cho, Dong-Sung, and Hwy-Chang Moon. *From Adam Smith to Michael Porter: evolution of competitiveness theory*. Vol. 2. World Scientific, 2000.

<sup>11</sup> Ruffin, Roy J.. David Ricardo's discovery of comparative advantage. *History of Political Economy: Studies in the theory of international trade*. New York: Harper, 2002.

The relations between Kenya and Tanzania have continued to oscillate from mutual and frosty since independence with the later being suspicious of the former trade overtures and economic model. Though the two countries have never engaged in physical war, they have had trade policy differences that have almost resulted to physical confrontation specifically in 1977 when the then Tanzania president shut the border between the two countries leading to the collapse of the East African community.

Kenya and Tanzania are the two major economic giants in the region of East Africa and if the trade between them is affected, then its effect will be felt within the entire region. Unlike the relation between the two countries and other neighbouring countries, Kenya and Tanzania have a lot in common such as sharing the largest border within EAC countries and access to the Indian Ocean through the ports of Mombasa and Dar es Salaam respectively, an important determinant of informal and formal trade cooperation. Therefore, there is need for Kenya and Tanzania to explore cooperation and common management of their borders for effective trade, for their benefit and the neighbouring countries. With the understanding as stated above, this study sought to examine the effect of cooperation and management of formal and informal trade for promotion of development between Kenya and Tanzania.

### **1.3 Research Questions**

This study endeavoured to respond to the following research questions;

- i. What is the effect of customs procedures and non-tariff barriers on trade between Kenya and Tanzania?
- ii. How does technical regulations and cooperation affect the level of trade between Kenya and Tanzania?

- iii. How does transparency of trade management laws affect the level of trade between Kenya and Tanzania?

#### **1.4 Objectives of the Study**

The general objective of this study was to examine the effect of cooperation and management of formal and informal trade for promotion of development in Africa: A case study of Kenya and Tanzania

##### **1.4.1 The Specific Objectives are:**

- i. To analyze the effect of customs procedures and non-tariff barriers on trade between Kenya and Tanzania
- ii. To examine how technical regulations and cooperation affect the level of trade between Kenya and Tanzania
- iii. To evaluate how transparency of trade management laws affect the level of trade between Kenya and Tanzania

#### **1.5 Justification of the Study**

The study findings are of importance to students of public diplomacy particularly on the role of inter-country cooperation and management of formal and informal trade for the promotion of development. For government agencies such as Kenya Revenue Authority and Tanzania Revenue Authority the understanding of how cooperation in enactment of custom laws, product technical specifications and use of common ICT platforms influence level of trade will be beneficial in projecting the amount of revenue and also come up with alternative mechanism of improving cross-border informal and informal trade. Further, the elimination

of the non-trade barriers will help in minimising informal cross-border trade through encouraging conducting of trade through the use of the formal entry points.

The study is of benefit to the Kenyan and Tanzanian government and generally the East African Community members who will benefit through the understanding of the effect of mutual trade management in addition to the existing economic block agreements. The two nations would use the research findings to benchmark the level of cooperation with their neighbouring countries through the understanding of how the mutual cross-border trade management would influence their respective country level of trade. The understanding of how cross-border trade management influence level of trade would allow better allocation of resources to those mutually agreed enablers that have significant effect.

The business community will also benefit from the study because it will make them aware of the different trade measures that have been established to enhance trade volume between Kenya and Tanzania and how to make use of them to increase their trade levels. In addition, the research findings will be useful to business people to suggest further measures needed to hasten trade transactions. To the academicians, the study finding is expected to increase the stock of the theoretical and empirical knowledge on State Corporation in regard to facilitation steps that are mutually beneficial to trade level of the two countries, especially from the perspective of developing countries. The study is expected to form appoint of reference and a basis for further research.

## **1.6 Literature Review**

Non-tariff measures (NTMs) are broadly accepted to take part in an undeniably essential job in deciding global exchange, particularly among developing and developed nations.<sup>15</sup>NTMs

are utilized for an assortment of reasons, such as data asymmetries correction and other market disappointments, yet in addition perhaps purposes of protection. The pertinence of these vary crosswise over items. In a few items just a couple of NTMs might be found, while different items may have an expansion of NTMs.<sup>12</sup> Such contrasts may likewise infer contrasts in potential exchange contacts between nations. The main features of NTBs were that they generally discriminate against foreign competitors in favour of domestic industries; they had the ability to rise the costs of imports and cross border trade transactions thus affecting goods and services supply and demand, operational efficiencies and consumers' welfare; unlike tariffs, the impact of NTBs on prices and quantity was difficult to discern; and that not all NTBs were necessarily illegal since some of them were justified for purposes for which they were meant to achieve namely; animal, and plants safety and security, health and humans or environmental protection. For such cases, rules and guidelines were necessary to define the conditions under which such trade-restrictive measures were allowed. An important observation to note was that NTBs were frequent and often found in different forms all over the world.<sup>13</sup>

Numerous NTBs are regularly advocated on four fundamental reasons: defending wellbeing, safety and security of individuals, plants and animals, and against natural contamination; shielding national security; protecting losses of revenue and protection of home enterprises and shoppers.<sup>14</sup> The preparatory guideline has as of late been recommended as an avocation for government confinements on exchange following the setting of wellbeing and

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<sup>12</sup> Rodriguez, F., Rodrik, D. Trade policy and economic growth: a skeptic's guide to the cross-national evidence. In: Bernanke, B.S., Rogoff, K. (Eds.), NBER Macroeconomics Annual 2000. MIT Press, Cambridge, 2001.

<sup>13</sup> Bowen, P. *The Impact Of Non-Tariff Barriers On Trade In The East African Community: A Case of Kenyan Exporters to Tanzania*. Doctoral dissertation, University of Nairobi, 2018.

<sup>14</sup> Setaanah, B., Sannasee, R., Tandrayen, V. and Lamport, M. *Non Tariff Barriers within the COMESA Region: The Possibility of a Penalty System*. Thesis for University of Mauritius, 2013.

environment concerns, regularly paying little respect to cost or logical proof. These measures just turned out to be bona fide NTBs when they are executed in such a way as not to pointlessly add to expenses of or repress exchange or are connected in an ill-conceived way. According to Kee et al NTBs impact both formal and informal trade in a subtle yet very significant way.<sup>15</sup> Staiger and Wolak contends that the mere filling of United States antidumping cases can altogether diminish exchange inflows amid the time of examination of these cases, despite the fact that no antidumping obligations are set up over the time of examination and regardless of whether the activity closes in a finding of no dumping and no obligations are ever forced.<sup>16</sup>

### 1.6.1 Theoretical Literature Review

Within this study, the “soft power” theory developed and advanced by Joseph Nye, the Institutional theory advanced by North and The Classical Theory of Trade as advanced by Smith were applied. Joseph Nye borrowed from E.H Carr’s idea of value of power over opinion to develop what has become known as the soft power theory.<sup>17</sup>

According to Lin and Hongtao<sup>18</sup> Joseph Nye defined soft power as the influence that can guide the culture, capabilities, the social system and ideology of others. In this sense, by soft power, Joseph Nye implied a country’s ability to realize its goals through charm and allure to foreign publics.<sup>19</sup> Joseph Nye’s soft power theory is rooted in the dissatisfaction with the explanatory power of the patterns of international relations. Therefore, the theory of soft

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<sup>15</sup> Kee HL, Nicita A, Olarreaga M. Estimating Trade Restrictiveness Indices. *The Economic Journal* 119, 2009.

<sup>16</sup> Staiger, R. W., & Wolak, F. A. *Measuring industry specific protection: Antidumping in the United States* (No. w4696). National Bureau of Economic Research, 1994.

<sup>17</sup> Joseph, S. Nye, Jr., *Soft Power: The Means to Success in World Politics*. (New York, NY: Public Affairs, 2004).

<sup>18</sup> Li Lin & Leng Hongtao, ‘Joseph Nye’s Soft Power Theory and Its Revelation towards Ideological and Political Education.’ *Humanities and Social Sciences*, Volume 5, Number 2, (2017), p. 69.

<sup>19</sup> Ibid.

power emerged from a critique of realism with its overemphasis of hard power.<sup>20</sup> Soft power theory points to foreign policy, political values and culture as soft power's main resources.

According to Morgenthau<sup>21</sup>, culture is the pattern of behaviour used to pass values and knowledge and entails a set of practices that create meaning. Political values according to Joseph Nye implies a set of systems and rules that are self-interested and capable of dominating international affairs.<sup>22</sup> Foreign policies are significant for public diplomacy if they are perceived as legitimate, in which sense policies considered as legalistic and sharing moral authorizes are resources of soft power. The core objective of soft power, is to convert through seduction as opposed to intimidation and coercion and the ability to persuade and guide. However, contributors such as Shin-Wha Lee<sup>23</sup> and G. John Ikenberry<sup>24</sup> found soft power to be resident in ideational attractiveness and constitutes more than cultural power alone as it includes educational, political values, legitimate national policies and socio-economic systems. An effective management of soft power can enhance a country's relation with neighbouring countries through being able to influence others pursue your line of interest.<sup>25</sup> As such, it resonates closely with the idea of 'conditioned power' and contrasts with the compensatory form of power, which was advanced by John Kenneth Galbraith in his *The Anatomy of Power*.<sup>26</sup> Zhang Meng<sup>27</sup> argues that soft power can affect, attract, and even

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<sup>20</sup> Lin, Hongtao, *Soft Power Theory and Its Revelation towards Ideological and Political Education*. p. 69.

<sup>21</sup> Hans Morgenthau, *The Politics between Countries: The Power Conflict and Peace*. (Beijing, CHN: Renmin Publishing House, 2012), p. 74.

<sup>22</sup> Lin & Hongtao, 'Joseph Nye's Soft Power Theory and Its Revelation Towards Ideological and Political Education.' p. 70.

<sup>23</sup> Shin-Wha Lee, 'The Theory and Reality of Soft Power: Practical Approaches in East Asia.' n: Lee S.J., Melissen J. (eds) *Public Diplomacy and Soft Power in East Asia*. Palgrave Macmillan Series in Global Public Diplomacy. (New York, NY: Palgrave Macmillan, 2011).

<sup>24</sup> G. John Ikenberry, 'From Hegemony to the Balance of Power: The Rise of China and American Grand Strategy in East Asia.', p. 43

<sup>25</sup> *Ibdi*. P. 43

<sup>26</sup> John Kenneth Galbraith, *The Anatomy of Power*. (Boston, MA: Houghton Mifflin Harcourt, 1983).

<sup>27</sup> Zhang Meng, *The Concept of Soft Power: Propose Development and Criticism*. Vol. 7. (Oxford, UK: Field of Vision, 2008), p. 273.

persuade others to believe and acknowledge the rule, lifestyle, social system and sense of value through the morality and spiritual requirements. According to Hans Morgenthau,<sup>28</sup> The attractiveness resides in a country's political ideals, its culture and its foreign policies. Soft power is enhanced when the public perceive the policies, rules, ideals, culture, values and foreign policies as legitimate,

The soft power theory suffices for this study as it permits an in depth analysis of China's soft power projections through the various strategies. China's public diplomacy projections through cultural centers, educational exchanges and Chinese media must be construed within the framework of the soft power theory as this study seeks to do.

The second theory that anchors the study is the Institutional theory advanced by North<sup>29</sup>. The institutional theory focuses on the formal and legal government structures in measuring the effectiveness of trade by explaining how these structures are rendered authoritative in guiding social behaviour between the countries. Institutional theory advances that organizational functioning in similar environments employs similar processes due to the desire of institutions to conform to institutional demands, driven by legitimacy motives<sup>30</sup>. This theory is relevant in the present study because it recognizes existing regulatory environment to govern cross-border trade which largely rely on the support accorded to it by legally accepted law enforcement institutions. The regulatory body of institutions comprises of rules and policies either taken for granted or well supported by public opinion or law enforcement with

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<sup>28</sup> Morgenthau, *The Politics between Countries: The Power Conflict and Peace*. p. 74.

<sup>29</sup> North, D.C. *Institutions, Institutional Change and economic Performance*, Cambridge, Cambridge University Press, 1990.

<sup>30</sup> Galang, Roberto Martin N. "Divergent diffusion: Understanding the interaction between institutions, firms, networks and knowledge in the international adoption of technology." *Journal of World Business* 49.4 (2014): 512-521.



the intention of encouraging specific behaviours and discouraging others like existence of informal trade.

### **1.6.2 Empirical Literature Review**

Both Kenya and Tanzania are located within the East Africa region. The two countries neighbour each other and collaborate in trade among other areas. As much as this trade has been successful in the most part, it has recently started experiencing some challenges that require intervention. The two countries trade relations are carried out under EAC framework and bilateral relations. Tanzania is Kenya's second largest trading partner in the East Africa Community while Kenya is the largest trading partner for Tanzania (Diplomacy Bulletin, 2017). In terms of investments, Kenya is the fourth largest source of Foreign Direct Investment (FDI) in Tanzania after the United Kingdom, China and India. Kenya's overall investment portfolio is estimated at over US\$ 1,425.56 million. There are roughly 430 Kenyan investments in Tanzania which created over 48,942 jobs in the country

There are a lot of trade activities between the two countries, Kenyans especially have ventured a lot into Tanzania. It is argued that Kenyan firms are among the leading investors in Tanzania (Pearl, 2013). Booth et al., (2014) observed that in 2009 there were close to 50 Kenyan firms operating in Tanzania in different sectors such as production, banking, hospitality and natural resources industry. According to Temba (2019) in the year 2018 alone, 10 per cent of the more than two million tourists to Kenya were Tanzanian, amounting to 222,216 tourists, which was the second largest group after Americans. It is noted that the trade and tourism exchange between Tanzania and Kenya contributes immensely to the two countries' economies. When presenting the picture of the EAC to which Kenya and Tanzania are members, there is a positive image with a growth of 96% in trade between the members'

countries (Muluvi et al., 2012). This is despite the reluctant commitment of Tanzania which is observed to be frustrating the efforts of the EAC, as compared to Kenya and other allies that are much more committed to the EAC. It is noted that the trade between the 5 EAC member countries increased from \$1.81 billion in 2004 to \$3.54 billion by the close of the year 2009, a growth of 96 per cent (Muluvi et al., 2012). However, according to Cooksey (2016) there has been a decline in the Kenyan exports to Tanzania, for instance from 2008 – 2014, Kenyan manufactured exports to Tanzania reduced by 36 per cent.

According to Muluvi et al. (2012) Kenya's exports to EAC member countries including Tanzania, are more diversified and include chemicals, fuels and lubricants, machinery and transportation equipment. This is unlike Tanzania and other member countries whose exports are dominated by agricultural produces and manufactured products, such as food, livestock, beverages, tobacco and inedible crude materials. Direct trade between Kenya and Tanzania compared to other countries, shows that Kenya exports to Tanzania are fourth to Uganda in the EAC. Tanzania took 8 per cent of Kenya export to EAC (Muluvi et al., 2012). In 2018, the Kenyan president, Uhuru Kenyatta extended an invitation to Tanzania to export to Kenya millions of bags of maize to the country directly (Temba, 2019).

The purpose for the review of literature in this study; first, is to establish familiarity with the research problem and the key concepts as hitherto been examined by scholars, and in so doing, to explore and clarify the underpinning concepts implicit in the research problem and others which was used in the body of this study.

### **1.6.2.1 Custom Procedures Cooperation and Trade between Kenya and Tanzania**

Introduction of cumbersome and unnecessary import and export documents might hinder trade between countries<sup>31</sup>. Further, the burden of customs procedures, efficiency of clearance process and stringent physical inspection might discourage importers and exporters as well to trade with a certain country because of stringent experience in trading. This is because efficient customs clearance process encourages traders to pass through the formal border points due to the limited hindrance, a situation that would result in increased trade between the concern countries<sup>32</sup>.

The WTO as contributing to trade impediment has identified the impact of non-tariff barriers (NTB) on export and import goods. Another hindrance to seamless trade relationship is multiplicity of regional economic communities' memberships. Multiple memberships are associated with shortcomings such strained and crowded economic spaces and unhealthy rivalry for aid funds<sup>33</sup>. In addition, due to similar obligations and loyalty demanded from countries that belong to multiple economic blocs contradictory obligations there is often inconsistent objectives, conflicting operational mandates as well as duplicated efforts. All these factors might affect trade between two countries that are members of opposing economic communities. For example, Kenya has ratified its membership to both EAC and COMESA while Tanzania is a member of EAC and SADC.

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<sup>31</sup> Wilson, Norbert. "Examining the trade effect of certain customs and administrative procedures." 2007.

<sup>32</sup> Ackello-Ogutu, C., & Echessah, P. Unrecorded cross-border trade between Kenya and Uganda. *Technical paper*, 1997.59

<sup>33</sup> Krueger, A. O. Free trade agreements versus customs unions. *Journal of Development Economics*, 54(1), 1997. 169-187

### 1.6.2.2 Non-Tariff Barriers Management and Trade between Kenya and Tanzania

Non-Tariff barriers (NTBs) come about because of regulations, practices, guidelines, regulations and strategies that have negative impact on both formal and informal trade. The East Africa community (EAC) defines NTBs as quantitative restrictions and specific limitations that act as obstacles to trade. Policies formulated and implemented in relation to export restraints, import allocations, limiting state-trading interceptions, subsidies, countervailing duties, technical barriers to trade, sanitary, rules of origin, and domestic content requirement all constitute non-trade barriers<sup>34</sup>. Further still, NTBs can be categorized as government laws, regulations, policies or practices that either guard local industry or goods from external rivalry or manipulation of the export market of particular local goods<sup>35</sup>. From the part of OECD, the non-tariff barriers represent all barriers that are not tariffs which is similar to the EU definition of NTB which is anything that is not a tariff or quota<sup>36</sup>

World Trade Organization (WTO) categorizes non-tariff barriers into seven categories namely: Participation of government in trade, entry procedures that relate to customs and administration, technical barriers to trade, sanitary and phytosanitary measures, levies on particular imports, which limit trade between countries.

According to the findings of a study carried out to explore the trade of maize and beef between Kenya and Tanzania several NTBs were identified including payments of clearance fees in as much as the goods are duty free by tariff. Malpractices such as corruption at points of entries, multiple roadblocks along the roads made the situation much worse. Other non-

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<sup>34</sup> Carbaugh, J.R *International Economics*. 9th edition. South-Western College Publishing International, 2004

<sup>35</sup> Nakra, P. Beware of Non-Tariff Barriers in Global Markets. 8/28/2006.

<sup>36</sup> European Union Commission. "2002 Report on US Barriers to Trade and Investment", DG Trade, EU Commission. 2003

tariff barriers were to comprise of poorly managed roads infrastructure, unfair treatment of foreign drivers and incompatible trade rules.<sup>37</sup>

According to Stahl et al, SADC member countries paid less as compared to those in EAC and this constituted a hindrance to trade among Sub-Saharan Africa countries. Kenya topped the list of countries with several NTBs in EAC.<sup>38</sup>

These discoveries depend on the general classifications composed by the WTO. NTBs allude to the extensive variety of strategy intercessions other than tariffs relating to borders that influence exchange of merchandise, administrations, and elements of generation. Most scientific classification of NTBs incorporates trade focusing on a specific market and local policies influencing exchange in the market. Expanded scientific classifications incorporate full scale financial strategies influencing exchange. NTBs have picked up significance as levels of tariffs have been decreased around the world. Regular proportions of NTBs incorporate equivalence of tariffs of the NTB policies and check and recurrence proportions of NTBs. These NTB measures are in this way utilized in different exchange models, such as gravity equation, to survey exchange and additionally welfare impacts of the deliberate NTBs.<sup>39</sup>

A progression of trade in EAC studies<sup>40</sup> documented NTBs that included traditions and regulatory section techniques boundaries; technical trade barriers, time of inspection, standards, un-harmonized strategies for issuance of confirmation and other appropriation

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<sup>37</sup> Karugia, J., Gbegbelegbe, S., Nzuma, J., Massawe, S., Freeman, A., Bahiigwa, G., Berisha-Krasniqi, V., Bouet, A., Dimaranan, B., Mevel, S. and Roy, D.. Assessment of the Potential Impact of Adopting a Common External Tariff (CET) by COMESA, 2008a.

<sup>38</sup> Stahl, H.M. , Who Will Gain from East African Community Customs Union? German Technical Cooperation, GTZ. 2013

<sup>39</sup> Beghin, J. Non-Tariff Barrier. Ames, Iowa: Center for Agricultural and Rural Development, Iowa State, 2006. University.

<sup>40</sup> Mmasi, J and Ihiga, S. A survey of non-tariff barriers that affect Tanzanian imports and exports within EAC, SADC, and COMESA countries, 2007.

related deterrents. A portion of these NTBs, while legitimized based on the grounds of wellbeing, security and safety among others, affect production, utilization, financial effectiveness and flows of trade.<sup>41</sup> Emerging from NTBs identification, EAC time-oriented projects for their disposal have been readied.<sup>42</sup> These incorporate canceling charges, defilement, unfair charges, landing expenses, passage prerequisites; utilization of non-discriminatory extract obligation routine, valuation rules in WTO; Rules of Origin in EAC, The existence of rules of origin criteria of 30% local added value; modernization to involve use of automation in operations to guarantee quicker leeway, and interfacing of systems.

As a feature of the endeavours to limit the effect of NTBs that specialists involvement over the span of their exchange inside the EAC locale, various activities were attempted in particular: Firstly, the EABC were built up not long after the EAC settlement was marked in 2000. In 2003, the EABC set up a specially appointed working team, to recognized significant strides in the battle against NTB and make it conceivable to screen and evacuate the hindrances of trade. In 2004, the EABC concocted a noteworthy activity to follow up on the proposals from the specially appointed working team by dispatching the Business Climate Index (BCI) overview for EA, which was done by Dar es Salaam based, Daima Associates Ltd. The primary point of the study, which secured 500 organizations and 150 government officials, was to distinguish the nature and extent of NTBs that are knowledgeable about the everyday business inside the locale.<sup>43</sup>

The NTBs in the EAC are dynamic encounter and therefore the BCI survey findings are no longer valid. The second notable initiative in the fight against NTBs in the EAC was the

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<sup>41</sup> Okumu, L., & Okuk, N. Non-Tariff Barriers in EAC Customs Union: Implications for Trade Between Uganda and Other EAC Countries. Kampala- Uganda: Economic Policy Research Center, 2011.

<sup>42</sup> East African Business Council (EABC). EAC Time-Bound Programme for Elimination of Identified Non-Tariffs Barriers. EAC Secretariat, Arusha, Tanzania, 2009.

<sup>43</sup> Musebe, (2013)

National NTB Monitoring committees established in 2012. Each Partner State was urged to establish a national NTB committee to monitor prevalence of NTBs in its country. Thus, in 2012, Partner States agreed to establish the National NTB Monitoring committees to monitor elimination of NTBs. The key outputs of the National NTB monitoring committees included; Chamber programme on advocacy and physical monitoring of NTBs exercises that were designed to be undertaken on quarterly basis. So far these have delivered a number of positive outcomes such as Awareness creation, stakeholder trainings and consultation as well as study tours on NTB removal conducted. The last effort in NTB elimination in the EAC was development of a Bill on eliminating the barriers. This is currently, pending assent by Heads of State during the EAC summit this year, 2015. The objective of the Bill was to provide a legal mechanism for elimination of the identified NTBs in partner States. These initiatives made limited progress towards reduction let alone removal of NTBs as envisaged from the proliferation of new NTBs soon after one or two NTBs were resolved. The progress in the fight against NTBs required to be fast tracked if the single customs territory and of its benefits such as removal of unfair completion and encouragement of efficiency would be realized in the region.

### **1.7 Research Methodology**

This part presents the research method and methodology to be used in this study. Highlighted here are the research design, population, sample and sampling design and a discussion of the data collection and analysis techniques, and the research procedure.

### 1.7.1 Research Design

Research design is to the overall strategy identified to join the different elements of the study in a precise way aimed at addressing the research problem. It entails the outline for data collection, measurement, and analysis.<sup>44</sup>

Mixed method design was adopted in the study, employing both qualitative and quantitative data. It employed descriptive and explanatory design. A mixed method permits a more complete and synergetic utilization of data compared to separate qualitative or quantitative approaches. Descriptive study allows for prudent comparison of the research findings while explanatory research enables the researcher identify the causes and effects of a phenomenon under study.<sup>45</sup>

### 1.7.2 Data Collection

Both primary and secondary data was utilized in the study mainly derived from secondary and primary sources. For the primary data, open ended interviews were be used and an interview guide to collect the required data. Formulated set of questions form the interview guide and the interviewer uses them when interviewing.<sup>46</sup> The interview guide makes it possible to collect data required to meet specific objectives of the study. For secondary data collection tool used is an in-depth information gathering and document analysis involving mainly literature research. Direct quotations, opinions, specific knowledge, and background information relating to bi-national cooperation and management of their borders with a view to enhancing their trade levels were scrutinized.

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<sup>44</sup> De Vaus, D. A. *Research Design in Social Research*. (London: SAGE, 2001).

<sup>45</sup> D. R. Cooper and P. S. Schindler, *Research Methods* (7<sup>th</sup> Ed. New York: Irwin/McGraw-Hill, 2000) p. 112.

<sup>46</sup> Mugenda, O. M., & Mugenda, A. G., “*Research methods: Quantitative and qualitative approaches*”, (Nairobi: Acts Press Siegel, N. 2003), *Research methods for managers, A skill building approaches* (2nd ed.).( New York: Wiley Publishers, 2003). Pp. 71



The resultant data was qualitative and was analysed by means of content analysis. Content analysis involves observation and detailed description of phenomena that comprise the object of study.<sup>47</sup> This method was preferred because the information collected was qualitative and therefore requires analytical understanding. When human coders are used in content analysis, reliability translates to the amount of agreement or correspondence among two or more coders. Reliability in content analysis was ensured by analysing the amount of agreement or correspondence among the key informants. The primary data was supplemented by secondary data on diplomacy and climate. The secondary data was collected from electronic journals, book, periodic reviews, United Nations documents, treaties, protocols, academic papers, conference proceedings, dissertations on the subject and books.

### **1.7.3 Target Population**

Target population fell under two broad categories, specified population and unspecified population. The study population was specified and consist of government officials from Kenya and Tanzania, namely; KRA/TRA, Exporters/importers, and ministry of trade officials from the two countries.

### **1.7.4 Sampling Technique and Sample Size**

Sampling involves choosing a subset of a population and drawing conclusions from that subset. The way you sample and who you sample shapes what conclusions you are able to draw.<sup>48</sup> This study will employ both probability and non-probability sampling.

Purposive sampling was used for qualitative design while random sampling was used for quantitative research design. Purposive sampling enabled selection participants from their

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<sup>47</sup> Holsti, O.R., "*Content Analysis for the Social Sciences and Humanities*", (MA: Addison-Wesley 1980) pp, 7

<sup>48</sup> Cooper and Schindler, *Research Methods*. p. 112.

sampling frame with characteristics that the researcher desires. With random sampling, all the elements in the sampling fame had the same opportunity of being picked for inclusion in the study. This allowed for generalizability when the findings of the study are generated.<sup>49</sup>According to Kothari,<sup>50</sup> a sample of 10% and above is the accurate representative of the population.

### **1.7.5 Data Reliability and Validity**

To evaluate the measurements used in this study, the researcher checked for validity and reliability of the Likert scale and the questionnaire. Validity refers to the precision of the research instrument or the degree at which the scores truly characterize the variables they are intended to. Reliability is the extent to which the instrument used in the research is consistent across time, across items and across researchers.<sup>51</sup>To achieve content validity, the researcher conducted thorough literature review so that indicators of the variables are constructed to reflect all the possible meanings of the concept. A pilot study was also carried out to enable the researcher familiarize with the research instrument, study area as well as administration in order to identify items that needs adjustment. The first draft of the questionnaire was distributed to 30 postgraduate students. Based on the participant's feedback, the questionnaire was subsequently refined to improve understanding.

### **1.7.6 Data Analysis and Presentation**

Being a mixed method research, quantitative and qualitative data was analysed separately. Based on the feedback to open ended questions in the questionnaire, qualitative data was analysed using content analysis and inferences made thereof. Content analysis entails

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<sup>49</sup>DeCarlo, M. *Scientific Inquiry in Social Work* (2018).<<https://scientificinquir-yinsocialwork.pressbooks.com>> [Accessed: 13/6/2020]

<sup>50</sup> Kothari, C R. (1990). *Research Methodology*

observation and elaborate explanation of phenomena that includes the object of study. This method was selected due to the information gathered is qualitative and therefore required analytical understanding.<sup>51</sup>

### **1.8 Chapter Outline**

The first chapter introduces the concept of international cooperation and management on cross-border formal and informal trade. It discusses the background information, problem statement, objectives, research questions, literature review, study justification, theoretical review plus the methodology that will be used to collect and analyze the data. Chapter two explored the effect of customs procedures and non-tariff barriers between the Kenya and Tanzania on formal and informal trade volume between Kenya and Tanzania

The third and the fourth chapters discussed the effects of technical regulations and transparency of management laws cooperation affect trade volume between the two countries

Finally chapter five presented summary of research findings and conclusion that bind together and synthesize data findings besides making specific recommendations aimed at specific policy and academic actors as well as future areas of research.

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<sup>51</sup> Holsti, O.R., *“Content Analysis for the Social Sciences and Humanities”*, (MA: Addison-Wesley 1980) pp. 7

## **CHAPTER TWO**

### **THE EFFECT OF CUSTOMS PROCEDURES AND NON-TARIFF BARRIERS ON TRADE BETWEEN KENYA AND TANZANIA**

#### **2.1 Introduction**

A flourishing private sector is critical as Kenya and Tanzania endeavour to establish and develop their economies and advance the livelihoods for their residents. A significant dimension of a flourishing private sector is precise and logical procedures that promote establishment and development of businesses and creation of domestic and external market for their goods and services. Enhanced admission of goods and services to global markets, the competitiveness of local producers in domestic, regional and global markets have progressively become critical elements for promotion of formal and informal trade and development.

#### **2.2 Demographic Information**

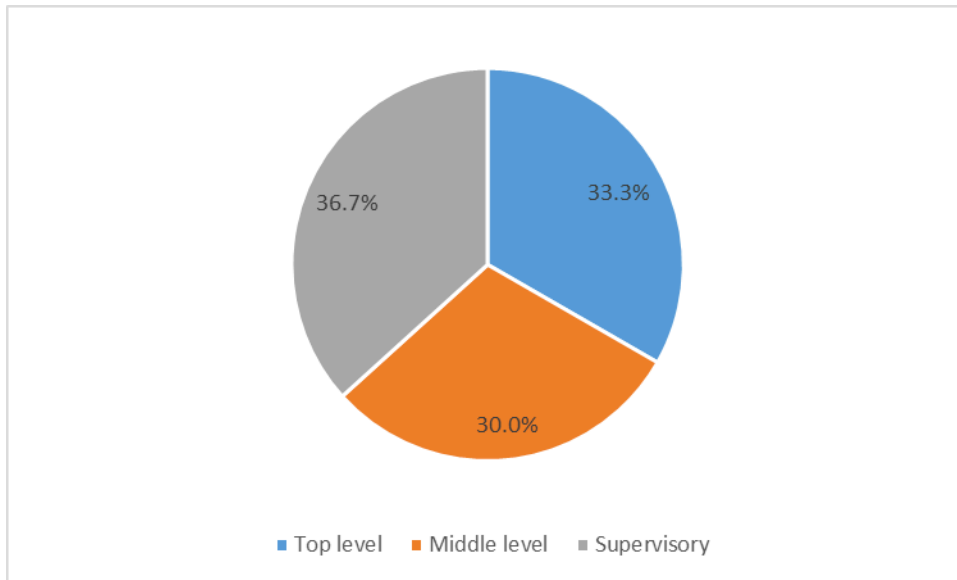
The details of demographic information from respondents analyzed comprised the level of management, years worked in the respective organizations, total number of employees in the organization as well as the country of origin.

##### **2.2.1 Employee level of management**

The result in Figure 2.1 shows the level of management that the respondents held in the respective organization as per the time this study were conducted. The findings shows that majority of the respondents (36.7%) played a supervisory role, 33.3% under top level of management while 30% were from middle level of management. This implied that the respondents actively participated in various decision making process with regard to

cooperation and management of formal and informal trade between Kenya and Tanzania and therefore the information they gave led to precise findings that can be regarded as reliable for reference and application.

**Figure 2.1: Demographic Information**

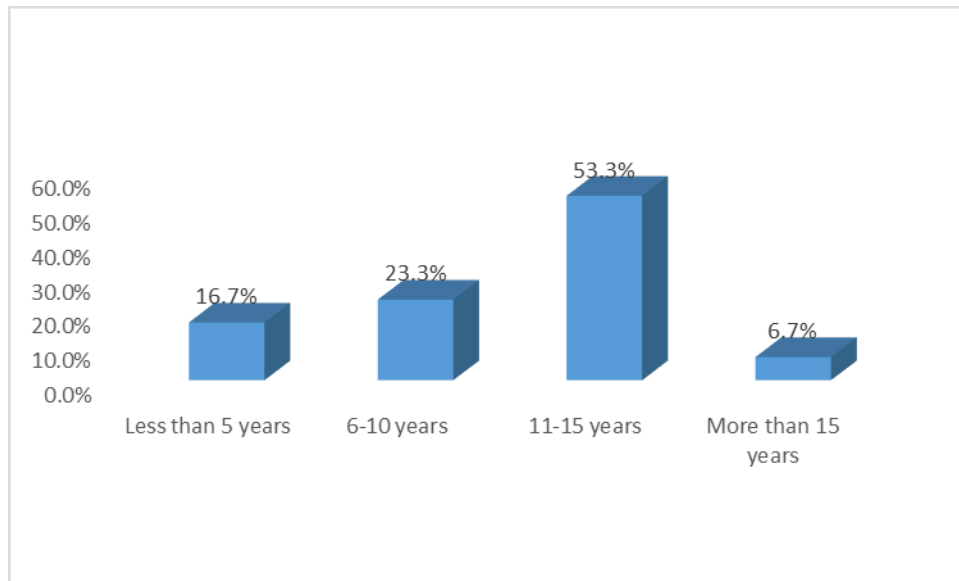


**Source: Author's field data (2021)**

### 2.2.2 Length of Service

Figure 2.2 demonstrates results with regard to length of service of employees. It is evident from the results that 53.3% of the respondents had served in their respective organizations for between 11-15 years, 23.3% have worked for between 6 and 10 years while 16.7% and 6.7% have served for less than five years and more than 15 years respectively. This implies that majority of respondents have been working in these organizations for more than 10 years and therefore have extensive experience in relation to formal and informal trade between the two countries and related promoting strategies or obstacles.

**Figure 2.2: Length of service**



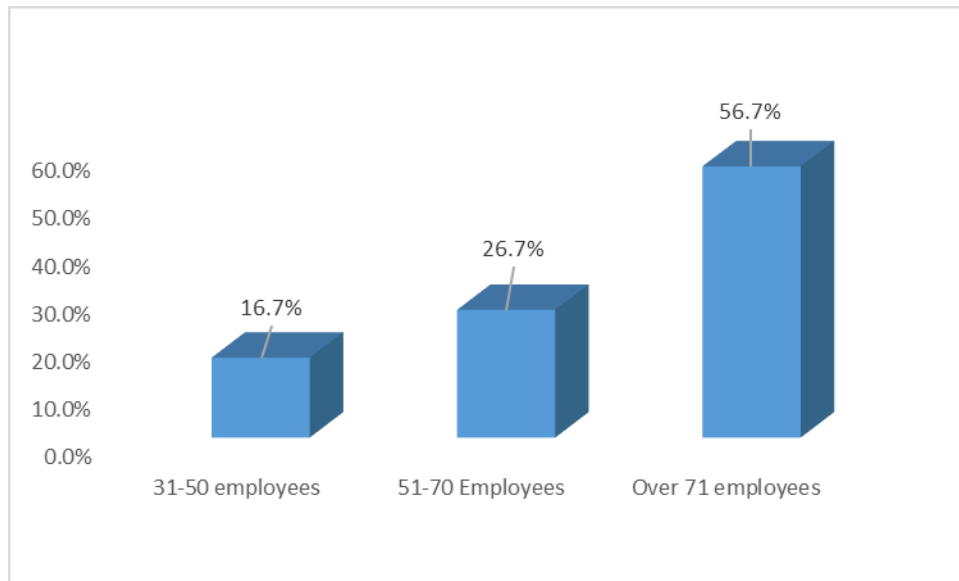
**Source: Author's field data (2021)**

### **2.2.3 Number of Employees**

The questions to the respondents required them to indicate the number of employees in their respective organizations. The results shows that 56.7% of the organizations have over 71 employees 26.7% have between 51 and 70 employees while 16.7% have between 31 and fifty employees. This imply that majority of the organizations studied are small organizations based on the number of employees.

The results are demonstrated in Figure 2.3.

**Figure 2.3: Number of employees**

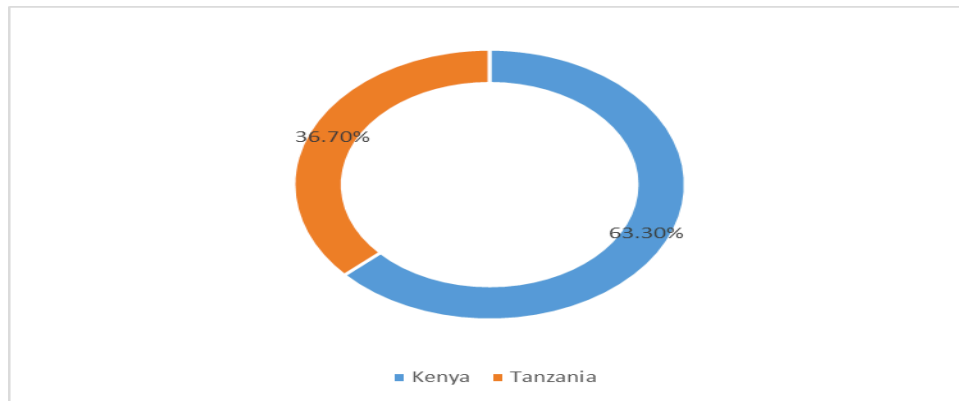


**Source: Author's field data (2021)**

#### **2.2.4 Country of Origin**

The study focused on cross-border trade between Kenya and Tanzania and therefore to achieve the objective of the study, the researcher ensured that responses are gathered from the two countries. The results in Figure 5.4 show that Kenya had more respondents (63.3%) while Tanzania had 36.7% of the total respondents. This finding is attributed to the researcher ease of accessibility of Kenyan traders and institutions as compared to Tanzanians counterparts due to the Covid Measures and logistical challenges’.

**Figure 2.4: Country of origin**



**Source: Author's field data (2021)**

### **2.3 Trade between Kenya and Tanzania**

Within the EAC region, neighboring countries collaborate in many aspects including cross border trade. Kenya and Tanzania have not been left behind in this regard. As much as this trade has been successful in the most part, it has recently started experiencing some challenges that require intervention measures. The two countries trade relations are carried out under East African Community, EAC framework and bilateral relations with Tanzania being Kenya's second largest trading partner in the East Africa Community while Kenya is the largest trading partner for Tanzania<sup>52</sup>. In terms of investments, the fourth largest source of foreign direct investments (FDI) to Tanzania is Kenya after the United Kingdom, China and India with an investment portfolio estimated at over US\$ 1,425.56 million. There are roughly 430 Kenyan investments in Tanzania which create over 48,942 jobs in the country<sup>53</sup>. Kenyan owned businesses in Tanzania in 2009 were close to 50 operating in different sectors such as

<sup>52</sup> Ackello-Ogut, Christopher, and P. N. Echessah. *Unrecorded cross-border trade between Tanzania and her neighbors: Implications for food security*. 2016.

<sup>53</sup> Orero, Risper AA. "Entrepreneurship and social capital: A study of informal cross-border trade between Kenya and Tanzania." PhD diss., University of Nairobi, 2009.



production, banking, hospitality and natural resources industry in 2009<sup>54</sup>. Tanzania contributed 10 per cent to Kenya's tourism sector in 2018 with more than two million tourists, which was the second largest group after Americans.<sup>55</sup>

Contribution to EAC economic development to which Kenya and Tanzania are members was largely by trade among the five EAC member countries, which increased from \$1.81 billion in 2004 to \$3.54 billion by the close of the year 2009, a growth of 96 per cent. This was despite the reluctant commitment of Tanzania, which is observed to be frustrating the efforts of the EAC, as compared to Kenya and other allies that are much more committed to the EAC development agenda.<sup>56</sup> Kenya's exports to EAC member countries including Tanzania, are more varied and include, petroleum, household goods and farm machinery. This is unlike Tanzania and other member countries whose exports are dominated by agricultural produces and manufactured products, such as food and dairy products.<sup>57</sup> Direct trade between Kenya and Tanzania compared to other countries, shows that Kenya exports to Tanzania are fourth to Uganda in the EAC. Tanzania took 8 per cent of Kenya export to EAC. In 2018, the Kenyan president, Uhuru Kenyatta extended an invitation to Tanzania to export to Kenya millions of bags of maize to the country directly<sup>58</sup>.

The formation of EAC caused increased formal and informal trade flows between Kenya and Tanzania through the creation of avenues of unrestricted import and export of goods and services between the two countries. In 2010 for example, the gross domestic product, GDP

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<sup>55</sup> Thandrayan, Pearl. "The EAC: Regional Engine, African Model." *World Politics Review*, February 20 (2013).

<sup>56</sup> Muluvi, Augustus, Paul Kamau, Simon Githuku, and Moses Ikiara. "Kenya's trade within the East African community: institutional and regulatory barriers." *Accelerating Growth through Improved Intra-African Trade* 20 (2012).

<sup>57</sup> Ibid

<sup>58</sup> Temba, K. Relations between Kenya and Tanzania are ripe for strengthening. Standard Digital [Nairobi]. Retrieved from <https://www.standardmedia.co.ke/business/article/2001334669/relations-betweenkenya-and-tanzania-are-ripe-for-strengthening>, 2019, July 21.

for EAC was US \$ 79.3 billion with Kenya's GDP during the same year being US \$ 32.2 billion equivalent to 40.6% and Tanzania's GDP being US \$ 22.9 billion (equivalent 28.9%) during the same year making 69.5% the total EAC GDP.

According to the figures presented by the Kenya National Bureau of Statistics (KNBS) (2019) Kenya's export to the EAC where Tanzania and Kenya are a Member reduced from KSh 131.6 billion in 2017 to KSh 129.0 billion in 2018. According to the amounts shown, in 2014 Kenya export value to Tanzania was KES 42,724.90 Million as compared to an import value of KES 18,364.10 Million. In 2015 Kenya exported good worth KES 33,663.40 Million and imported good worth KES 16,906.20 Million. In 2016 Kenya exported commodities worth KES 34,796.60 Million as compared to an import of KES 12,806.10 Million. Again in 2017, Kenya exported commodities worth KES 28,521.10 Million and imported commodities worth KES 17,179.60 Million. Lastly, in 2018 Kenya exported commodities worth KES 29,753.50 Million and imported commodities worth KES 17,817.60 Million. These values shows that Kenya exports more than it imports from Tanzania with a significant margin of 34.21% for the 5 year period from 2014 – 2018. It is also noted that trade between Kenya and Tanzania has been steadily decreasing at a rate of 7.66% for exports and 0.66% for imports.

Cordial relations have not always existed between Kenya and Tanzania. In some cases, there has been hostile relationships between the two countries. Tanzania has sometimes imposed severe sanctions on Kenyan businesses that have negatively affected Kenyan businesses. In reaction, Kenya has in some instances reacted to the harsh treatment by imposing equally harsh regulations on Tanzanian goods and services.

## **2.4 Customs and Administrative Entry and Passage Procedures**

The EAC Council of Ministers has held various sessions, forums and meetings aimed at disentangling and synchronizing traditions documentation, conventions and techniques at the outskirt posts with little success. Other states have succeeded in carrying out several programs aimed at subsidizing modern programs but this has not been realized between Kenya and Tanzania in EAC despite much effort. Arranged upgrades in managing outskirt posts have been moderate, for the most part two-sided, and with to some degree changing outcomes to date. Duplication of procedures 10 keeps on adding to financial expenses and loss of time. Unequal treatment as indicated by the nation of nationality of the merchandise as well as truck and open doors for false conduct is visit, similar to the charges of such "out of line" treatment and corrupt activities.<sup>59</sup>

### **2.4.1 Documentation and Procedures**

A task commissioned by the countries to check on the factors that hinder trade inside the EAC discovered there were changing frameworks of import announcement, installment of pertinent obligation rates, and guidelines connected, and restricted/differing working hours at the customs stop posts. Protracted methodology and deficient data to empower custom authorities settle on relevant choices at the posts appear on torment the EAC framework. To actualize customs methodology for section preparing, load control, travel, control of warehouse, and bookkeeping, four nations have selected to utilize different forms i.e. Automated Systems for Customs Data (ASYCUDA - is an automated customss administration framework created by UNCTAD to help change the traditions freedom

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<sup>59</sup> 9 World Bank report. "Non-Tariff Measures on Goods Trade in the East African Community",2008

process), while Kenya has utilized Similarity Based Complex Analysis System (SIMBA) an electronic continuous exchanging framework for global markets.<sup>60</sup>

To date, the linkage between these two frameworks has not been smooth. Deferrals in preparing send out papers are across the board. Before transporters leave their point of departure, they should document trade papers with the income specialist (at the capital) to be sent to the outskirts post. Kenya and Uganda have a respective legitimate system for joint control at their regular outskirts posts, making a one-stop post at each fringe crossing, beginning with Malaba. They additionally have a consent to present 24-hour administrations at their normal outskirts posts. It takes around a week for process at KRA to be finished which too many exporters is perceived to be a long and strenuous exercise. It gets worse, when goods move to other countries, which as documented in the report by World Bank different procedural arrangements on these borders slow down business<sup>61</sup>

## **2.5 Non-Tariff Barriers (NTBs)**

NTBs allude to the extensive variety of approach intercessions other than tariffs relating to border that influence exchange of merchandise, administrations, and production components.<sup>62</sup> Most scientific categorization of NTBs incorporates trade focusing on specific markets and local policies. Expanded scientific categorizations incorporate full scale monetary strategies influencing exchange. NTBs have picked up significance as tax levels have been lessened around the world. Regular proportions of NTBs incorporate duty counterparts of the NTB approach or strategies and tally and recurrence proportions of NTBs.

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<sup>60</sup> Ibid, Okute, (2017)

<sup>61</sup> Ibid, World Bank, (2008)

<sup>62</sup> Okute, A.M. non-tariff barriers to trade in east africa community: a case of exporters in kenya. Published M.A Thesis. USIU. 2017

These NTB measures are consequently utilized in different exchange models, including gravity conditions, to survey exchange as well as welfare impacts of the deliberate NTBs.

Scholars have argued that increasingly, NTBs replaced tariff barriers particularly among trading countries involved in regional integration when tariffs were eliminated because this causes increasing attention among policy makers and trade analysts<sup>63</sup>. This is due to the fact that elimination of tariffs imposed economic costs to exporters whereas NTBs increased import costs to the country of consumption. Moreover, they are a source of legal controversy among trading partners due to their implications on trade as well as their legitimacy. As exchange controls, other than duties, which casually confine worldwide exchange, NTBs will in general fall in three general classes, to be specific: Trade strategy NTBs which incorporate more extensive measures of policies, for example, import licenses, quotas, remedies of trade and endowments; Health, security and environmental NTBs which incorporates SPS measures and bans of exports; and managerial NTBs that incorporates traditions leeway delays, bureaucratic and self-assertive documentation necessities, and high transport charges. Opposite to formal exchange duties, NTBs are frequently harder to distinguish on the grounds that they are "covered up and unwritten," activities, and practices that have a splendidly genuine goals. Depending on the nature of trade, commodities involved and trading partners, different NTBs have different implications and therefore the best approach to analyse their impact seems to be to embrace their diversity

The main features of NTBs are that they generally discriminate against foreign competitors in favour of domestic industries; they poses the power to increase the costs of imports and crossborder trade transactions thus influencing supply and demand of merchandise,

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<sup>63</sup> Sandra et al. Paper-Non-Tariff Measures Inhibiting South Africa's Exports to China and India. 2008.

operational efficiency and consumer's welfare; unlike tariffs, the impact of NTBs on prices and quantity is usually difficult to discern. In addition, not all NTBs are necessarily illegal since some of them are justified for purposes for which they are meant to achieve namely; animals, health security and safety, environment, and human protection<sup>64</sup>. For such cases, rules and guidelines are necessary to define the conditions under which such trade-restrictive measures are allowed. An important observation to note is that NTBs are frequent and often found in different forms all over the world, which brings us to our immediate context

Okumu and Nyankori's taxonomy classified NTBs in EAC using 3 groups but the tariffs facing Kenyan exporters can be further unpacked. Specifically, these include export licenses, trade quotas, subsidies, documentation and procedures, delays at weighbridges, truck entrance fees and grace period, use of immigration and visa procedures, multiple police road blocks and mobile control, information constraints and Highway Crimes and Loss of Goods during transit. Further there is plain inefficiency which at the Container Freight Stations results in waste of time, revenue, and sometimes, cargo. In addition, there are too many institutions duplicating the same work, with their roles usually overlapping in export inspection and certification, and delays in processing export papers.

Non-Tariff Barriers, NTBs have been identified as a contributor to trade disputes between Kenya and Tanzania. Drawing from the regional historical experience and that of other jurisdictions, the main objective was to eliminate all NTBs through the EAC Customs Union Protocol between Kenya and Tanzania.<sup>65</sup> Generally, liberalization of the market, through the

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<sup>64</sup> Okumu, L. and Nyankori, J. Non-Tariff Barriers in EAC Customs Union: Implications for Trade between Uganda and other EAC Countries. Economic Policy Research Centre. 2010.

<sup>65</sup> Calabrese, Linda, and Andreas Eberhard-Ruiz. "What types of non-tariff barriers affect the East African Community." *Briefing. Overseas Development Institute, London, United Kingdom* (2016).

regional Treaty, and in particular the 2005 Customs Union, aimed at boosting formal and informal trade between Kenya and Tanzania and that of the wider EAC region.

### **2.5.1 Export Licenses, and Delays in Processing Export Papers**

Acquisition of trade licenses from exporting or importing nations is a barrier in the sense that these documentation cost money and time as evidenced from complaints among exporters and importers during export and import processing. Most of the documentation is done at the capital cities of the respective country of origin far away from the border stations. In addition, the EAC licenses are issued for the EAC travel controls with various charges: \$1,500 for an organization travel permit; \$600 for a travel products permit, and KSh 10M for a security bond on merchandise travelled crosswise over Kenya.<sup>66</sup>

### **2.5.2 Trade Quotas**

A quota is a quantitative restriction on the amount of a particular product that can be brought into a nation from another country. Sometimes quotas are imposed to protect nascent industries in the home country or other times it is a case of malicious flouting of previously agreed upon custom regulations as well as to regulate the amount of trade between trading countries aimed at manipulating the balance of payments in their favor. The quantitative restriction on the amount of goods reduces imports of the specified products and increases domestic production conceptually boosting domestic production by restricting foreign competition. However, quotas remain a hindrance of trade within a region; EAC included and in particular Kenya and Tanzania.

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<sup>66</sup> Kahenu, S.M. Non-tariff barriers in EAC customs union: implications for trade in manufactured goods in Kenya. Published PGD Project. UON.

### **2.5.3 Corruption**

Corruption remains the mythical sword of Damocles hanging over Kenyan and Tanzania trade. The two countries are consistently mentioned as corrupt in Africa with Kenya ranking way above Tanzania<sup>67</sup>. Tanzanian former president Nyerere's epithet in the 1970s that Kenya is a man eat man society pointed to a country where rampant, unbridled capitalism ran amok. To date hustlers and never do wells are always eager to make a quick buck, legally or illegally. This in turn means that justice is sometimes for the highest bidder. Accordingly, the cost of doing business in Kenya goes up, since traders are forced to bribe law enforcement officials in case of trade cases. Exporters and importers are forced to bribe at checkpoints such as weighbridges along the transport corridor.<sup>68</sup> In particular, what troubles the traders in transit is the lack of co-ordination by the police in discharging their duties, with the end goal that transport motor vehicles are subjected to several checks at various checkpoints.

### **2.5.4 Immigration and Visa Procedures**

Movement of persons between Kenya and Tanzania is cumbersome due to duplicative procedures at the border points. For example, elaborate and costly visa charges imposed for guests looking for transitory work assignments is a major impediment to movement of people between the two countries. At the frontier offices such as Namanga and Isebania, Tanzanian immigration authorities charge USD 100 Kenyan businesspersons who might want to display their items in Tanzania.<sup>69</sup>

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<sup>67</sup> Transparency International. Corruption Index 2017

<sup>68</sup> EABC. "The Business Climate Index Survey." The Steadman Group, Riverside Drive, Nairobi, October

<sup>69</sup> East African Business Council. "The Business Climate Index Survey." The Steadman Group, Riverside Drive, Nairobi, October.2004.



### **2.5.5 Truck Entrance Fees and Grace Period**

In opposition to the EAC Practice, Kenya and Tanzania require payment of different road toll charge amounts on transport motor vehicles. Kenya charges \$60 for a truck entering Kenya while Tanzania fees are \$50 per each truck weekly. Also, nearby exacts may apply. For instance, the region of Mombasa has presented another exact on trucks bound in Uganda. The EAC travel controls permit a time of 7days without instalment of charges for vehicles travelling to the domain of a part state, yet consistence fluctuates crosswise over part states and crosswise over eras. This blocks the traditions association, and expands the expense do imported products. The expenses are from that point passed on to the shopper.<sup>70</sup>

### **2.5.6 Anti-competitive Measures**

These trade measures might contribute to reduced competitiveness of trading goods. For example the Tanzanian authorities required the cessation of use of “drink Brookside milk for good health”, and instead use “drink milk for good health” on brook side milk brand. This weakened the visibility of the brand in the Tanzanian market, making it less competitive. These kind of trade measures may reduce the company’s access to market in Tanzania and return reduce Kenyan exports to Tanzania.

### **2.5.7 Law enforcement Road Blocks and virtual Controls**

Law enforcement officers road blocks for various reasons are areas for travel and trade delays. The northern and central transport corridors is mounted with several road blocks which add to high trade expenses for commercial goods transportation businesses.<sup>71</sup>

Moreover, there are virtual checkpoints in addition to stationary checkpoints especially along

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<sup>70</sup> Jensen, K and Keyser N. Non-tariff measures on goods trade in the east African Community. World Bank. 2014.

<sup>71</sup> Down from about 27 about four to ten years ago.

the Kenyan part of the transport corridors and all of them result in trade delays causing businesses unnecessary expenses and ultimately hindering economic development within Kenya and Tanzania and the EAC region at large.<sup>72</sup>

The obligatory weighbridges for merchandise up and down the travel course, and not just at the outskirts, obstruct trade exchange through expansion to travel period. Several obligatory weighbridges have been established along the northern and central transport corridors. The proposed framework for requiring transport motor vehicles to weigh once in Kenya has not been implemented since 2008 due to bureaucratic delays<sup>73</sup>.

### **2.5.8 Insecurity**

Increased security worries along the exchange courses and expressway burglaries add to worries for transporters and traders. Instances of insecurity are fairly common along the Kenya-Tanzania corridor. Sometimes, freight handling at cargo handling centers is hindered because of cargo pilferage. Other times, election violence on the Kenyan causes insecurity, affecting the transportation of exports. For the case of Kenya, in 2007, 32 compartments were lost to buglers and various individuals lost their lives while in transit to Kampala. The incident that unfurled after the December 2007 Kenya election prompted one of the most noticeably awful spurts of highway violations seen in Kenya

### **2.6 Policy mitigation Factors on Non-Tariffs Barriers.**

Residents of the EAC countries majorly engaged in businesses within the EAC region are not equipped with statutory guidelines that regulate trade operations as well as enhance viability

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<sup>72</sup> Okumu, Luke, and J. C. Nyankori. "Non-tariff barriers in EAC customs union: implications for trade between Uganda and other EAC countries." (2010).

<sup>73</sup> Ihiga, S. A Survey of Non-Tariff Barriers that Affect Kenyan Importers and Exporters within EAC and COMESA Countries. Nairobi: Trade and Investment Consortium. 2007.

of business entities. An examination by World Bank, prescribes for need to settle on decision based exchange limitation, including accompanying components: number of private division dissensions, estimation of fare/import influenced, and contrast among household and world costs for purchaser. For most EAC individuals, these merchandise are additionally the most critical ones in the esteem offer of by and large exchange. Henceforth, organizing the NTBs relating to these merchandise will yield included advantages from extension of EAC's worldwide exchange. Further examination might be required, to decide the degree to which the Non-tariff measures, NTMs contribute to trade and consumers' costs.<sup>74</sup>

One method for building up a methodology for lessening/evacuating NTBs given national contrasts and limit requirements is to embrace an item/division see in a staged way. For example in the ASEAN region, the decision of these segments was made based on near favorable position in characteristic asset enrichments, work abilities, cost aggressiveness, and esteem added commitment to the REC economy or offer of intra-territorial exchange.

### **2.6.1 Investment in business Infrastructure**

When governments impose business models and additional financial requirements to trading activities, they cause serious foundation limitations. The related NTBs will require earlier extensive scale ventures and long haul mediations in development/restoration of physical framework in a planned way over the EAC, particularly along the two passageways, North and South halls.

The measures proposed to address the trade bottleneck of infrastructure in EAC are execution of territorial foundation enhancement plan(s), particularly the network of roads and the current refurbishment of vessels at Lake Victoria which aims at enhancing the intensity of

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<sup>74</sup> Ibid, Hangi, (2010).

trade goods lake transport between Kenya and Tanzania thereby promoting trade between the two countries.<sup>75</sup>

## 2.7 Descriptive Statistics

In examining the availability of custom procedures and non-tariff barriers, the study found that it is in agreement that there exist procedures between the two countries for identifying the NTB in the border points (Strongly Agree (SA)=13.3%, Agree (A)=63.3%, Neutral (N)=16.7%, Disagree (D)=6.7%) and this is achieved through clear guidelines for stopping commercial vehicles (SA=6.7%, A=63.3%, N=23.3%, D=6.7%), continuous review of country's NTB reports (A=66.7%, N=30%, D=3.3%) as well as harmonized border entry working hours (SA=10%, A=56.7%, N=23.3%, D=6.7%, SD=3.3%). The study findings further found that there exists an electronic continuous exchange platform that ensures an uninterrupted clearance of trading goods across the borders (SA=3.3%, A=53.3%, 36.7%, N=6.7%).

Additionally, the study findings show that there are various other custom procedures and non-tariff barriers between the two countries including joint investment in parking sheds and parking yards (SA=6.7%, 63.3%, N=23.3%, D=6.7%), harmonized export licenses (SA=10%, A=56.7%N=23.3% D=6.7%, SD=3.3%) and established communication between the NTB focal points in each country (SA=6.7%, A=33.3%, N=56.7%, D=3.3%). The low standard deviations shows that the variance in the responses was minimal in each category of the questionnaire items.

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<sup>75</sup> Ibid, Okumu and Nyankori, (2010).

**Table 2. 1: Custom procedures and non-tariff barriers**

Statement	Strongly Agree (%)	Agree (%)	Neutral %	Disagree %	Strongly Disagree (%)
There is harmonised border entry working hours	10	56.7	23.3	6.7	3.3
There exists an electronic continuous exchange platform that ensures an uninterrupted clearance of trading goods across the borders	3.3	53.3	36.7	6.7	0
Cross-border goods are cleared ones from the source country	3.3	40	43.3	13.3	0
Cross-border products are prioritized	3.3	36.7	43.3	16.7	0
There is continuous review of country's NTB reports	0	66.7	30	3.3	0
Communication has been established between the NTB focal points in each country	6.7	33.3	56.7	3.3	0
The support of the political leaders is collectively sought to eliminate the non-tariff barriers between the countries	0	50	30	20	0
There exist procedures between the two countries for identifying the NTB in the border points	13.3	63.3	16.7	6.7	0
The border points members engaged with the management of the NTBs meet at least ones in a year.	3.3	33.3	53.3	10	0
There is clear guidelines for stopping commercial vehicles	6.7	63.3	23.3	6.7	0
There joint investment in parking sheds and parking yards	6.7	63.3	23.3	6.7	0
Export licenses have been harmonized	13.3	36.7	33.3	16.7	0
All quotas have been eliminated	6.7	33.3	30	20	10

**Source: Author's field data (2021)**

## 2.8 Chapter Summary

The trade between Kenya and Tanzania is inevitable since both countries enjoy large amounts of natural resources and agricultural land. However, both formal and informal trade face a number of challenges such as non-tariff barriers. This chapter has focussed on customs procedures as well as the non-tariff barriers facing Kenyan and Tanzania importers and exporters. Customs procedures are the mandatory processes undertaken in the processing imports and exports through border stations while NTBs are a wide range of policy interventions with the exception of border tariffs that influence trade of merchandise and services, and production factors. The non-tariff barriers facing Kenyan exporters to Tanzania

include insecurity, corruption, trade quotas, working hours, and tedious procedures. These non-tariff barriers hinder exports by Kenya traders to Tanzania.

However, despite the many Non-tariff barriers existing between the Kenyan and Tanzania borders, there are measures that can be implemented to mitigate the barriers and delays caused by customs procedures. The mitigation measures include the development of new policies and strategies that facilitate easier trade between the two nations; involving the public in the implementation of trade policies to ensure democracy is maintained; investing in infrastructure to ensure easy trade between traders from Kenya and Tanzania and monitoring of all trade activities within the respective countries. By jointly implementing the mitigation measures identified, the two nations will be in a position to interrelate and carryout trading activities without any problems or potential shortcomings. These initiatives will promote both formal and informal trade between Kenya and Tanzania and ultimately economic development in the two countries and the EAC region at large.

## CHAPTER THREE

### THE EFFECT OF TECHNICAL REGULATION AND COOPERATION ON THE LEVEL OF TRADE BETWEEN KENYA AND TANZANIA

#### 3.1 Introduction

Tanzania has been actualizing various strategy measures to make a stable external segment that is liberalized. The measures of the policy are adapted towards making ideal conditions for speedy monetary recuperation and possible accomplishment of supported higher rates of development under states of inner and outer money related stability. In the mid-1980s Tanzania started exchange changes measures with the end goal to adjust to exchange progression. The measures started prompted the exchange advancement which suggested the evacuation of obstructions and limitations, legitimization and decrease of import obligations through one-sided, two-sided, provincial and multilateral measures. The methodical and progressive decrease and disposal of various boundaries and impediments to exchange, for example, bureaucratic conventions, advance approval, managerial controls, supervision, made a huge commitment to the improvement of international trade.<sup>76</sup>

Notwithstanding that, Trade Policy of Tanzania was framed to promote smooth incorporation into the trading system that is multilateral. It expects to guarantee that advancement offers important, identifiable and quantifiable advantages to the nation. The strategy is a consequence of the joint exertion from a wide range of partners including the private segment, which is the lead implementer of the approach. This is a financial operator in charge of the generation of products and ventures that empower Tanzania assume its legitimate position in the worldwide market. The general population division's essential job is that of

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<sup>76</sup> Mohomdo, Neema J. "Enhancing Tanzanias export performance through effective export promotion and support services." PhD diss., 2013.

encouraging this procedure. However, since the manufacturing sector is still nascent, the public sector is responsible in supporting this sector so that it can be able to export and penetrate in the global market.<sup>77</sup>

The process of making the trade policy in Tanzania has required the Government to take exchange related issues as central in its by and large monetary improvement system. The strategy is dependable in co-planning a consultative procedure for the different phases of the exchange policy making process in order to include all partners and gatherings including government services and organizations, the business network and private division, society and advancement co-operation accomplices.<sup>78</sup> However, public organizations and business performances that serve the private division including exporters has exhibited significant shortcomings. Absence of proactive activity in distinguishing and tending to issues, low capacity of analysis, low pledge to work and coordination that is weak have presented problems. The Government has neglected to embrace needs of capacity building to recognize institutional gaps and complementarities. The trade policy in this manner needs to help the system to guarantee that institutional complementarities exist to prevent gaps

The OECD Investment Policy Review of Tanzania documented in 2013 thought of four key approach proposals: (i) defend financial investors' rights and commitments and make them effortlessly available, (ii) increment security for land tenure for investors in the agricultural sector, (iii) upgrade private interest in societal infrastructure, and (iv) better advance and encourage venture for both local and remote firms. The Review is simply the aftereffect of an

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<sup>77</sup> Ibid

<sup>78</sup> Ibid



evaluation embraced by a national team made out of government offices, the society and private segment.<sup>79</sup>

The Government of Tanzania to a degree has reacted to the call to change and enhance the venture atmosphere. The NBC was fruitful in campaigning the legislature to incorporate venture atmosphere change in the current Big Results Now (BRN) activity, a program went for improving key divisions through private and public associations. Delegates from the general population and private division assembled for half a month of gatherings to decide a system for the new BRN need concentrating on a "business empowering condition." The accompanying territories were distinguished as the most serious obstructions to development: controls; land access; fees and taxation; corruption; skills and labor law; and contract requirement. Institutional change proposals incorporate administrative changes went for streamlining business enlistment and activities; implementing property rights; expelling work and item advertise rigidities; upgrading straightforwardness; and strengthening the standard of law. Tanzania was working on enacting a National Private Sector Development Policy, which the administration would have liked to go before the year end 2015.

The trade policy has been compelling as demonstrated in the development of GDP and the Tanzania economy. Somewhere in 2000 and 2008, Tanzania had one of the most grounded development rates of the nation's not producing oil in Sub-Saharan Africa. Yearly genuine GDP development has surpassed 6% for ten back to back years, with 7% and 7.2% anticipated for 2013 and 2014.<sup>80</sup> Tanzania's receptiveness to worldwide exchange has significantly expanded throughout the most recent two decades, as of late the export and

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<sup>79</sup> [www.tzonline.org/pdf/tradepolicyforacompetitiveeconomy.pdf](http://www.tzonline.org/pdf/tradepolicyforacompetitiveeconomy.pdf)

<sup>80</sup> EOC, Investment Policy Reviews: Tanzania 2013. Retrieved from <http://dx.doi.org/10.1787/9789264204348-en>

import sums for example ascended from 45.6% (in 2009-2010) to 59.5% of GDP (in 2012-13). Exports were 22% of GDP and exports and imports have expanded individually by 51% and 59.5% (AfDB, 2011). However, the ascent in imports mirrors an unsafe vitality reliance: in monetary year 2011-12 Tanzania's aggregate imports charge ascended by 39.1% and the current record shortfall dramatically increased (to 16.2% of GDP), in huge part because of expanded oil imports. This circumstance was required to enhance starting at 2014, after finishing of another pipeline bound to give flammable gas instead of imported fuel for power production. 142 In 2015 merchandise exports from Tanzania ascended by 85%, from USD5billion to USD9.5billion. Imports developed by 27%, from USD9.8billion to USD12.5billion. Tanzania is the 96th biggest export economy on the planet. In 2016, Tanzania made exports worth \$6.4Billion and made imports worth \$8.79Billion, bringing about a negative exchange parity of \$2.39Billion. In 2016 the GDP of Tanzania was \$47.3Billion and its GDP per capita was \$2.79k. 143Tanzania transported an estimated US\$3.2b worth of goods in 2017. In 2017, goods worth around 9.93 billion U.S. dollars were imported to Tanzania. The statistics indicate that the trade policy adopted by Tanzania has enabled it to maintain high levels of imports and exports to and from the country. The following are the main areas of Tanzanian Trade policy.

## **3.2 Technical Regulations Cooperation**

### **3.2.1 Rules of origin**

Article 14 of the Customs Union Protocol sets down EAC's preferential rules of origin. In order to stimulate intra-community commerce, they were reviewed in 2015. 5 Goods are classified as goods from the country in which significant works or processes are wholly

generated or subjected. Origin requirements are specified at the commodity level for substantive work or processing

According to the current rules of origin, the absorption theory is permitted. Under this concept, a product with originating status is considered as an originating material used as a primary material in the manufacturing of another product. In deciding the origin of the new product, non-originating products used in its production are not taken into account. Origin cumulation is permitted except for "sensitive" products (Schedule 2 of the EAC CET). Further, if the pricing of non-originating goods may not exceed 15% of the ex-works price of the collection a set of originating and non-originating products can be awarded originating status.

A model certificate of origin is also provided for by statute. Certificates of origin shall be effective six months after issuance; payments associated with this shall not be harmonised between the countries. For small traders engaging in cross-border trade, a simpler process is available. Traders may obtain an EAC Simplified Certificate of Origin at their border for consignments worth USD 2000 or less free of charge.

Under the Tripartite FTA, the EAC countries are currently negotiating preferential rules of origin with both the COMESA and the SADC. According to the authorities, 3,267 (six digit standard based on HS 2017) of the total tariff lines (5,387) had been accepted on the basis of rules of origin by September 2018, and talks continue. In compliance with their respective chosen trade arrangements, EAC countries apply even preferential rules of origin<sup>81</sup>

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<sup>81</sup> Barkan, J. D. (Ed.). *Beyond capitalism vs. socialism in Kenya and Tanzania*. Lynne Rienner Publishers, 2014.

### **3.2.2 Mismatch of Protocols Implementation**

Variance in the interpretation and implementation of various several procedures established triggers trade disagreements between Kenya and Tanzania. In particular, some of the customs protocols was interpreted differently by the two countries. For example a dispute arose between Kenya and Tanzania in 2012 over the interpretation of the duty remission scheme. The said scheme pursues the advancement of manufacture for export policies by allowing vetted manufactures to import inputs duty free to lower their production costs and fetch higher profit margins in the international market. Interpretation on the meaning of export market is a contagious issue between the two countries. On the side of Kenya export constitutes any market outside its borders while for Tanzania it is market outside EAC. Tanzania argued that only countries outside EAC constituted foreign market and for exports to qualify under the said regime it should outside EAC. The argument led a trade embargo between Kenya and Tanzania for Kenyan goods manufactured under the scheme. Tanzania listed all EAC member countries as domestic market and as such should be excluded from rules used to define exports within EAC context.<sup>82</sup>

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<sup>82</sup> Business Daily: <https://www.businessdailyafrica.com/corporate/Tanzanias-Kikwete-pledges-freer-flow-of-goods-from-Kenya/539550-1506750-3njp6dz/index.html>

### 3.3 Descriptive statistics

#### 3.3.1 Technical Regulations Cooperation

Technical regulations and cooperation enhances the formal and informal trade between Kenya and Tanzania. In support of this argument, the study established that there exists a common protocol implementation strategy between the two countries ((Strongly Agree (SA)=10.0%, Agree (A)=73.3%, Neutral (N)=16.7%) whereby both governments have jointly adopted a common ICT platform (SA=10.0%, A=56.7%, N=30.0%, D=3.3%) since application of ICT is encouraged by both countries (A=80%, N=13.3%, D=6.7%). In addition, the two countries have cooperated extensively to enhance trading activities and improve quality of goods traded by participating in ISO certification of cross-border products (SA=16.7%, A=43.3%,N=36.7%, D=3.3%) as well as developing a trade policy that is pro-cooperation (SA=3.3%, A=56.7%,N=40%). The findings has demonstrated that both countries use the same certification agency for products that cross the border (SA=10%, A=50%, N=33.3%, D=6.7%) and therefore cumulative MRAs between the two countries has been increased (A=13.3%, 36.7%, N=36.7% D=13.3%). The findings suggest that technical regulation cooperation between the two countries has been implemented extensively and thus reducing the technical problems that reduces cross border formal and informal trade as per the table 3.1 below.

**Table 3. 2: Technical Regulations Cooperation**

statement	Strongly Agree (%)	Agree (%)	Neutral %	Disagree %	Strongly Disagree (%)
Both countries participate in ISO certification of cross-border products	16.7	43.3	36.7	3.3	0
Both countries use the same certification agency for products that cross the border	10.0	50.0	33.3	6.7	0
The countries have established a joint technical committee	10.0	46.7	23.3	20.0	0
There exist common laws relating to ICT application	10.0	50.0	40.0	0	0
The application of ICT is encouraged by both countries	0	80.0	13.3	6.7	0
Both governments have jointly adopted a common ICT platform	10.0	56.7	30.0	3.3	0
Each country has developed a trade policy that is pro-cooperation	3.3	56.7	40.0	0	0
We have established a common valuation team	6.7	40	43.3	10	0
Common rules of origin have been established between the two countries	13.3	50.0	26.7	10.0	0
There exist a common protocol implementation	10.0	73.3	16.7	0	0
The cumulative MRAs between the two countries has been increased	13.3	36.7	36.7	13.3	0

**Source: Author's field data (2021)**

### 3.4 Chapter Summary

Technical regulations and cooperation plays a critical role towards enhancement of formal and informal trade between Kenya and Tanzania. Technical problems are reduced through implementation of extensive technical regulations. This chapter has focussed on the effect of technical regulations cooperation on the level of trade between Kenya and Tanzania. Institutional change proposals incorporate administrative changes went for streamlining business enlistment and activities; implementing property rights; expelling work and item advertise rigidities; upgrading straightforwardness; and strengthening the standard of law. Kenya and Tanzania participate in implementation of quality standards for their products moving across-border. Technical committees have been adopted by both countries.

Information technology platforms are adopted by both countries to process goods and persons across borders. Trade policies have been formulated and implemented by both countries to advance their countries interest as well as promote both informal and formal trade leading to economic development. The policies include and are not limited to common rules of origin, common protocols and establishment of common valuation teams. These measures will promote both formal and informal trade between Kenya and Tanzania and ultimately lead to economic development in the two countries and the wider EAC region.

## CHAPTER FOUR

### EFFECTS OF TRANSPARENCY OF LAWS MANAGEMENT ON THE LEVEL OF TRADE BETWEEN KENYA AND TANZANIA

#### 4.1 Introduction

With 5.8 percent and 7.2 percent growth rates respectively reported in 2016, Kenya and Tanzania are some of Sub-Saharan Africa's fastest growing economies. Blue economy resources are present in both Kenya and Tanzania due to the strategically located sea which is as an entrance to the EAC and Central Africa. However, the two countries continue to compete instead of relying on cooperation to improve trade and regional growth, and historical rivalries have seen high barriers to cross-border commerce, in total disregard to the EAC Common Market Protocol (CMP), which they are party to and meant to guarantee the free flow of goods, services, capital and investment. One conspicuous obstacle to the free flow of goods, services and resources between the two nations are the initiatives contained in the EAC Common Market Protocol. Tanzania is the only SADC partner country among the EAC and is not a member of COMESA and thus mainly focuses on trading with the SADC countries, in particular South Africa, thus putting barriers to trade against EAC partner nations. Furthermore, the usage of NTBs in Kenya increased by more than a double figure in 2016 from 10 to 23, and more than triple in Tanzania, 7 to 24, pointing to major barriers to regional integration, according to the 2016 Common Market Scorecard (CMS 2016).

The Joint Business Council (JBC) will play an instrumental role in addressing trade problems that exist between Kenya and Tanzania. Private sector alliances for both countries (the Kenya Private Sector Alliance, KEPSA and the Tanzania Private Sector Foundation, TPSF have collaborated to achieve this goal. The two organizations have signed a memorandum of



understanding to help recognise existing problems as well pursue mutually advantageous solutions, and, if possible, iron issues that don't need government interventions, through their respective umbrella organisations.

#### **4.2 Transparency of Laws Management and the Level of Trade Between Kenya And Tanzania**

The study revealed that there exists weaknesses on transparency of laws management between Kenya and Tanzania which have negatively affected trade relations between the two countries. One of the respondents indicated that a Tanzanian trader (02 Export Gem Company limited of Arusha, Tanzania) had exported a consignment of minerals to Kenya but failure to seal the business deal caused the consignment to be directed to the country of origin (Tanzania)<sup>83</sup>. Despite all documentations regarding the return of the consignment being processed and concluded between TRA and KRA, KRA did not release the consignment to the trader. Efforts were made through phone, physically and in writing but KRA continued holding the consignment since November 2018 to date. The affected company has continued to incur losses which include hotel bills, escort fees, storage fees, transfer car fees and document processing fees. Kenya was urged by Tanzania to give reasons for holding the consignment for nine months but no explanation was provided. Instead, Kenya acknowledged it had taken note of the issue and was following the due process of EAC laws and regulations to resolve the issue. Tanzania, urged Kenya to ensure the minerals are released without demurrage or storage costs and with immediate effect. The solution was successful as it led to the release of the consignment and the demurrage and storage charges were waived.<sup>84</sup>

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<sup>83</sup> Odhiambo, W., & Kamau, P. (2018). Public procurement: lessons from Kenya, Tanzania and Uganda.

<sup>84</sup> Interviewee

The matter was resolved after Tanzania asked for the immediate release of the consignment with no extra charges. Kenya on its part committed to releasing the minerals to the Tanzanian trader on 27th April 2019 at the Taveta border. The issue indicates that there is no unconditional cooperation between the two states in terms of trade. The two countries seem to be in constant disputes even for issues that can be resolved amicably. There is need to iron out the issues between the two countries to eliminate the differences that threaten to disrupt the cooperation between them<sup>85</sup>.

The study also revealed that KPA/KRA held Tanzanian's fifty containers of cement, gypsum board and gypsum powder and this due to ban that has stripped transshipment if containers from Mombasa to Pemba. The ban on stripping had made it difficult for the importer to clear the 50 containers making the accumulated demurrage charges and storage costs to be higher than the value of the consignment value. Charges include shipping line for MSC Euro 26,000, shipping line for CMA on 40 containers \$ 240,000, Wharf age US\$39,000, KRA warehouse rent US\$39,000. Tanzania submitted all the necessary evidence that was required and Kenya promised to take note of the issue and report back. The position of Tanzania was that the consignment should be released and all the demurrage and storage costs waived. Kenya was to study the evidence during the meeting and revert back during the course of the meeting. Kenya agreed to study the evidence provided to revert back within a month. The solution has not been achieved, but it is expected that it will offer a long-lasting solution to the issue of concern<sup>86</sup>.

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<sup>85</sup> Ackello-Ogutuu, C., & Echessah, P. N. *Unrecorded cross-border trade between Tanzania and her neighbors: Implications for food security*, 2016.

<sup>86</sup> Korir, M. K., Odhiambo, M. O., Kimani, P. M., Mukishi, P., & Iruria, D. M. *Spatial price integration: A cointegration approach to regional bean markets in Kenya and Tanzania*, 2018.

The issues between Kenya and Tanzania keep on recurring with regards to trade between the two countries. To ends the stalemate between them, it is necessary to engage the EAC secretariat to provide guidance on these two partner states on the issue of ban of stripping within a month. This will help to eliminate future disputes in this area and ensure compliance with set regulations<sup>87</sup>.

Another problem noted was increased inspection fee for all trucks from Tanzania. The Kenya Plant Health Inspectorate (KEPHIS) increased its inspection fee for all trucks from Tanzania from Ksh. 1600 to Ksh. 8100 per truck. Tanzania argued that Kenya needs to revise the fee down from Ksh. 8100 to Ksh. 1600 given that the decision was only distorting trade among the partner states in EAC and not promoting it. KEPHIS is still charging KSH. 8100. Kenya agreed to continue charging the inspectorate fees as follows for 0 to 20,000kgs -50 cents minimum to Ksh. 2,000. 20,001 to 400,000kgs would be charged 25 cents, while 400, 001 to 1,000,000 kgs would be charged 15 cents. And those above 1,000,000 would be charged 5 cents. An agreement was reached that each agency should continue charging its own charges until harmonization takes place. Tanzania agreed to recognize the certificate of analysis issued by KEBS and urged Kenya not to charge TBS certified wheat already packed in 25 kgs, 10 kgs, 5kgs and 2kgs. The issue is yet to be resolved but the harmonization of the charges is expected to eliminate the stalemate that exists between the two countries<sup>88</sup>.

It is recommended that each of the agencies should continue charging their own rates until the harmonization is completed in June 2019. The dispute emerges from the contest between the two countries as they try to emerge as the economic power in the region. It is important to

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<sup>87</sup> Ihle, R., Cramon-T, and Zorya, S. "Measuring the integration of staple food markets in Sub-Saharan Africa." Heterogeneous infrastructure and cross border trade in the East African community, 2011.

<sup>88</sup> *ibid*

have an envoy involving members from the two states to sit down and talk about the differences that are rooted in economic control of EAC. This will help to eliminate further dispute from occurring with regards to trade between the two countries<sup>89</sup>

The study revealed that Kenya is not implementing SCT for goods originating from united republic of Tanzania making it hard for Tanzania business community to enjoy the benefits of SCT. Kenya was still partially implementing the SCT for products whose destination was Tanzania and not for goods from Tanzania to Kenya. The bilateral meeting held between the two countries concluded that the issue would be finalized by having TRA and KRA finalize their issues and upload Tanzania products in their system by July 2018. Kenya was also required to deploy staff to Dar es Salaam, Tanzania by October, 2018 as part of implementing SCT. Kenya did not provide a clear answer as to when it will start using SCT when clearing goods from Tanzania. Kenya agreed to deploy its Customs Officers in Tanzania for implementing SCT. To resolve the issue Kenya agreed to deploy its staff to Dar es Salaam in Tanzania by the end of October by 2018 by implementing SCT. The deployment of the staff would make it easier to implement the SCT for goods originating from Tanzania. It would promote full implementation of SCT in both countries helping to end the dispute filed by the United Republic of Tanzania<sup>90</sup>.

Kenya did well to commit itself to implement SCT by September 2019 as a way of improving trade between the two countries. This would ensure full implementation of SCT for goods

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<sup>89</sup> Mutangili, S. K. (2019). Fighting Corruption and Promoting Integrity in Public Procurement: Comparative Study between Kenya and Tanzania. *Journal of Procurement & Supply Chain*, 3(1), 48-62.

<sup>90</sup> König, T., Blatt, J., Brakel, K., Kloss, K., Nilges, T., & Woellert, F. 10 value chains and regional trade in East Africa: the case of vegetables in Kenya and Tanzania. *Vegetable Production and Marketing in Africa: Socio-economic Research*, 2019, 149.

destined for Tanzania and those originating from Tanzania thereby eliminating future disputes with regards to implementation of SCT<sup>91</sup>.

The study revealed that there exists double inspection by the Kenya Bureau of Standards (KEBS). It came to the attention of the URT that certified products originating from Tanzania were being retained at the Namanga border post for 14-30 days pending KEBS conformity assessment which is contrary to the EAC agreement on recognition of notified quality marks. Partner states in the region had agreed to mutually recognize the quality marks and standard regulatory authority from EAC ensuring smooth movement of tradable goods in the region. Once a product has been approved by a competent authority in the member states there is no need of rechecking the same by counterpart Authority in another partner states. Kenya Bureau of Standards (KEBS) had continued to conduct double checks for quality of products already checked and approved by Tanzania Bureau of Standards (TBS) causing goods to be held for up to 21 days. Such actions to detain trucks carrying certified goods from Tanzania goes against the SQMT Act 2016 which provides power to standard national bodies to conduct conformity assessment on EAC certified goods. Kenya continue to contravene these agreements by inspecting products from Tanzania despite the products having TBS marks of quality.<sup>92</sup>

The EAC surveillance inspection procedures do not provide for the holding of consignments at the border but they should be released on condition that they are not sold until the reports are out and the certification is done. The exporting partner state needs to be notified of their non-conforming products to follow up on the corrective action to be taken. Issuing general suspension on imports is not procedural for such products. KEBS confirmed that it was

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<sup>91</sup> ibid

<sup>92</sup> ibid

following the standard procedures and it submits to the EAC SQMT Act that allows for products that are not conforming to be recalled and TBS confirmed this corrective action which allowed exportation of tiles to continue from Tanzania<sup>93</sup>.

In resolving the issue both Kenya and Tanzania have agreed that the issues relating to suspension have been dealt with. The parties agreed to follow the proper procedures as stipulated in the EAC SQMT Act 2016 to ensure that such disputes do not arise in the future. This will help to reduce accusations that one partner state is engaging in non-procedural practices when dealing with imported goods from member states.<sup>94</sup>

The study also established that there exists discriminative Excise Duty that hinder TBL beer export to Kenya. The Government of Kenya through KRA imposed discriminative excise duty on beer products produced outside Kenya. Tanzania raised the issue given that beer produced by TBL would not fetch optimal export markets in Kenya. This goes against the prior agreement by both nations to harmonize domestic taxes during a bilateral meeting held on 3 rd -5 th July 2018 in Dar es Salaam. Tanzania argues that, the discrimination is in violation of article 15 of the customs Union Protocol that prohibits imposing direct internal taxation on goods from other partner states in excess of that imposed on similar domestic goods. However, Kenya still applied discriminative excise duty on beer citing that the duty applies to beer produced from agricultural products other than barley<sup>95</sup>.

In resolving the issue, Tanzania urged Kenya to eliminate discrimination between beer produced from other EAC partner states exported to Kenya and locally produced beer. Kenya

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<sup>93</sup> Booth, D., Cooksey, B., Golooba-Mutebi, F., & Kanyinga, K. *East African prospects; an update on the political economy of Kenya, Rwanda, Tanzania and Uganda*. University of Nairobi, 2018.

<sup>94</sup> Lesser, C., & Moisé-Leeman, E. (2019). Informal cross-border trade and trade facilitation reform in Sub-Saharan Africa.

<sup>95</sup> Mahona, B. K., & Mjema, G. D. Determinants of Tanzania and Kenya Trade in the East African Community: A Gravity Model Approach, 2018.

agreed that the issue was a domestic tax matter and would be discussed in its own forum which is under domestic tax harmonization. The matter was resolved by harmonizing domestic taxes in the two states. It is recommended that the partner states work together in identifying the areas that might raise disputes in terms of trade. This will make it easier to ensure that no domestic tax issues hinder trade between the two partner states. Possible steps to undertake include harmonizing of all domestic taxes that touch on imports and exports to EAC member states<sup>96</sup>.

The study also revealed that there are delay practices when conducting physical inspection. Tanzania complained that Kenya was intentionally and unnecessarily holding up goods when inspecting them at the border. KRA takes up to 7 days to carry out physical inspection and approvals for goods entering for Tanzania Breweries Limited (TBL) consignment at the border which is too much time for such an exercise. The delays were affecting the efforts of enhancing regional trade in EAC. Tanzania argues that Kenya should stop the delaying tactics when clearing products from Tanzania and clearance needs to be undertaken at the respective borders according to the agreement and within the prescribed time. In resolving the issue, Kenya agreed that the Trade Facilitation Mechanism will be used to clear goods to ensure that the time taken to carry out the process is reduced. Tanzania on its part ensures that Kenyan goods are cleared within a day by using SCT Systems. Tanzania proposed that Kenya should use Single Customs Territory System when clearing goods destined for Kenya<sup>97</sup>. The issue of trade disputes can hinder cooperation between member states due to unfavourable terms of trade. Kenya has assured its commitment to the use of Trade Facilitation Mechanism to fast-track the clearance of goods originating from EAC partner states.

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<sup>96</sup> Mahona, B. K., & Mjema, G. D. Determinants of Tanzania and Kenya Trade in the East African Community: A Gravity Model Approach, 2018.

<sup>97</sup> Ibid

Further, the study established that Kenyan printed labels are denied access to Tanzania markets. Kenya argue that its printed labels were not allowed access to Tanzania market. Despite the process of manufacturing labels being same in Tanzania and Kenya, labels from Tanzania were accorded preferential EAC treatment. On its side, Tanzania argued that labels made in Kenya do not qualify for Certificate of Origin due to non-value addition by at least 30 percent of ex-factory costs of goods based on EAC Rules of Origin. Tanzania argued that label manufacturers are non-manufacturers and converters thereby making them unqualified for preferential tariff treatment. Kenya noted that it accorded printed labels from Tanzania preferential treatment despite the fact that they were not raw materials for purposes of label in the EAC region. The dispute was resolved through an agreement between both parties, Kenya and Tanzania to adopt similar treatment of printed labels. Tanzania was requested by Kenya to accord preferential treatment to its printed labels. During the SCTIFI meeting of November 2018, Tanzania affirmed its commitment towards according preferential treatment to printed labels originating from Kenya. Tanzania submitted and confirmed to the meeting that from 2018 it was according Kenyan labels preferential treatment since 2018 but its printed labels were not accorded preferential tariff treatment when transferred to Kenya<sup>98</sup>. The first step towards eliminating the dispute between the two nations with regards to the printed labels being accorded preferential treatment is the commitment of Kenya and Tanzania to accord preferential treatment to labels. However, it is necessary to ensure that both countries appoint an envoy to discuss and iron out issues affecting trade between these two partner states. This will help to eliminate mistrust and disputes allowing enhanced cooperation and improved trade between the countries.

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<sup>98</sup> Mahona, B. K., & Mjema, G. D. Determinants of Tanzania and Kenya Trade in the East African Community: A Gravity Model Approach, 2018.



Also there is lack of preferential treatment to Kenyan products especially cement and tobacco. According to the EAC Rule of Origin, cement companies producing cement with locally produced clinker should be accorded preferential treatment. Those using both locally produced and imported clinker should wait for Rule 11 of Rule of Origin to be implemented. Kenya protested that Tanzania was not following the Rule of Origin procedures and it failed to accord Kenyan cement companies' preferential treatment. Tanzania affirmed and argued that it was according companies used locally produced clinker preferential treatment. It was therefore implementing the report on verification mission on cement to its fullest. Kenya disputed these assertions made by Tanzania and reiterating that Kenyan cement companies including those sampled during the verification exercise were still denied access to Tanzania's market. Tanzania confirmed receipt of the evidence and confirmed it was working on it. For companies producing cement using locally produced and imported clinker, they would have to wait for the Rule 11 of Rules of Origin to be implemented. It was agreed that companies producing cement using locally produced clinker would be accorded preferential treatment under the EAC Rules of Origin. The TRA asserted that it gives feedback on the issue of implementing rule 11 in one week<sup>99</sup>.

The two countries have made a crucial step towards dealing with the dispute by admitting that discrepancies exist in according preferential treatment to Kenyan cement companies. It is recommended that the EAC secretariat should constitute a team of experts to establish how Rule 11 of the Rules of Origin will be implemented during the next SCTIFI. This will ensure that the issue is dealt with conclusively.

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<sup>99</sup> Mahona, B. K., & Mjema, G. D. Determinants of Tanzania and Kenya Trade in the East African Community: A Gravity Model Approach, 2018.

Introduction of printed codes/tax stamps Dispute: Kenya introduced tax stamp or printed codes on KEG and beer imported or manufactured in Kenya with effect from 1st February, 2016 at a cost of Ksh. 150 raising the cost to US\$5/HL. Kenya has continued to charge the stamp and printed codes. Tanzania requested the lowering of these charges and fees and to implement electronic issuance to reduce costs. In response Kenya reported that the issue of stamps is a domestic function issue that falls under domestic Tax harmonization. It was agreed that the issue would be handled under the domestic tax harmonization to eliminate the dispute. Both countries agreed to wait for the process to be completed to guide on how charges could be imposed on exported beer and KEG. It was recommended that Tanzania should wait for the completion of the domestic tax harmonization as this would provide a lasting solution to the issue. The process would help to eliminate any confusion in terms of the fees charged on beer and KEG exported from Tanzania.

After the collapse of the EAC, Kenya leveraged on already established airline, East African Airways to make to establish its own national Airways Company, Kenya Airways. The move angered Tanzania, which accused Kenya as not having good will and reacted by banning exports from Kenya. The move led to the decline of Kenyan exports while Tanzania tourism sector was affected. The two countries initiated a dialogue meant to stabilise relations. The negotiations took long due to the high demands by the two countries until change of leadership regimes, which gave rise to relations taking a more positive turn by opening the border between them. Another pivotal role towards addressing the dispute was played by the The U.N. Economic Commission for Africa.

also played a key art in softening the stance of the two states in their dispute.

Despite the negotiation and re-opening of the Kenya-Tanzania border the move seems to be for convenience and there is no unconditional cooperation. Any slight provocation from any of the two states will collapse the cooperation. I recommend here that these two states need to create a special convoy that would iron out the difference that seem to be deeply rooted on the economic control of the region in East Africa

#### **4.3 Unresolved and introduction of new non-tariff barriers and technical barriers**

The study exposed the non-tariff hurdles and technological challenges unsolved, including a refusal of preventive care for products that originates from Kenya including: edible oil, automotive (Toyota report), textiles, plastic stripping products, cement, tobacco, etc. The study found that there are many institutions in Tanzania which impose charges and inspect products. This includes Tanzania Dairy Board, TFDA, the Veterinarian Department, Longindo and the Local Municipal Councils of Arusha, Tanzania Atomic and Radiation Council, Tanzania.<sup>100</sup>

In Tanzania, regulatory costs are high, restricting trade ties between the two countries. In Tanzania, for example, it takes up to 10 days to process SCT documents and not the planned 3 days. The payment by Kenyan licenced lorries of USD \$300 per year is mandatory. The business licence fee for Kenyan companies is high, which is USD 200<sup>101</sup>.

The research has also shown that there are difficulties with the verification of norms in Tanzania. Kenyan shipments into Tanzania, for example, are subject to checks at manufacturers' premises but trucks must also travel through ICDs for complete border inspection. Also after the products have been accepted by KEBS, certificates of examination

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<sup>100</sup> Mjema, G., Mahona, B., & Bagumhe, P. Determinants of East African Community Trade: A Gravity Model Analysis of Trade Flows between Tanzania and Kenya. *Management*, 23(25). 2012.

<sup>101</sup> Ibid

and health certificates are required. Tanzania requires the compulsory re-fumigation, while handled in Kenya, of wooden pallets that reach Tanzania. This is a big obstacle for SPS.

In addition, the Tanzanian Food and Drugs Authority (TFDA), according to the study findings, is involved in various activities that are recognised as obstacle to a smooth trade terms with foreign investors. Registration of TFDA's goods reflects a double charge for the other countries of \$1000 and includes renewal at the same price after every five years, \$300 regarded for annual retention fee which, according to traders is very high and discouraging. The obligation for companies exporting to Tanzania to register, re-label and replace accredited EAC Partner states by Tanzania Food and Drugs Authority (TFDA) e.g. the trade ties between Kenya and Tanzania dispute the obligation to label TFDA for salt and dairy products imported into Tanzania. In comparison, TFDA registers injectables according to packaging size and handles each substance individually, making retaining licences very costly for the product. In addition, the checks are being delayed, especially on milk and other restrictions on exports to Tanzania of dairy products. The research, on the other hand, showed that Kenya declined to handle wheat flour and Tanzanian gas products preferentially

#### **4.4 Challenges in trade facilitation due to non-harmonized systems across the EAC partner states**

Not all EAC Revenue Agencies have harmonised customs (border control institutions) operating hours. For instance, TRA offices are closed at the Nairobi Inland Container Depot by 1500hrs which is two hours earlier than KRA offices (ICD) and therefore hindering clearance processes. The charges / road tolls are not harmonised with road users. This leads to disparities in costs for transport to multiple areas and ultimately leading to fluctuations in

transport costs. Many monetary fees paid for the export of milk and other dairy products by various EAC Partner States agencies has led to varying cost of goods transport.

Products and services from Kenya and the EAC Region join TZ, along with goods from the SADC region, are subject to several trade barriers. This leads the Kenyan export of goods to Tanzania to unfair competition. The exports of Tanzania are much cheaper in contrast to Kenya, which imposes tariffs on its imports, and they make their way to Kenya to create unfair competition. Food and non-food goods standards of Regulatory and time usage, including import permits: the products require sample checking and clearance is 2-3 months at an annual fee of USD200. Cosmetic and drinks' clearance take approximately 3 months and in some circumstances the procedure is tedious and takes longer.

It has reportedly always been a matter of public and even particular private players to develop business in Kenya for Tanzanians. The government still intervenes highly. For starters, Tanzania local beer has always been too hard to penetrate Kenya. Tanzania beers in Kenya can hardly be found

#### **4.5 Challenges and Barriers to Bilateral Private Sector Business And Trade**

In order to become more competitive on the global market, to increase conditions for domestic enterprises, to increase trade and investment in the region, the East African Community (EAC) was created by partner states. With Kenya and Tanzania seeking to develop their markets and boost their people' livelihoods, a flourishing private sector is important. Clear, cohesive legislation facilitating the creation of their companies and the sale of their goods and services to their customers on both domestic and export markets are a central cornerstone for the growth of a flourishing private sector. The productivity of

domestic suppliers on domestic, regional and foreign markets has been increasingly important for the progress of globalisation and increased access to and linkage on foreign markets.

The following are the problems found in Kenya by the private sector as limiting their access to Tanzania's business and trade markets and by the private sector in Tanzania as limiting their access to the Kenyan business and trade markets. The continued presence of these barriers and obstacles both weaken the mutual interest in the increase of bilateral trade and investment, and also harm their respective private sector's ability to competition from imports from outside the EAC within their domestic and regional markets.

#### **4.5.1 Kenyan Private Sector concerns**

According to Immigration (Amendment) Regulations 2016 (Tanzania) requires EAC citizens to pay \$250 before being issued with business passes into the country. EAC nationals do not qualify as independent consulting engineers under the Engineers Registration Regulations 2016 (Tanzania). Further still, The Petroleum (Local Content) Regulations, 2016 (Tanzania) allows contractors, based on a needs test, to maintain local engineering company services unless a CRB exception is given. The rules also offer preference to the utilization of banks operating in Tanzania for financial transactions. All these regulations pose hindrances to formal and informal foreign traders in Tanzania.

The Procurement Amendment Act 2016 (Tanzania) enhances engagement in public procurement by EAC domiciled companies by requiring the inclusion of local experts and local businesses in consulting activities. V. Public Procurement and Disposal of Public Assets Act 2016 (Zanzibar) Provision 8(2)(d) of the Public Procurement and Disposal of Public Assets Act 2016 (Zanzibar) proposes VATs on outputs and inputs of taxable non-Zanzibarians and refuses input tax credits unless the foreigner pays for production tax in the

same VAT return as the tax claimed. It then gives priority to Zanzibar businesses and also mandates local Zanzibar content and collaborations.

The 2016 Media Services Act (Tanzania) empowers the minister to recommend international business shareholdings. EAC corporations are also known as extraterrestrial S. 3. Regulations of Media Facilities, 2017Reg. 4(1)(b) requires a 51 percent local shareholding quota for print media licences. The Chemist Professionals Act (2016) (Tanzania) mandates the Chemist Professional Council to temporarily allow, register and enlist foreign medical professionals only if the individuals are already engaged in the exercise. The registration ceases to be productive upon ceasing to be engaged or after the expiry of the term. This prohibits practitioners in the chemists sector from finding free entry to find work in Tanzania.

Valuers Registration Bill (2016) (Tanzania) Article 28(d) of the Bill enforces temporary registration for a period not exceeding 1 year for non-citizen valuers, and registration can only be carried out when the person is engaged in the particular assignment. The registration of the person becomes inactive upon the expiry of the duration or the assignment. This is a barrier to the free flow of labour, since only candidates already interested in valuation are eligible to join and even so for a brief period of time.

Additional registering processes including a previous application by the Commission of Science and Technology for approval was adopted by the Fisheries Research Institute Act (2016) (Tanzania). In violation of Article 16 of the CMP, freedom for travel within the EAC of service providers is provided for. The Statute of the Agricultural Research Institute (2016) (Tanzania) refuses the permission for research proposals by international researchers without local partnerships (Mandatory partnerships). This clashes with Article 16 of the CMP, where free movement of service providers is provided for within the EAC.

The Professional Medical, Dental and Allied Health Bill (Tanzania) 2016 includes an extra medical council clearance and allows for a restricted licence for work. Tanzania Health, Medicines & Cosmetics (Food Imports & Exports) Regulations, 2006 requires importing food to be Tanzanian food inspector certified 'No custodial food imported is to be withdrawn until it is tested or checked in writing, if appropriate, and certified to be suitable for consumption by the inspector.' They are also subject to routine inspections.

Insurance Act of Tanzania, 2009S. 44(3) stipulates that no insurer contributes, or otherwise lends the insurance funds outside Tanzania, except with the prior written consent of the Commissioner. Tanzania controls global direct and portfolio investment, international loans to non-residents, foreign property purchases, residents' activities in overseas foreign-exchange funds and non-resident stakes in domestic capital markets and stock markets. For example, EAC investors have been barred from investing in the 213 million dollars of the Vodacom IPO, in violation of Tanzania's May 2014 forecast reforms that allow EAC residents to acquire 40% of their borrowings.

According to the 2011 (Tanzania) Electronic and Postal Communications Laws, applicants for a broadcasting licence are expected to apply a list of shareholders of at least 51% local ownership. The Regulations also mandate a licensee to provide evidence to the authorities of the management of the minimum local stock condition before the sale of shares. Regulations 2016 (Tanzania) ban providers not integrated or licenced in TZ from the provision of cryptographic and qualification services Electronic transaction (Cryptographic and Certification Services Provider).



#### **4.5.2 Tanzanian Private Sector concerns**

Mining law 2016 (Kenya) reserves the access to mining for Kenyan businesses alone, with a Kenyan-owned Kenyan Mining bond of 60%. The Act 2015 on the procurement of public procurement and properties (Kenya), by describing citizenship contractors as a business wholly owned or operated by the individuals who are a citizen of Kenya, limited and discriminatory against other EAC Partner States. It also retains for people 21% of the overall procurement appraisal. Kenya's locally owned companies working in the extractive industry are favoured by Bill 2016 (Kenya). It also offers prevention of compulsory transition of expertise for Kenyan suppliers in mining.

Energy and petroleum Bills 2015 (Kenya) mandate that an engineering advisor may register a consultancy firm if at least 51 percent of the shares in a company carry Kenyan residents. Local products, facilities, labour, training and financing are mandatory. Advocate act cap 16 rejects lawyers in other Kenya EAC partner states unless they are advised and challenged to the courts by a Kenyan prosecutor. You cannot either sign or plead before the court. Engineering Technologists and Technicians Act 2016,s 18(1)(b) specifies that the Kenyan nationals hold at least 51 percent of the shares and residence permits in respect of registers for companies, local incorporations or enterprises.

The Regulations 2015 17(1) requires that a Kenya company shall hold at least 15% of the paid-up equity capital of a derivative exchange. Investment promotion act 2004 directs the claimant to an investment certificate if:- the foreign investor's investment value is at least \$1000 thousand or equal in any foreign currency.

#### **4.6 Mechanisms that could be used to resolve the Existing Disputes**

Countries have a number of alternatives available to them in trying to realize a peaceful resolution of their cross-border disputes with their neighbours. Some of the common dispute resolution that may be applied in the case of Kenya and Tanzania dispute include:

An internationally tested mechanism of resolving disputes between countries is bilateral negotiations. Kenya and Tanzania have been able to settle cross-border disputes without involving any other party through the mechanism of bilateral negotiation. Bilateral negotiations have enabled the two states to fully control their dispute settlements. The resultant product is establishment of common agreement and promotion of good long-term cooperation accompanied by mutual benefits accruing to the two countries.

Another mechanism employed is third party mediation. Kenya and Tanzania have involved other EAC countries such as Uganda and Rwanda to negotiate sustainable solutions to their dispute. This mechanism has been of great success due to the neutral stance of the negotiating countries.

A third mechanism employed is Arbitration and Jurisdiction. This employs legal instruments to solve disputes. Institutions such as International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea have been of critical importance in solving some of the disputes between Kenya and Tanzania.

Cross-border cooperation is yet another mechanism, which involves establishment of peace agreements between the disputing states. In some instances, Kenya and Tanzania have entered into peace agreements through the creation of conditions meant to foster collaboration across their borders. These measures entail social support to border

communities. Other initiatives in Cross-border cooperation aim at eliminating physical and psychological hindrances to trade and communication. The ultimate output is enhancement of economic, social, and territorial cohesion between the two states.

Kenya and Tanzania have utilized Cross-border Economic Cooperation Economic. These initiatives aim at realizing economic benefits. In this mechanism, transnational resources are managed jointly through the establishment of cross border organizations. Masai Mara and Serengeti National Park and Lake Victoria are examples of transnational resources upon which the two countries cooperate.

Multilateral System (WTO): - The World Trade Organization has establish a system, Multilateral System for its members to use if they are faced with dispute. The Multilateral System sets out the procedures and the timetable in resolving disputes between two states. In the case of Kenya and Tanzania, any aggrieved party is free to seek the intervention of the Multilateral System through the Dispute Settlement Body mandated to settle disputes between member countries. The Dispute Settlement Body adjudicates the countries differences by setting up committees of experts to hear the case and proffer the way forward.

Inquiry or Fact-Finding: - This entails the two disputing parties establishing a body of inquiry or fact-finding to find out the basics of the issue so as to establish if the said violation was committed, to determine what obligation or treaties could have been dishonoured and give a suggestion of remedies or actions to be taken by the parties. The findings and recommendation of the inquiry are not binding. The nature of Kenya and Tanzania dispute need this type of mechanism so as to establish the cause of their dispute. They can then combine it with negotiation to create a mutual permanent solution.

## **4.7 Descriptive statistics**

### **4.7.1 Transparency of laws, Regulations and Administrative Rulings**

As one of the strategies to enhance formal and informal trade between Kenya and Tanzania, the present study identified transparency of laws, regulations and administrative rulings as key factor. The findings established that 3.3% of the respondents strongly agreed, 70% agreed and 26.7% were undecided that there has been increased trade facilitation measures among the two countries. Additionally, 16.7% of the respondents strongly agreed, 36.7% agreed, 36.7% were undecided while only 10.0% disagreed that there has been minimal irregular payment of imports and exports and reduced corruption index in the border points as a result of transparency of laws, regulations and administrative policies. Additionally, other transparency measures to enhance formal and informal trade between the two countries according to the study findings include transparency in government policies relating to trade (A=56.7%, N=36.7% D=6.6%), equal treatment of either country products (SA=10%, A=36.7%, N=43.3% D=10.0%) and minimum favoritism in government officials decisions (A=50.0%, N=40%, D=10%). The study findings generally shows that there are various strategies implemented by the governments of the two countries aimed at facilitating cross border trade through transparency of laws, regulations and administrative rulings as per table 4.1 below.

**Table 4. 1: Transparency of laws, Regulations and Administrative Rulings**

Statement	Strongly Agree (%)	Agree (%)	Neutral %	Disagree %	Strongly Disagree (%)
There is transparency in government policies relating to trade	0	56.7	36.7	6.6	0
There is minimum favouritism in government officials decisions	0	50	40	10	0
There is minimal irregular payment of imports and exports	16.7	36.7	36.6	10	0
The corruption index in the border points has reduced	0	60	40	0	0
Over the last five years there has been unresolved NTB disputes	6.7	46.7	30	16.6	0
There has been increased trade facilitation measures among the two countries.	3.3	70	26.7	0	0
There is no preferential treatment of either country products	10	36.7	43.3	10	

**Source: Author's field data (2021)**

#### 4.8 Chapter Summary

Kenya and Tanzania have had a good share of dispute in their relations, this is despite the membership of these two countries in the East African Community that seeks to create a harmonious relations in East Africa. The relations between Kenya and Tanzania weakened sharply in the latter 1970s, but then again, since 1983, they entered a new period of cooperation. Since then Kenya and Tanzania have not had any critical dispute, they have however had small dispute that have been due to trade wars, which have not warrant any serious intervention from the two national governments except for bilateral meeting that have been used to negotiate their disputes. Traders from these countries crossing borders have been left frustrated by duties on some commodities, bans on certain imports and cargo hold-ups at border crossings. There is high chance for cross border disputes in countries in Eastern Africa due to discoveries or more exploitation of trans-boundary resources. Trade disputes between

Kenya and Tanzania have range from, trade confrontation over the testing of commodities to job loss to foreigners as highlighted by the xenophobic remarks by one of the MPs in Kenya.

**CHAPTER FIVE**  
**SUMMARY OF RESEARCH FINDINGS, CONCLUSION AND**  
**RECOMMENDATIONS**

**5.1 Introduction**

This chapter presents the findings and discussions of the study. It focuses on the response rate, the respondent's demographic statistics and background information of the organizations, descriptive statistics, inferential statistics and discussions of the research findings. The findings were presented in conjunction with the study objective; assessment of cooperation and management of formal and informal trade for promotion of development in Africa: A case of Kenya and Tanzania.

**5.2 Descriptive Statistics.**

The questionnaire items were measured using a 5-point Linkert scale (1-strongly disagree (SD), 2-Disagree (D), 3-Neutral (N), 4-Agree (A), 5-strongly agree (SA)). The respondents were asked to rate the statements provided in each section based on the Linkert scale. The higher the percentage of respondents in either of the five options imply that that statement suits the option that majority of the respondents chose.

**5.3 Formal and Informal Trade**

The study aimed to assess the extent at which custom procedures and non-tariff barriers, technical regulations cooperation and transparency of laws, regulations and administrative rulings have impacted formal and informal trade between Kenya and Tanzania. The study findings shows that as a result of standardization of custom procedures aimed to facilitate cross border trade, there has been more variety of products being traded across the two

countries, an idea that 46.7% of the respondents agreed (A) while 36.6% strongly agreed (SA). The findings further demonstrate that there has been increased compliance by traders (SA=26.7, A=53.3%, N=16.7) Reliability of custom clearance (SA=23.3%, A=56.7, N=20), increased foreign investment in the respective countries (SA=20.0%, A=63.3%, N=16.7%), increased revenue from the border fees (SA=26.7%, A=46.7%, N=23.3%, D=3.3%) as well as increased volume of trade between the two countries (SA=13.3%, A=50.0%, N=36.7%). This is an indication that custom procedures and non-tariff barriers, technical regulations cooperation and transparency of laws, regulations and effective administrative rulings have influenced formal and informal trade between the two countries efficiently.

The findings are presented in table 5.1

Table 5.1: Formal and Informal Trade

Statement	Strongly Agree (%)	Agree (%)	Neutral %	Disagree %	Strongly Disagree (%)
The volume of goods confiscated through informal routes has reduced	3.3	73.3	23.4	0	0
The volume of trade between the two countries has increased	13.3	50.0	36.7	0	0
Increased compliance by traders	26.7	53.3	20.0	0	0
Increased foreign investment in the respective countries	20.0	63.3	16.7	0	0
Increased revenue from the border fees	26.7	46.7	23.3	3.3	0
Reliability of custom clearance	23.3	56.7	20.0	0	0
More variety of products being traded across the two countries	36.6	46.7	16.7	0	0

**Source: Author's field data (2021)**



#### **5.4 Discussion of Research Findings**

The study aimed to assess the extent at which management and cooperation of formal and informal trade can lead to development in Africa through formal and informal trade. The study focused on two African countries; Kenya and Tanzania. Cross border trade management and cooperation can be achieved through various ways however, the present study focused on three major strategies that the two countries have employed which were custom procedures and non-tariff barriers; technical regulations cooperation; transparency of laws, regulations and administrative rulings.

The study established that custom procedures and non-tariff barriers has a positive relationship and significant impact on promotion of formal and informal trade for development in Africa. Some of the respondents strongly agreed that communication, which is very important for coordination of trading activities, has been established between the NTB focal points in each country. However, the custom procedures and non-tariff barriers can result into negative impact on crossborder trade if its implementation does not consider minimum required interest of the private sectors and other players in the bilateral trading activities. Technical regulations cooperation, according to the study findings, enhances cooperation and management of formal and informal trade for development in Africa. This is attributed to the positive beta coefficient of the variable which statistically shows that a unit increase in Technical regulations cooperation enhances management of formal and informal trade between Kenya and Tanzania by equivalent beta coefficient. The research results based on transparency of laws, regulations and administrative rulings showed that there is positive relationship with management of formal and informal trade. The study found that there is transparency in government policies relating to trade thus increasing trade facilitation

measures among the two countries. However, weaknesses in implementation of strategies supporting transparency of laws, regulations and administrative rulings may impact trade levels negatively.

#### **5.4.1 Influence of Customs Procedures and Non-tariff barriers on Formal and Informal Trade**

From the descriptive statistics, the respondents generally agreed and were satisfied with the extent at which customs procedures and non-tariff barriers strategies have been implemented between the two countries. They agreed that there exist procedures between the two countries for identifying the NTB in the border points and that clear guidelines for stopping commercial vehicles has been implemented effectively. In addition, the respondents felt that the two east Africa countries have an electronic continuous exchange platform that ensures an uninterrupted clearance of trading goods across the borders.

The study established that there is a positive and significant relationship between customs procedures and non-tariff barriers and promotion of formal and informal trade between Kenya and Tanzania. This imply therefore that the custom procedures and non-tariff barriers are favourable for trading partners from the two countries. This is evident from the fact that guidelines, policies and regulations governing the bilateral trading activities are well instituted and implemented to favour free flow of goods to and from the countries.

The findings were aligned to the findings by the World Bank<sup>102</sup> which acknowledges that through corruption in Kenya and Tanzania, the exporters have to give bribes to the Kenyan police to cross the border and to the Tanzanian police once in the recipient nation. The

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<sup>102</sup> WORLD BANK.. “Non-Tariff Measures on Goods Trade in the East African Community”, An African Region Synthesis Report, Prepared by the East African Community and Member governments of Burundi, Rwanda, Kenya, Tanzania and Uganda

research by the World Bank indicated that the many police road blocks create space for the police to transparently press for negligible influences—for instance, in Tanzania, regularly alluded to as "kahawa," which means some espresso.

Ihinga,<sup>103</sup> observed that the EAC borders do not have a harmonized working hour's schedule. This includes the Kenyan and Tanzania borders. The lack of harmonized border timing results in delays trade by Kenyan exporters to Tanzania, hence a non-tariff barrier affecting Kenyan exporters to Tanzania. The other non-tariff barrier identified is the multiple road blocks with a mean of 4.5400. The multiple road blocks as indicated by the respondents was a big barrier that delayed exports and even resulted in most costing for the Kenyan exporters to Tanzania. The result was supported by research by the World Bank, the multiple police road blocks and checking points in Kenya and Tanzania have contributed to corruption between the police and the Kenyan exporters.

#### **5.4.2 Effect of Technical Regulations Cooperation on Informal and Formal Trade**

The descriptive statistics indicated that the respondents agreed that technical regulations cooperation through strategies such as use of the same certification agency for products that cross the border, establishment of a trade policy that is pro-cooperation, common protocol implementation and increase in cumulative MRAs between the two countries enhances informal and formal trade between countries in Africa. These strategies if properly implemented have the potential of driving bilateral trade between Kenya and Tanzania thus enhancing development in terms of economic and infrastructure.

The study found that technical regulations and cooperation had a positive relationship with formal and informal trade between the two countries. The result established that with unit

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<sup>103</sup> Ibid, Ihinga, 2007

increase in technical regulations cooperation strategies, there is an increase in informal and formal trade in the region by a respective index of 0.135. Though impact was found to be statistically insignificant, continuous improvement of the strategy has the potential of doing better and improve the development of the region through formal and informal trading activities.

This finding are aligned with the results by the report by the EABC,<sup>104</sup> which states that the EAC Partner States signed the Protocol in November 2009, and it came into force on 1 July 2010. The protocol advocated for the free imports and exports between the partner countries. This ensures that Kenyan exporters are not stopped from exporting products to Tanzania for trade as long as they are legal and meet all the requirements of the laws and policies in both Kenya and Tanzania.

The findings were aligned to those of Shiluli Marcella<sup>105</sup> who identified that the custom union protocol signed in 2004 was essential in promoting exports and imports in the East African Community nations. The goals of the Customs Union incorporate encouraging the advancement of intra-local exchange merchandise; advancing production effectiveness in the community; improving domestic, border and remote venture; and advancing financial improvement and industry broadening. The implementation of the custom duty protocol by Tanzania allows free movement of Kenyan exporters to Tanzania to sell their products in the nation.

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<sup>104</sup> EABC. "The Business Climate Index Survey." The Steadman Group, Riverside Drive, Nairobi, October

<sup>105</sup> Shiluli, Marcella. "The Influence of East African Community Customs Union on the Operations of East African Breweries Limited." (2011).

### **5.4.3 Impact of Transparency of Laws, Regulations and Administrative Rulings**

According to the descriptive statistics, majority of the respondents indicated that transparency of laws and administrative rulings was accompanied by strategies such as minimum favouritism in government officials' decisions, reduction of corruption index in the border points, increased trade facilitation measures among the two countries and transparency in government policies relating to trade. This shows that transparency of laws, regulations and administrative rulings is associated with positive strategies that promotes formal and informal trade in the region and thus facilitate development.

The findings shows that transparency of laws , regulations and administrative rulings has a positive impact on formal and informal trade between Kenya and Tanzania. Therefore, the findings imply that effective implementation of policies relating to transparency of laws, regulations and administrative ruling increases favourable environment for formal and informal trade and consequently improves development standard in the region.

Delays are experienced by Kenyan exporters to Tanzania. This is evident at the border points where the cargo in transit have to be undertaken. Also at the multiple police check, the Kenyan exporters have to stop and be inspected. Another factor leading to delays of Kenyan exporters to Tanzania is the lack of harmonization of working times within the border of Kenya and Tanzania. The discoveries line up with the outcomes by the EABC which express that inconsequential with gauging or clearing the freight, police barriers are always refered to by merchants and transporters as area for lease chasing and travel delays. The discoveries are likewise like the outcomes by Ihinga<sup>106</sup> who distinguishes that there is absence of

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<sup>106</sup> ibid

harmonization as far as the concurred working hours at the intra-EAC fringes. At present, no fringe post in EAC is open for 24 hours per day 7 days seven days.

As a result of corruption and the uncoordination in the borders, the transport of illegal products is made possible in the border of Tanzania. Some traders are able to transport illegal products by simply paying off the police in charge at the check points and at the borders. Since Kenya and Tanzania are man eating nations as described by the Tanzania president, Julius Nyerere. This gives smugglers the opportunity to transport illegal goods to Tanzania. This affects the Kenyan exporters since it adds to more regulations for Kenyan exporters to Tanzania. The results are similar to findings by World Bank who document that bribery takes place in most borders, thus, the entry of illegal goods into a country is made easier.

## **5.5 Conclusion**

The aim of the study was to assess the cooperation and management of formal and informal trade for promotion of development in Africa while focusing on Kenya and Tanzania. The study considered three strategies for cooperation and management of formal and informal trade; customs procedures and non-tariff barriers; technical regulations cooperation; transparency of laws, regulations and administrative rulings. The study concluded that custom procedures and non-tariff barriers enhances formal and informal trade between the two countries. With effective implementation of custom procedures, trading activities are organized effectively thus instances of delays and counterfeit products are eliminated thus leading to improved.

In addition, the study concluded that the technical regulations cooperation influences formal and informal trade between Kenya and Tanzania. Though the impact was insignificant based on the p-value, the relationship was positive. Further, transparency of laws, regulations and

administrative rulings had a positive impact on promotion of formal and informal trade. This therefore improves the overall economic and infrastructural development.

The trade between Kenya and Tanzania is inevitable since both countries enjoy large amounts of resources especially in the agriculture sector. However, the trade faces a number of challenges among which non-tariff barriers. This chapter has focussed on the non-tariff barriers facing Kenyan exporters to Tanzania. NTBs are a wide range of policy interventions with the exception of border tariffs that influence trade of merchandise and services, and production factors. The non-tariff barriers facing Kenyan exporters to Tanzania include insecurity, corruption, trade quotas, working hours, and tedious procedures. These non-tariff barriers hinder exports by Kenya traders to Tanzania. However, despite the many Non-tariff barriers existing between the Kenyan and Tanzania borders, there are measures that can be implemented to mitigate the barriers. The mitigation measures include the development of new policies and strategies that facilitate easier trade between the two nations; involving the public in the implementation of trade policies to ensure democracy is maintained; investing in infrastructure to ensure easy trade between traders from Kenya and Tanzania; and monitoring of all trade activities within the respective countries. By implementing the mitigation measures identified, the two nations will be in a position to interrelate and carryout trading activities without any problems or potential shortcomings. The mitigation measures ought to be implemented by both Kenya and Tanzania for effectiveness. By identifying the non-tariff barriers and the mitigating measures it is crucial to understand the policies of the two nations involved.

## **5.6 Recommendations**

In this section, recommendations relating to management and policy with regard to cooperation and management of formal and informal trade for promotion of development in Africa, are given. Customs procedures and non-tariff barriers is critical to a successful trade partnership in the region. The study recommends that strategies such as communication between the NTB focal points in each country, procedures for identifying NTB in the border points and electronic continuous exchange platform that ensures an uninterrupted clearance of trading goods across the borders be implemented effectively. This ensures that flow of products from one country to another move swiftly and in time thus enhancing formal and informal trade aimed to spur development.

The study further recommends that technical regulation cooperation strategies such as joint technical committee, common certification agency for products that cross the border, common protocol implementation and cumulative MRAs between the two countries be considered for implementation. This is due to the fact that technical regulations cooperation enhances effective trading activities thus improves the level of development. Further, transparency of laws, regulations and administrative rulings, according to the study findings, plays a significant role as far as formal and informal trade is concerned. In this respect, the study recommend that supporting policies for instance transparency in government policies relating to trade, trade facilitation measures among the two countries and resolving NTB disputes be implemented. This will lead to reduction in corruption index, increased volume of trade between the two countries, increased foreign investment in the respective countries and increased revenue from the border fees.



One method for building up a methodology for lessening/evacuating NTBs given national contrasts and limit requirements is to embrace an item/division see in a staged way. In ASEAN, the decision of these segments was made based on near favorable position in characteristic asset enrichments, work abilities, cost aggressiveness, and esteem added commitment to the REC economy or offer of intra-territorial exchange. For EAC, the intraEAC exchange is very item particular. In any case, the current NTBs obstructions on formal merchandise exchange uncovered by private division firms and open area foundations are to a great extent not item particular. Along these lines, it is conceivable to manage the issue of custom/familiarity of exchange and enormous contrasts between composed guidelines and genuine outskirts practice. In a couple of merchandise, similar to drain, hamburger, poultry (counting day-old chicks), the EAC might need to create particular district wide specialized as well as SPS principles after point by point examinations.

In picking the particular item it is essential to think about the administrative target and/or intraEAC exchange effect of the NTM. Here the direction from the progressing procedure of consultations and choices in the ASEAN nations will be valuable. This could be founded on harmonization with execution necessities, including a solitary arrangement of completely fit and point by point arrangements. This methodology is utilized for items that could put purchasers' security in danger and for which execution situated enactment is felt required. Any limit building activities in the general region of the specialized as well as SPS models for products ought to be surveyed versus clear verbalized interest from end-clients in the general population/private part, as opposed to from the national agencies of guidelines.

Where government imposing business models and additionally financial requirements have offered ascend to serious foundation limitations, the related NTBs will require earlier

extensive scale ventures and long haul mediations in development/restoration of physical framework in a planned way over the EAC, particularly along the two passageways, North and South halls. Here the prioritization could consider the potential for consolidating the financial qualities of EAC individuals for provincial favorable position; encouraging intra-EAC exchange and ventures; drawing in and holding fabricating exercises inside EAC; advancing 25 redistributing in EAC; and creating EAC items and administrations.

The bottleneck of infrastructure is basic in EAC. A World Bank report proposes three key focuses developing in the locale. These are; the EAC official secretariat should get ready and execute territorial foundation enhancement plan(s), particularly the network of roads, without any difficulty the costs forced on landlocked nations. There is requirement for the arrangement of wagon ship vessels on Lake Victoria and Lake Tanganyika, through private or public ventures, with satisfactory wellbeing directions for their task. Vital additionally is to initiate an effective railroad framework through the required speculation by the national government in rails and by the private administrators in wagons to enhance the intensity and wellbeing of the transportation of mass items in the district. The requirement for creating double rail tracks over the area is additionally basic. There is a requirement to control the railroad specialist co-op to avert wastefulness and maltreatment of market control in specialties that rail routes could command. Enhancement of foundation is principal to bringing down expenses of business and encouraging effectiveness underway, transportation and conveyance of products and enterprises. The choices and activity identified with specialized guidelines for merchandise and the related SPS contemplations can be imagined in this class, since it is relied upon to take a delayed period to intercession to embrace a general system, receive it and introduce the proper framework and human ability to execute the choices.

Regarding the observing for NTBs that might be forced by partnering nations, the EAC is able to gain from the reception of EU of preventive estimates which support partnering states to notify all draft controls and benchmarks identified with specialized details to be presented on national domains. Along these lines, the Commission can screen and keep the raise of national hindrances to intra-EU exchange. The inside market of EU scoreboard may end up being a valuable EAC Secretariat instrument to imitate. The EC keeps up this scoreboard on partners' adherence to REC-wide regulations including those on NTB/TB on exchange, which can be utilized to name and disgrace individuals into consistence. For the EAC, such a scoreboard could report the status of the NTB/TB activity designs and the quantity of encroachment procedures because of new NTB/TB s started against partnering states. These procedures could be started as an outcome of proceeding or new utilization of a NTB/TB by a partnering state. For this situation, the partnering state is urged to rapidly cure the circumstance, and in the event that it neglects to do as such it is alluded to the EAC court, which can force an authorize. To correct working of the interior market for products in the EAC, the Secretariat would need to create satisfactory limit with regards to grouping NTB/TB announced and checking, as would the partnering states in distinguishing and informing the watched NTB/TB. Later this could be enhanced by limit with respect to requirement and review activity. Other EAC foundations could be expected to add to this essential capacity.

### **5.7 Limitations of the study**

This study encountered minimum limitation that the researcher made sure it did not interfere with achievement of the objective. First, the study covered two African countries which is a small sample to represent the entire Africa. However, majority of countries in Africa face

almost similar trading frequency and characteristics thus the results can be referred to for implementation and reference though with caution. Secondly, it was difficult to trace the respondents in the study due to COVID 19 pandemic restrictions. This was considered as a challenge since the researcher had to seek clearance to travel from one point to another. Finally, the study was limited to descriptive research design although there are various research design that could have been adopted.

### **5.8 Suggestions for Further Studies**

From the limitations, the study recommends that future studies should consider the number of countries representing Africa. It would be better to compare the results of the current study with results of different studies that have covered more samples. Additionally, the study suggests that future studies should consider using a different study design.

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## APPENDICES

### Appendix 1: Letter of Introduction

Josephine Manyasi

P.O Box 48240 -00100

Nairobi.

Dear Respondent,

#### **REQUEST TO FILL THE QUESTIONNAIRE FOR RESEARCH PURPOSE**

This is to appeal to you to kindly complete the enclosed questionnaire for analysis.

The focus of the study is on an assessment of Cooperation and Management of formal and informal trade for promotion of Development in Africa: A Case Study of Kenya and Tanzania. The submitted data will be handled with the maximum confidentiality and will be used only for academic purpose. I request for your cooperation in this exercise in order that I be able to realize my academic goals.

With kind regards,

.....Josephine Manyasi



**SECTION B: Customs procedures and Non-Tariff Barriers**

6. Are there non-tariff barriers affecting Kenyan exporters to Tanzania or vice versa? Please discuss

.....

7. Are there Customs Procedures affecting Kenyan exporters to Tanzania or vice versa? Please discuss

.....

Cooperation and Management of formal and informal trade for promotion of Development

8. Below are Customs procedures and Non-Tariff barriers cooperation undertaken between the Kenya and Tanzania? Please tick the appropriate box (√) in the box provided. In reference to these, a five-point Likert-scale is used:

**Key;** 5) strongly agree; 4) Agree; 3) Neutral; 2) Disagree; 1) Strongly disagree;

	<b>Statement</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
1	There is harmonised border entry working hours					
2	There exists an electronic continuous exchange platform that ensures an uninterrupted clearance of trading goods across the borders					
3	Cross-border goods are cleared ones from the source country					
4	Cross-border products are prioritized					
5	There is continuous review of country's NTB reports					
6	Communication has been established between the NTB focal points in					

	each country					
7	The support of the political leaders is collectively sought to eliminate the non-tariff barriers between the countries					
8	There exist procedures between the two countries for identifying the NTB in the border points					
9	The border points members engaged with the management of the NTBs meet at least ones in a year.					
10	There is clear guidelines for stopping commercial vehicles					
11	There joint investment in parking sheds and parking yards					
12	Export licenses have been harmonized					
13	All quotas have been eliminated					

**SECTION C: Technical Regulations Cooperation**

9. How does technical regulations cooperation affect the level of trade between Kenya and Tanzania?

.....

10. Below are technical regulations and cooperation undertaken between the Kenya and Tanzania? Please tick the appropriate box (√) in the box provided. In reference to these, a five-point Likert-scale is used:

**Key;** 5) strongly agree; 4) Agree; 3) Neutral; 2) Disagree; 1) Strongly disagree;

	<b>Statement</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
1	Both countries participate in ISO certification of cross-border products					
2	Both countries use the same certification agency for products that cross the border					
3	The countries have established a joint technical committee					
4	There exist common laws relating to ICT application					
5	The application of ICT is encouraged by both countries					
6	Both governments have jointly adopted a common ICT platform					
7	Each country has developed a trade policy that is pro-cooperation					
8	We have established a common valuation team					
9	Common rules of origin have been established between the two countries					
10	There exist a common protocol implementation					
11	The cumulative MRAs between the two countries has been increased					

**SECTION D: Transparency of Laws, Regulations and Administrative Rulings**

10. How does transparency of laws management affect the level of trade between Kenya and Tanzania?

.....

11. Below are Transparency of Laws, Regulations and Administrative Rulings undertaken between the Kenya and Tanzania? Please tick the appropriate box (✓) in the box provided. In reference to these, a five-point Likert-scale is used:

**Key;** 5) strongly agree; 4) Agree; 3) Neutral; 2) Disagree; 1) Strongly disagree;

	<b>Statement</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
1	There is transparency in government policies relating to trade					
2	There is minimum favouritism in government officials decisions					
3	There is minimal irregular payment of imports and exports					
4	The corruption index in the border points has reduced					
5	Over the last five years there has been unresolved NTB disputes					
6	There has been increased trade facilitation measures among the two countries.					
7	There is no preferential treatment of either country products					

#### **SECTION E: Formal and Informal Trade**

**12.** Below are formal and informal trade changes as a result of undertaken common management and cooperation between the countries. Please indicate the extent to which these indicators have been achieved.

Key: 5 - Very great extent 4 - Great extent 3 - Moderate extent 2 - Little extent

1- No extent

	<b>Statement</b>	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
1	The volume of goods confiscated through informal routes has reduced					
2	The volume of trade between the two countries has increased					
3	Increased compliance by traders					
4	Increased foreign investment in the respective countries					
5	Increased revenue from the border fees					
6	Reliability of custom clearance					
7	More variety of products being traded across the two countries					

**THANK YOU SO MUCH FOR YOUR TIME**



## **Appendix III: Research Permit**

## Originality Report