



REGIONAL WORKSHOP REPORT ON:

"STRENGTHENING THE ROLE OF CIVIL SOCIETY IN DEEPENING EAC REGIONAL INTEGRATION: *PERSPECTIVES FROM THE BIEAC PROJECT*"



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LIST OF ACRONYMS/ABBREVIATIONS

AEC: African Economic Community

ACBF: African Capacity Building Forum

AEC: African Economic Community

EADB: East Africa Development Bank

ARRF: Africa Research and Resource Forum

BIEAC: Building an Inclusive East African Community

CET: Common External Tariff

CMA: Customs Management Act

CSO: civil Society Organization

CUTS: Consumer Unity Trust Society

EABC: East African Business Council

EAC: East Africa Community

EACSO: East African Community Civil Society Forum

EALA: East African Legislative Assembly

EDPRS: Economic Development and Poverty Reduction

GTZ: German Technical Cooperation

ICBT: Informal Cross Border Trade

MOU: Memorandum of Understanding

PSD: Private Sector Development

SEATINI: Southern and Eastern Trade Information and Negotiations Institute

S&DT: Special and differential treatment

TMEA: Trade Mark East Africa

EXECUTIVE SUMMARY

The Treaty Establishing the East African Community was signed on 30 November 1999 and entered into force on 7 July 2000 following its ratification by the original three Partner States – Kenya, Uganda and Tanzania. The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18 June 2007 and became full Members of the Community with effect from 1 July 2007. The EAC regional integration process has been at a high ground as shown by the progress of the East African Customs Union and the ongoing discussions as well as the signing (November 2009) and the ratification of the EAC Common Market Protocol which will be on 1st July 2010 by all the Partner States. The ongoing consultations on the monetary union and the political federation are a serious indication that the East African leaders and citizens are determined to create a strong economic and political EAC bloc.

Looking through this integration process therefore, Consumer Unity Trust Society (CUTS) with the support from the German Technical cooperation (GTZ) initiated the project "***Building an Inclusive East African Community***" that was to be implemented over a period of two years (December 2008-september 2010) with outreach and research partners with the general aim of empowering the civil society organizations (CSOs) in the EAC to identify their roles and engage proactively in the integration process.

It was expected that by engaging the CSOs in policy dialogues and implementation processes in the EAC integration programmes, then the collective actions emanating from engaging them will be responding to the needs and aspirations of the EAC people and that they would generate local ownership needed for the integration process hence making it politically sustainable in the region. Article 127 of the EAC treaty specifies the need to engage with the CSOs in the integration processes and hence the East African Civil Society Forum (EACSOFF) was established to act as an umbrella body for all the CSOs and NGOs in the region. Although EACSOFF has not been actively supported and operational in the region, it is mandated to facilitate avenues for active engagement between Civil Society and the Community and its organs.

Through the BIEAC project the research dialogues done indicated that there was limited capacity of CSOs in the region to comprehend most of the trade-related issues they enlisted themselves to do and hence needed capacity building to enable them perform better. Emanating from this, CUTS in collaboration with GTZ therefore organized a two day workshop that was held on 27th -28th May 2010 at La Mada Hotel, Nairobi to discuss "***Strengthening the Role of Civil Society in Deepening EAC Regional Integration: Perspectives from the BIEAC Project***". The Workshop aimed at discussing how the CSOs can strengthen the role they play to help elevate the position and contribution of Trade as a major driving factor of regional integration among the EAC Partner States and between the EAC region and other regional economic communities.

The workshop participants benefited from thematic researched presentations mainly from the BIEAC project namely:

- *Accession of Burundi and Rwanda into EAC and Implications for Private Sector Development*
- *Informal Cross-Border Trade and Implications for the EAC Growth and Integration*

- *Harmonisation of East African Community Taxation Systems: Proposals for a Tax Regime fostering Small Business Development*
- *Integrating Migration with Development in EAC: Policy Challenges and Recommendations*
- *State of Non-Tariff-Barriers in Trading within EAC: Status, Challenges and Way forward in 2010 and Beyond*
- *National Competition Policy and Law versus the Regional Competition Law Act: Status and Way Forward on Addressing the Implementation Challenges*
- *Analysis of Policy Challenges for EAC Integration*

The workshop participants were key CSO representative from the East African Partner states of Kenya, Rwanda, Burundi, Uganda and Tanzania. Participants engaged each other through sharing their experiences and knowledge and this enriched the workshop output by giving more input towards the revision of the research project papers as well as to come to important resolutions on how best to participate in strengthening the role the CSOs can play in the deepening regional integration processes.

The conference was officially opened by **Hon Amason Jeffah Kingi, MP, and Minister for East Africa Community, Kenya** who gave a very inspirational and informative speech that steered the path to great discussions. Key resolutions were made at the end of the workshop to help in future engagements among the CSOs and the different stakeholders. The workshop was officially closed by the Director of CUTS Africa Resource Centre, Nairobi Mr. Clement Onyango who thanked the participants for faithfully engaging in the workshop and coming to such powerful resolutions.

In the closing session the participants agreed that there was need to ensure that the CSOs in EAC unite to form a strong voice within the region, starting at the national level and building up to the regional levels by intense mobilization to give them a strong voice at all levels. In addition to this, there is need to establish a well outlined procedure towards the financial and technical support of EACSOFF by the CSOs in the region to enable it carry out its functions at the regional level. CSOs must also engage in relevant research to enable them give factual and supported information that will be beneficial to the regional integration processes.

Importantly, there is an urgent need for EACSOFF to request for an observer status within EAC as well as ensure that the governments give EACSOFF recognition for their input. CSOs need to prioritize their challenges and divide amongst themselves areas of specialization for best results and input to the regional integration processes. CSOs need to have a proactive approach to regional issues such as ensuring they have given inputs towards budgets before they are finalized both at the regional and national levels. It was also agreed that there is need to ensure CSOs have documented their research and that engaging in lobbying and advocacy activities will help build the profile of the CSOs within the regional integration processes. Participants also agreed on the need to encourage public private partnership at all levels as this would build up development within the region. Notably the importance of dissemination of information in a reader friendly language for EAC citizens was echoed in order to help them comprehend the benefits involved in the regional integration process.

OPENING SESSION

Chair: Ms Joyce Abalo, East African Civil Society Forum (EACSOF) coordinator

1. INTRODUCTORY REMARKS

1) Ms. Clarisse Bukeyenzeza, GTZ/ EAC Arusha

Clarisse began by thanking CUTS ARC for organizing the conference and welcomed all the participants to the conference.

Clarisse explained that the GTZ/EAC programme comprises of 5 components namely organizational development in the EAC Secretariat, Advice in Economic Policies, Strengthening the EAC Dialogue with the Private Sector and the Civil Society, Promotion of fiscal harmonization in the EAC, TRIPS (trade-related aspects of intellectual property rights) and Pharmaceutical Sector Promotion. She pointed out that the EAC/GTZ programme had contributed to the tax harmonization component and EAC had already created a tax harmonization committee comprising of the five EAC partner states, the EAC secretariat and the GTZ programme.

Through the GTZ programme, the civil society mobilization strategy has been drafted with the aim of institutionalizing a dialogue between the EAC and the civil society. She then recommended the following as ways of engagement for the civil society in the EAC integration processes:

- a) Through the EAC mobilization strategy which is aimed at mainstreaming the CSOs into EAC programmes.
- b) Through the EACSOF (which also participated in the drafting of the EAC mobilization strategy), and has become the informal CSO network partner to the EAC secretariat. EACSOF can sign an MOU with the EAC secretariat.
- c) Through the signing of an MOU with CUTS as one of the key CSOs working on trade and regional integration issues.

She concluded by informing that the EAC council of ministers had directed the EAC secretariat to formalize a forum for the engagement of the CSOs as per the provisions under Article 127 of the treaty.

2) Mr. David Irwin, Trade Mark East Africa (TMEA) Representative

David begun by introducing Trade Mark East Africa (TMEA) programme as a multi donor initiative that aims at promoting and supporting regional integration initiatives and programmes.

The programme focuses on the support of various private sector and civil society organizations in three key areas of research, advocacy and any key areas of regional importance by individuals or organizations, such as in the EACSOF programmes.

Various clusters of organizations that work together towards particular issues such as regional integration and any other unique areas could get involved with TMEA work and other areas of mutual cooperation to enhance the regional integration process

There is strength that accrues from working together on issues citing the example of the cooperation that CSOs had developed over the years on the area of EPAs and the impact it has had on trade negotiations. However, there is need for dialogue and cooperation by the CSOs with the

government and other stakeholders. Notably, most CSOs and private sector organizations lack the evidence they require to support their views hence making it difficult to perform effectively.

He advised the need to have numbers and the importance of creating coalitions between the CSOs and the private sector when advocating for issues for a better output. He pointed out that it was important to strengthen EACSO as well as have the CSOs collaborate with EABC.

He concluded by welcoming all for the launch of TMEA that will be held in September and also welcoming sharing of ideas on regional integration issues with TMEA.

3) Mr. George Omondi, ACBF Representative

He stated that he was representing the Africa Research and Resource Forum (ARRF) and that the African Capacity Building Forum was one of the key partners in financing ARRF. However, he explained that ACBF is a donor organization that focuses on capacity building and research, gives grants to CSOs in areas such as economic policy analysis and management and financial management for governments. It also strengthens and monitors the collection of statistics, the public service reforms in Africa, National Parliament by supporting research, the East African Legislative Assembly (EALA), supporting research functions in the EALA, EABC and CSOs.

Major roles of the African Research and Resource Forum is to act as policy think tank that deals with research and analysis in governance issues within the EAC partner states and the surrounding states of Sudan, Djibouti and Ethiopia.

Mr Omondi then opined that Regional integration has been too state centric, as all decisions are made at the government levels limiting the participation of other stakeholders such as the CSOs and therefore CSOs and the private sector should be able to creatively engage in the integration processes.

4) Inaugural Address: Hon. Amason Jeffah Kingi, Minister for East Africa Community, Kenya

Hon. Kingi in his inaugural address gave an over view of the regional integration processes of the EAC and the following were the highlights:

1. Regional economic blocs are key in today's global arena as they command a voice and a bargaining power to successful negotiations within the multilateral trading arena. Therefore the EAC partner states undertook the journey to revive EAC to participate in development and gain strength in negotiating as a bloc.
2. He outlined the current partner states as Kenya, Uganda, Tanzania, Rwanda and Burundi that make up the East African Community. The Regional Integration process is guided by the EAC Treaty which states that the regional integration process will involve the following steps:
 - a) The **EAC Customs Union** was established in 2004 implemented in 2005 and has become fully fledged in 1st January 2010. The major components of the EAC CU are the common external tariff (CET), the rules of origin, and the NTB which are still being addressed.
 - b) The **EAC Common Market Protocol** was signed in November 2009 and will be ratified by the five partner states and comes into effect on 1st July 2010. The minister stated that all the partner states had ratified the EAC CM and were in the process of depositing their instruments of ratification with the EAC secretary general. He added that the partner states are working on ensuring that they have machine readable Identity cards (ID) which citizens

- can use to cross the borders. He stated that the annexes of the protocol indicate a schedule which advises on the periods to engage.
- c) **The Monetary Union:** for trade to be free within the region, there is need to have a common currency that is acknowledged and acceptable within the region. He informed that studies have been done and discussions among the key stakeholders have begun and the finalizations will be based on the customs union and the common market protocol.
 - d) **The Political Federation:** this is the ultimate objective for the EAC integration process. He informed that the Summit had directed the appointment of a 15 member expert team to study the various previous reports with a view of making recommendations. He stated that from the previous report done by the Wako team, the East African Citizens wanted a political federation but were against fast tracking and that they wanted the pillars of the integration process strengthened.
3. On the issue of business opportunities, the minister pointed out that the EAC partner states had reaped benefits from the integration process and gave the following key benefits accruing from the integration:
 - a) *Trade:* Kenya's trade balance with EAC partners had maintained an upward trend and the total exports from Kenya to EAC partner states have increased consistently. Tanzania exports to Kenya have made up to 58% while goods from Uganda have grown by over 400% between 2006 and 2008.
 - b) *Revenue performance:* this has increased due to the improved economic performance, improved tax administration, growth in trade volumes among others.
 - c) *Foreign Direct investments:* Kenya's inflows from FDIs had risen from US 51million in 2006 to US728million in 2007, while Uganda and Tanzania received a larger proportion in 2002 and 2006.
 - d) *Reducing transport costs:* the ongoing road network projects were geared towards improving the trade environment through enhanced efficiency along the five corridors and develop one stop border posts, as well as ensure seamless transport through which cargo would cross borders without unnecessary delays. Hon minister pointed out that EAC had prioritized five corridors, three of which passed through Kenya namely; Corridor 1 : Mombasa-Malaba-Kampala-Kigali, Corridor 5 : Tunduma-Arysay-Namanga-Nairobi-Isiolo-Moyale and Corridor 3 : Mwanza-Isebania-Kisumu-Ludwar-Lokichogio.
 - e) *ICT developments:* this will ensure an improved and efficient connectivity within the region having already laid down the fiber optic cable.
 - f) *Energy development:* developments focusing on the energy sector are on going within the region. E.g. a gas pipeline from Dar es salaam to Mombasa and from Eldoret to Kampala
 4. In the EAC Treaty that establishes the community, Article 127 stipulates that the partner states agreed to "*create an enabling environment for the private sector and the civil society*. He added that the 16th council of ministers had directed the EAC secretariat to formulate an EAC CSO mobilization strategy. He advised that the CSOs can work with EAC in a number of functions namely: advocacy, watchdog, networking research technical areas and coordination and representative functions. As well as citizens associations.
 5. Citing the example of EABC which has been actively involved in the integration process, he stated that the CSOs could engage through the East African Community Civil Society Forum (EACCSOF) which was established in 2007 and has been holding meetings to discuss engagement with the EAC. He emphasized the need to strengthen EACCSOF and give it a profile to enable it play its rightful role in the EAC formal engagements.

Plenary discussions:

The following were the highlights of the discussions:

- It was suggested that the EAC secretariat should be made into a Commission for better performance especially in the accession towards the various integration pillars. It was also observed that the EAC secretariat lacked the institutional framework to handle for example the accession towards the monetary union and that there were on going discussions on how to deal with the institutional challenges.
- The EAC integration process seems to be ignorant of the rising poverty levels, increasing unemployment and production processes but it was clearly stated that there is no separation between the pillars of the integration process and the status of the issues raised as integration opens up markets and creates employment hence citizens engage in building up the economy.
- There are expected challenges in implementing the machine readable ID cards in the region but just like the EU's experience in integration, this would be overcome. Rwanda is already in progress in the implementation of the machine readable ID cards.
- The CSOs should engage in the processes together with the government by giving input that is based on factual and well researched information.
- Tariffs should be harmonized across all the partner states and common collection centers for revenue collection created.
- Policies made at the regional level should trickle down to all the implementing bodies within the region to increase the linkages in performance between the EAC secretariat and the other levels of implementation.
- In regard to the contentious issues at the regional level, such as the right of residence, that had been ongoing during negotiations towards the common market protocol, the summit agreed to ensure that the issue of land and the right to residence will be governed according to the national laws at the national level.
- The principles in the EAC integration process should be people driven and market driven hence the need to carry out sensitization programmes to the EAC residents and awareness campaigns for the benefit of the residents. There is constant need for consultations to the people to ensure the residents own the processes.
- There is need for citizens to report any inconsistencies between policies made and communicated and the implementation process to the concerned parties/ ministries to enable them make corrective measures.

Ministers' presentation can be seen on: [http://www.cuts-international.org/ARC/Nairobi/ppt/STRENGTHENING THE ROLE OF CIVIL SOCIETY.ppt](http://www.cuts-international.org/ARC/Nairobi/ppt/STRENGTHENING_THE_ROLE_OF_CIVIL_SOCIETY.ppt)

5) Vote Of Thanks: Clement Onyango: Director, Cuts ARC Nairobi:

In giving his vote of thanks, Clement was grateful to the minister for having made time to officially open the conference. He noted that the Minister delivered a very progressive and inspiring speech. He opined that in the regional integration process there is need to merge the theoretical and practical approach.

He stated that the processes may be experiencing challenges but he was positive that the EAC was moving to greater heights and therefore hoped that the CSOs would be part of the process especially in synchronizing the policies and the players in the process.

2. PRESENTATIONS

1) Paper 1: Analysis of the state of EAC integration and emanating policy challenges

Presenter: Julian Mukiibi, Research Officer, CUTS Geneva Resource Centre

Chair: Ms Joyce Abalo, East African Civil Society Forum (EACSOF) coordinator

Julian began his presentation by giving a brief overview of the EAC integration process as being in line with the Abuja treaty of 1991 towards an African Economic community (AEC).

The EAC integration process follows the following steps towards a full integration; the customs union, the common market, the monetary union and ultimately the political federation. He observed that EAC is notified as a customs union at the WTO level. Notably, out of the five partner states, four members still maintained their membership in COMESA while one member is still a member of SADC and that although the EAC customs union protocol provides for export promotion schemes, special economic zones and exemption regimes yet the member states still maintain their different schemes.

The following are the challenges faced in the implementation of the Customs Union,

- a. In implementing the Customs Management Act, the National focus is on maximizing revenue rather than trade facilitation, some provisions of CMA are not being implemented by member States and that there are human resource constraints at the regional and national level to effectively steer implementation as well as the lack of non-uniform application of relevant regulations and forms.

Notably, in the implementation of the CU, there was the challenge of partner states applying parallel standards both at the national and regional levels and that the NTBs within the region were a great impediment as well as the lack of a drive to carry out sensitization and awareness programmes. He noted that the challenge of overlapping membership of the partner states in other regional economic communities was still affecting the EAC integration process.

*The presenter identified various **opportunities** within the EAC region :* The five EAC partner states provide a large population size and a GDP, a large skilled and semi skilled labor force and is a place that is endowed with natural resources, well established and telecommunications and insurance institutions, vibrant and upcoming capital and securities market. There is also the opportunity through the duty free quota free market access under EPA and S&DT under WTO agreements as developing and LDC members.

Learning from the EU, Julian stated that the EU from the start had a common commercial policy and the negotiation of trade agreements at bi-lateral; regional; and multilateral level are done as a block.

In his recommendations for the EAC integration process, he advised that the EAC secretariat should be given a mandate with exclusive competence to implement a common trade policy for the region including negotiation with third parties at bilateral; regional; and multilateral levels.

He also advised that there is need to hasten the harmonization of trade and related policies and improve institutional coordination between national and regional bodies, develop and apply a

unified, simple regional trade policy tool, establish dedicated research institution or department to benchmark and enforce best practices, promote and improve on awareness raising drives within the partner states, improve trade facilitation by eliminating NTB's, improving infrastructure and addressing the other supply side constraints faced in the region and continually assess and evaluate the impact of applied policies with a view to improve and redress any short comings.

In his concluding remarks, Mr. Julian, noted that the EAC region has great potential for economic development, if the right policies are applied in a uniform manner, vast resources exploited, investment opportunities enhanced and the limited technical human resources better utilized at the national regional and multilateral levels by the pooling together of resources amongst the partner states.

Plenary session:

The following were the key issues in the plenary session:

- The role of the civil society in any process is to give alternative views hence CSOs should engage in providing factual information to be able to give practical beneficial interventions in the integration process.
- Market forces have been failing the citizens and hence it is important for the governments to take up the lead and control the market
- CSOs should define the key areas of engagement and principles of engagement in the regional integration process
- The CSOs should join hands with the ministries/ governments and the secretariat for information dissemination to the EAC citizens.
- There is need to embrace the Historical background of our integration process to build up into the current status and the future prospects. The focus of the integration process should be more on the issues that affect the citizens.
- A positive look into Kenya's hegemonic state will help in appreciating the regional integration process within the EAC as opposed to focusing on the negative impacts that Kenya may have to the partner states. However the challenges faced by other partner states in the integration process cannot be ignored such as Tanzanian's being denied business opportunities within Kenya hence there is need to have an open minded approach as well as ensure that official complaints of such avoidable challenges are launched with the different departments.
- There is need to build up the weaker markets within EAC to ensure the benefits of regional integration reach the citizens.
- Media is a key player in the regional integration process and therefore should be included in all future discussions.

Full Presentation can be seen at: http://www.cuts-international.org/ARC/Nairobi/ppt/POLICY_CHALLENGES_AND_OPPORTUNITIES.ppt

2) PAPER 2: STATE OF NON TARIFF BARRIERS IN TRADING WITHIN THE EAC: STATUS, CHALLENGES AND WAY FORWARD IN 2010 AND BEYOND.

By Monica Hangi, Research officer, ESRF, Tanzania.

Chair: Mr. Hajji Rashid Kibowa, Ministry of East African Affairs, Uganda

In her introductory remarks, Monica identified trade as a catalyst for growth. In the EAC Development strategy (2001-1005) the NTBs were identified as the Administrative & Bureaucratic inefficiencies; standards and technical requirements; and infrastructure and communication networks. According to the EAC macro economic performance 2008, Rwanda recorded the highest growth (11.2%); Uganda (9.2%); Tanzania (7.4%); Kenya (decline to 1.7%); Burundi (a negative growth, 0.025) and there was a decline in the Balance of Payment position for all members; Fiscal deficit improved to 9.5% (from 10.5%), while the annual headline Inflation rates were Highest in Burundi (24.5%) and Kenya (26.2%)

According to the trade performance (2008) she outlined the following:

- Tanzania's Trade with EAC member countries declined by 40.9% (to 54.9%); Exports and imports much to/from Kenya. But generally Tanzania intra-EAC trade levels increased
- Kenya's share of trade with the rest of EAC increased to \$ 1,031.4 million from \$ 760.6 million; Exports much to Uganda and Tanzania and imports much from Tanzania. Kenya has low trading rates with Burundi and Rwanda
- Uganda mostly trades with Tanzania; Most of its exports are to Rwanda (with great improvement of up to \$ 136.9 million from \$ 83.3 million); there is an improvement in the trading trends with the EAC members
- Burundi is picking up; Imports from Uganda and Kenya and Exports a bit (very low) to Rwanda, Uganda and Kenya
- Rwanda has improved performance as compared to previous years; Trades mostly with Kenya and Uganda. Rwanda exports to Kenya and very little to the rest of EAC; Imports from Kenya and Uganda

According to EAC definitions, the NTBs are quantitative restrictions and specific limitations that act as obstacles to trade. There are different forms of NTBs namely: Import policy barriers; Standards, testing, labeling and certification requirements; Anti-dumping and countervailing measures; Export subsidies and domestic support and corruption with Kenya being the most corrupt. NTBs in EAC, were identified in 8 categories according to the study commissioned by EABC (the Business Climate Index (BCI) survey in EAC). These categories are the Customs and administrative documentation procedures; Immigration procedures; Cumbersome inspection requirements; Police road blocks; Varying trade regulations among the three EAC countries; Varying, cumbersome and costly transiting procedures in the EAC countries; Duplicated functions of agencies involved in verifying quality, quantity and dutiable value of imports and exports; and Business registration and licensing

Based on the BCI survey done on the elimination of NTBs, Uganda has the most favorable conditions; followed by Kenya, Rwanda, Tanzania and Burundi respectively. The total sum of 172,236 days are lost each year as a result of delays at Weighbridges, roadblocks and customs – with Weighbridges causing almost half of those delays. In terms of money (paid in the form of bribes), some 9.8 million USD are paid over per year – with Weighbridges again taking the largest share.

In regard to the impact of the Customs Union to trade within EAC, Tanzania's imports from Kenya and Uganda have been on the rise following the establishment of the CU; Exports have as well recorded a consistent increase, almost doubling in 2008 compared to 2004. There is need to work on eliminating the NTBs and to also work on improving the physical infrastructure in the region (roads, railways, airways, communication), educating traders on how to manage and improve their businesses and on the need to harmonize domestic laws and regulation of the tax systems so as to reduce informal trade.

Plenary session:

The following were the key issues emanating from the plenary discussions:

- Build up the economies by harmonizing the EAC macro economic markets of the EAC by sharing the resources with the poorly performing states like Burundi. Member states should be able to identify misconducts among them and help in reform processes.
- Some of the NTBs are deliberate protectionist measures and therefore may not be easily eliminated.
- Trade should not be an end in itself but should devolve to foster sustainable development and hence cannot separate trade and socio economic issues.
- Studies have shown that informal trade within the region is growing yet goes un recorded by the government therefore the governments should be informed on such cases to ensure the data is captured in the national statistics.
- Corruption is experienced at the highest levels in the EAC partner states due to high political patronage and the governments are not dealing with it.
- The NTB monitoring system falls under the ministry of trade and therefore ends up becoming ineffective due to lack of proper follow up. It also lacks a feedback mechanism to the EAC for corrective measures.
- NTBs will always exist because each EAC state is a sovereign nation and cannot seek a redress hence lacking the capacity to increase the strength of the EAC states.
- There is need for CSOs to take up the lead in dealing with the NTBs in the region. Political interference such as in the case where Rwanda will not accept any milk imports from Uganda, the uprooting of railway line in Kenya due to election violence which disrupts trade between Kenya and Uganda.

Full presentation can be seen at: http://www.cuts-international.org/ARC/Nairobi/ppt/NON-TARIFF_BARRIERS_IN_TRADING.ppt

3) PAPER 3: ACCESSION OF BURUNDI AND RWANDA IN THE EAC: IMPLICATIONS FOR PRIVATE SECTOR DEVELOPMENT

Presenter: Richard Ndereyahaga, Researcher, Université du Burundi.

Chair Mr Charles Mdeme Yegella, Senior Trade Officer, East African Business council (EABC)

Richard began his presentation by giving a brief overview of the EAC private sector development strategy, noting that the EAC Private Sector Development strategy has the vision of a strong and globally competitive regional private sector for wealth creation through investment and trade. The EAC PSD has a mission of creating a fair business environment that facilitates private sector competitiveness and growth for increased investment, productivity and trade. Mr Richard outlined the objectives of the EAC PSD such as increasing space for the private sector in development in the regional economy.

Several factors that constraint economic performance of EAC include; tight monetary and financial policies, trade policies especially tariff and non-tariff barriers, disincentives effects of existing tax regimes relating to levels, multiplicity of taxes and tax administration, absence of a legal framework to ensure free movement of labour, services, goods and capital, a restrictive regulatory and administrative regime, inadequate and unambiguous competition policies have raised concern in the private sector, inadequate investment codes and incentives, inadequate institutional framework and governance, inaccessibility to requisite resources and lack of infrastructural and supportive services.

Notably, according to the EAC PSD Strategy, the Private Sector Development in the region will be driven by domestic investments with high priority accorded to promoting the participation of SMEs in cross border investments and trade, while FDI will play a catalytic and complimentary role in terms of bringing in capital, technology and new management approaches and techniques.

Burundi's the private sector had the following characteristics: embryonic, strongly dependent of the Public administration, strongly dominated by the productive investments of the Government, largely depends the Government for its revenues, strongly suffered from the political crisis, faces the challenges emerging from the regional integration after a very deep economic crisis and the embargo, conscious of all its challenges and which began in reforming its structure for being better reinforced and strengthened in order to face these challenges and a private sector that still needs to be listened, framed and to be supported. Burundi private sector faced the following needs: institutional support in the form of capacity building, specific consideration for regional integration policies, and financial support aimed at the revival and the rehabilitation of the existing companies and the creation of new companies.

Burundi Private sector has 10 independent sectoral chambers and 2 transversal and independent chambers. The Rwanda Private sector federation (PSF) is a co-coordinating umbrella organization representing and defending the interests and needs of private economic operators in Rwanda. The PSF is composed of 9 professional chambers.

Various challenges face EAC Private sector strategy namely ; Lack of sustainable funding given the enormous needs of the members; Capacity constraint at both the secretariat and firm level; Passive role in the advocacy emanating from lack of resources to carry-out research and prepare position papers; Lack of recognition by the donors and other actors; Limited innovativeness and

competitiveness on the part of SMEs due to lack of technical and managerial skills required in Business; Limited networking between local private sector and with foreign partners in order to learn best practices; and; PSF institutional and human capacity deficiencies that hinder effective private sector development programs.

The following are the Opportunities and Disadvantages from accession to EAC:

Burundian actors expect to realize positive impacts from the following: increased FDI inflows , Available mineral resources, Opportunities in tea and coffee, and the tourism sector, the country's unique location to provide business links with French-speaking Eastern DR Congo and English-speaking EAC countries, The rich agricultural potential, Significant reductions in prices of consumer goods , Access to a wider market of the community (EAC), Possibilities of joint-ventures, and broader access to financial funding.

Rwandan stakeholders expect to realize positive impacts from in the following respects: Increased business turnover, Price reductions across EAC, easier and predictable access to industrial inputs, increased investment from other EAC countries, free movement of goods, capital and labor, and negotiating as an EAC bloc.

The Side effects of Regional integration into EAC:

Burundi: Displacement of some industries and possible decline in industrial production of food products.

Rwanda: Increased competition may lead to closure of less competitive industries, Locally produced raw materials will face stiff competition from EAC originating imports which could displace respective producers.

There there is need to expand room for private sector and civil society contribution and participation in the policy making at the EAC platform and to provide capacity building programs of training for actors from informal sector within the EAC and provide regional banking facilities by extending the EADB coverage and strengthening its loans availability for private sector from less developed regions of the community.

Plenary session:

- The EAC partner states should help each other towards economic growth by sharing experiences that will enrich decision making processes within the states.
- The tax incentives given to FDIs and the policies that govern them should critically be re-examined to correct any errors that lead to the loss of revenue for governments.
- Some of the EAC partner states are performing dismally poor economically and for the EAC economy to grow evenly, it is necessary for the EAC to allocate funds towards a funding agency to help uplift poorly performing governments because this affects the overall performance of the EAC trade patterns and the economy in general.

Full Presentation can be seen at: <http://www.cuts-international.org/ARC/Nairobi/ppt/Accession of Burundi and Rwanda in EAC.ppt>

28th May 2010: DAY TWO

Recap of day one highlights: Presented by Sophie Njagi

4) PAPER 4: INFORMAL CROSS-BORDER TRADE (ICBT) AND IMPLICATIONS FOR THE EAC GROWTH AND INTEGRATION

Presenter: Victor Ogalo, Programme Officer, CUTS ARC, Nairobi

Chair: Agnes Kirabo, VEDCO, Uganda

Mr. Ogalo began his presentation by giving an introduction of the EAC involvements in ICBT. He observed that a significant proportion of the cross border trade in EAC was in the form of ICBT and that women constituted largest proportion of small scale informal cross border traders. Despite efforts to promote trade integration among EAC Partner States, formal trade links was still facing several constraints which push traders to ICBT although there are exclusive incentives that push traders to ICBT. He added that elimination of constraints to formal trade may not necessarily provide better incentives for informal traders to turn to formal trading.

He observed that there was no universally accepted definition of ICBT. However, he used Schneider's (2006) definition that the informal cross border trade is the informal economy entailing a market-based production of legal goods and services that are deliberately concealed from public authorities and escape detection in official gross domestic product (GDP) statistics.

The following were key highlights from his presentation:

1. He outlined the following as the key characteristics of informal trade in EAC:
 - In EAC, the informal economy largely corresponds, and has been equated, to micro, small and medium-scale enterprises (MSMEs) that are semi-organized and un-regulated. Some native names ascribed to this economy include 'Jua Kali', 'Nguvu Kazia' and 'Mama Lishe' enterprises.
 - Players in the informal economy range from small to the big players both from formal firms and informal firms. They range from professional consultants (such as lawyers, doctors, accountants and engineers), to fruit and vegetable vendors, public transport operators, food kiosks, hair-dressers/barbers, jua-kali manufacturers of all sorts of goods including artisans like tinsmiths, ironmongers and blacksmiths; shoe shiners, miraa dealers, open air photographers, hawkers of all sorts of wares, painters, engravers, graphics and designers, carpenters, massage parlours, saloons and sand harvesters.
 - Informal economies use simple labour intensive technology and may or may not have licenses from authorities and are not registered with the registrar of companies.
2. In regard to education most of the informal sector players (54.4 %) have attained only up to primary school level of education; and that the majority of SME operators have secondary level of education and below.
3. He gave the following characteristics of ICBT in EAC:

- a. **Nature of informality:** they exist in 3 categories of informal (unregistered) traders or firms, Formal (registered firms) that evade trade related regulations and Formal registered firms that partially evade trade related regulations by resorting to illegal practices.
 - b. **Education and gender:** low level of education mostly primary education and below and are between ages 20 and 40 years.
 - c. **Type of goods:** staple food commodities such as maize, low quality consumer goods such as shoes, clothes, and some of the ICBT goods reflect the same ones that benefit from export promotion schemes, such as textiles.
 - d. **Awareness of cross-border trade regulations:** many ICBT traders are well aware of the general provisions of the EAC CU but contribute their engagements to NTBs in formal trade
 - e. **Transport and storage facilities:** long distance wholesalers are the key players and at the borders divide their goods into small quantities and involve different modes of transport across the border they use bicycles; push carts animals, boats among others.
4. In EAC, ICBT represents a significant proportion of regional cross-border trade. For example in Uganda's border monitoring survey of 2006 indicates that the informal exports flowing from Uganda to its five neighbouring countries –Kenya, Rwanda and Tanzania (EAC), Democratic Republic of Congo, and Sudan –amounted to an estimated US \$ 231.7 million, corresponding to around 86% of official export flows to these countries over the same period, or 46 percent of total (i.e., formal and informal) export flows to these countries
 5. There are a number of push and pull factors which he said were the major factors behind the growth and continued existence of ICBT in EAC. Traders have little knowledge of benefits of trading within EAC as well as inadequate information on existing trading opportunities. There are no written rules (which mean trading under non-transparency), hence it is difficult for traders to know their rights in trading within EAC. This has led to situations where some customs officials demand duties on goods that are not supposed to attract duties, exploiting traders' ignorance. Complicated documents that have to be filled in and complicated processes of filling them is also a barrier to entering the formal business channel. Mr. Ogalo emphasized that, especially for women traders, spending unplanned nights at the border towns pose several challenges with their own security since there are no safe affordable accommodation in border towns and that of their goods which are exposed to robbery. This often opens flood gates to some corrupt officials seeking rents/bribes (in the name of 'facilitation payments') in order to expedite clearance process, in which case, a trader may be allowed to pass without proper checks. Because traders know they can 'facilitate' their passage across borders, some of them gain the confidence of engaging in ICBT.
 6. Other push and pull factors are embodied in the fact that it is generally easy to enter ICBT than to follow the long bureaucratic process involved in formal business. The experience of traders is that following the formal processes involves high transaction and compliance costs. It is generally hard for small traders to acquire certificates of origin issued away from border

stations where their businesses are stationed. Delays in processing of tax refunds are also a disincentive to doing formal trade. Other factors lay in the weak economies of EAC. Formal jobs have been shrinking and as rural-urban migration also increase in search of non-existent employment, the informal sector (and ICBT included) provides viable alternatives for employment. Retrenchments, low pay in formal jobs, inflation and currency devaluations are all factors that create pressures on real wages and search for informal income supplements.

In his conclusion, it was observed that informal trade can spur entrepreneurial activity and regional trade as well as contribute to greater regional food security and food stability and can enhance income revenues and provide employment opportunities which they can otherwise not get from the government. However, ICBT is still surrounded by lots of controversial myths and ignorance and therefore in order to intervene in the ICBT problem, there is need to recognise its existence and acknowledge it as a part of the economy and accorded a conducive environment to prosper. Also, trade should be freer in the EAC but the customs officials are hostile to even the legal trade. It is also notable that the tax evasion in ICBT creates unhealthy competition with those who have paid often punitive taxes. Therefore, the informal trade is here to stay and an alternative to the lack of formal employment and the need to find enabling environments without hurting the economies.

Notably, traders do not know essential basics of the CU Protocol and the opportunities and challenges it poses in the day-to-day activities despite the Protocol having provisions that are aimed at accruing financial gains to traders within the EAC.

The presenter therefore made the following recommendations:

- Undertake aggressive publicity & dissemination of the EAC Treaty, the CU Protocol, the Community's policies and other applicable laws and principles as provided for under Article 39 of the Protocol.
- Educate government agencies on protocol including attitude change among customs officials and other border officials and monitor compliance including to requirements of international law/treaties and conventions.
- ICBT is a worldwide reality and requires official recognition including revising EAC CM to recognise it and provide it an apt environment

Plenary discussions:

The following were the highlights of the discussions:

- There is no universally accepted definition of ICBT and therefore there is need for the EAC to come up with a definition of the informal sectors and the dynamics within the sector.
- Sensitization programmes should be done to all the EAC custom officials at the EAC border points about the informal trading.
- The CSOs should play the role of building capacity to the citizens in regard to the customs union as well as increase advocacy and networking mechanisms within the sector.

- With the onset of the EAC common market protocol, there is need to educate the cross border traders so as to enable them benefit from the common market.
- Women are the main key players in ICBT and this has a huge potential for trade within the EAC. However it was noted that the ICBT should not be formalised but instead it should be enhanced to support the women as it is their source of livelihood.
- The informal sector has lost confidence in their governments and hence finds no reason to pay up to them through the tax system especially due to poor infrastructure in the countries.
- In regard to the difference between the informal and formal sectors, it was noted that informality did not necessarily mean illegal trade and evading tax did not necessarily mean that one is trading in illegal goods.
- There is need to apply a practical approach towards ensuring the benefits of the EAC regional integration process reach the citizens by information dissemination and capacity building for the small scale cross border traders. The CSOs should create programmes and develop policies that deal with justice, equity and accountability in the informal traders .
- CSO should produce user friendly documents outlining the EAC integration processes, benefits as well as regulations for dissemination, possibly translate them into the local languages and organise educative forums to address issues for the messages to have tangible effects for the informal traders.
- A clear definition of the informal sector is needed and one suggestion would be to define it as the sector that operates outside the known official framework as this kind of a definition would help in collecting statistical data by the relevant authorities.

Presentation can be seen at: [http://www.cuts-international.org/ARC/Nairobi/ppt/Informal Cross Border Trade In East Africa.ppt](http://www.cuts-international.org/ARC/Nairobi/ppt/Informal%20Cross%20Border%20Trade%20In%20East%20Africa.ppt)

5) PAPER 5: INTEGRATING MIGRATION WITH DEVELOPMENT IN EAC: POLICY CHALLENGES AND RECOMMENDATIONS

Presenter: John Bosco Kanyangoga, International Trade Consultant, Rwanda

Chair: Agnes Kirabo, VEDCO, Uganda

The presentation focused on the EAC partner states policies linking them with migration and development to assess the main impacts of migration on the socio economic and political developments in the EAC.

He observed that there is no much information on migration policies and that his study focused more on Rwanda because the its migration policies are aimed at ensuring economic development with a strategic focus on; Investment flows, Tourism and skilled labor (human capacity building). Migration policies are therefore smooth except for the migration of the Burundians to Tanzania. Looking at the history lens of migration within EAC, it's notable that history of migration is that of people's struggle to survive and to prosper, to escape insecurity and poverty, and to move in response to opportunity.

The following are the key characteristics of EAC migration:

- Migration flows heading in the direction of the more developed areas, which for the individual migrant means a paid job or a (well) paying income-generating activity. Kenya was taking a big share for destination though the trend is slowly changing now.
- Other reasons that may influence migration include civil wars, natural disasters like drought, floods, volcanic eruptions, etc.

Below are the respective Policy and Institutional Frameworks in each of the EAC partner state:

- **Rwanda:** Migration issues are handled by the Directorate of Migration and Immigration.
- **Burundi:** The requirements for entry in Burundi include; a passport, visa, and evidence of immunization against yellow fever. Only those travelers resident in countries where there is no Burundian embassy are eligible for entry stamps, without a visa, upon arrival at the airport. These entry stamps are not a substitute for a visa, which must be obtained from the Burundi Immigration Service within twenty-four hours of arrival.
- **Uganda:** The relevant institution is the Immigration Department which is within the Ministry of Internal Affairs.
- **Kenya:** The migration issues in Kenya are handled by the Department of Immigration.
- **United Republic of Tanzania:** After the Zanzibar Revolution in 1964 and the unification of these two sister countries, Tanganyika and Zanzibar, Immigration matters continued to be regulated by two laws Emigration Control Decree of Zanzibar 1964 and Immigration Act 1963, which was repealed by the Tanzania Immigration Act 1972. In spite of the union, Immigration and Citizenship laws were not harmonized until 1995, with the coming into force of the Immigration Act No. 7 of 1995 and the Tanzania Citizenship No. 6 of 1995 and their subsequent Regulations.

Notably, the provisions in the EAC CM that deal directly with movement include; free movements of: labor, persons and services as well as provisions on the right of establishment and residence. He cited the Rwanda migration policy as a newly prepared document that seeks to fulfill the key tenets of the Rwanda Economic Development and Poverty Reduction (EDPRS) and the vision 2020.

It was noted that from the analysis of the Rwanda migration policy, there was enormous economic advantage that accrues to the country which should be replicated by the EAC partner states. The advantages include: Increased productivity and competitiveness due to skilled work force; Emigrants are able to share and exchange their best practices and experiences with the local citizens; there are spillover effects especially in the context of the EAC market; the change in culture, attitude and mindset towards work and leisure; this is true with Rwandese who have completely adopted the EAC business culture; the country is now able to attract huge investments especially those in the service sector due to availability of the skilled labor in the country and relaxation of the work permits requirements.

However, the key challenges in EAC are: lack of harmonized laws and policies; lack of implementation of the commitments made among the partner states; poor infrastructure which inhibits movements.

The presenter recommended that there is need to facilitate labour movement within the region as well as remove any existing visa fees and any other restrictions. He advised of the need to establish an informed and transparent labor migration system, the need to enforce labor standards in all sectors of the economy and to prevent discrimination and xenophobia. He also recommended that there is need to ensure there is full and effective implementation of the EAC common market protocol and the enhancement of skills development for domestic market and the export market.

He further suggested that there is need for a comprehensive study on the gains of the EAC regional integration process as well as embrace a culture of competition and the need to encourage cultural and linguistic integration. He saw the need to promote cross border development projects and to create a platform for the government and the civil society, using the current study as the foundation of further studies.

Presentation can be seen at: <http://www.cuts-international.org/ARC/Nairobi/ppt/Integrating Migration with Development in EAC.ppt>

6) PAPER 6: HARMONIZATION OF EAC TAXATION SYSTEM: PROPOSALS FOR A TAX REGIME FOSTERING SMALL BUSINESS DEVELOPMENT

By Clyde Mutsoso tax and audit expert, Kenya

Chair: Mr Omar Kassim, Uganda National Chamber of Commerce and Industry, Uganda

According to this presentation, one of the major reasons behind regional integration arrangements is to create large investment areas and enlargement of markets. EAC therefore has prioritised the harmonisation of taxation regimes of its member states to promote coordination of the taxation systems of the member states for the purpose of preventing any national tax measures that could have a negative effect on the functioning of the planned Common Market arrangement. Observe

This study examined that there are differences among EAC member countries' tax systems including definitions of tax bases that have the effect of conferring unfair tax competition and unequal treatment of tax payers, goods and services in the region, which if not addressed will distort the effective functioning of the Common Market (EAC, 2009). The structure of the private sector in the EAC region is dominated mainly by micro, small and medium size enterprise (MSMEs), operating mainly informally and that for most of the informal small businesses, the choice to pay tax or remain in the informal sector would be a simple one; stay in the informal sector as long as possible because the perceived benefits outweigh the perceived costs.

Therefore, the informal sector is very important as seen in some countries like Tanzania and Burundi where its contribution to GNP exceeds the contribution from the formal sector and that it is estimated that on average the MSME sector contributes more than 70% of non-agricultural employment. The informal sector is a means of strengthening the economies of the EAC member states as it addresses some of the major socio-economic issues such as unemployment, poverty reduction, and inability to industrialize.

The presenter upon doing a comparative analysis of the national taxation systems in the EAC, observed the following:

- *Value Added Tax (VAT)*: There is a difference in the definition of a Taxpayer, Time of Supply and the Taxable Value for majority of the EAC member states. There is also a difference in the threshold for becoming registered for VAT in all the member states of the EAC. However the rates range between 18% and 20%
- *Excise Taxes*: All the member states apply Excise using specific and Ad valorem but the goods that are subject to Excise duty vary across the countries as well as the rates.
- *Income and Profit Taxation*: In Kenya, Tanzania, Uganda, and Rwanda personal income tax (PIT) and corporate income tax (CIT) are regulated within the income tax act or law, while Burundi disposes of a general tax code. The determination of the Tax base differs in all the EAC member states and the difference arises on the definition of Income and the expenses that are allowable and disallowable for deduction for Tax purposes.

This study observed that there are challenges in taxing the informal sector such as the challenge of administering a system that adheres to the principles of designing a presumptive tax system regime such as in the ease of compliance, ease of administration, compatibility with existing regimes, fairness, and transition across regimes. So, the dilemma lies on having a simplified tax regime versus bringing informal sector into the tax bracket wondering whether policy makers can be able to achieve both principles. Also, there are risks of vendors who were initially maintaining books of accounts for tax purposes and by stopping doing so, they will now fall below the threshold and will eventually lead to a huge number of them enjoying a lower tax obligation thus making them remain in the regime instead of graduating to the regular regime. There is also the challenge of developing strategies for enhancing compliance based on the taxpayer segments as well as lacking credible data that can be used for analysis of the tax payer segments.

This study also noted the effects of taxing the small business formalization and noted that on the small and medium-sized enterprise's (SME's) side, participating in a tax regime brings a firm into the formal sector, and allows the firm to access formal credit markets, government procurement, and access to markets including for export. On the government's side, he observed that by encouraging firms to fully enter the formal sector through registering for and paying taxes, government promotes a culture of compliance and sets the stage for the firm to grow and become a bigger taxpayer; additionally, firms in the formal sector are more likely to comply with all other regulations and official obligations than those in the informal sector. There is extensive evidence that growth is severely hampered by the existence of an informal sector working in parallel with the formal sector.

However, there were effects of informality on development of the small business such as penalties and corruption, Limited access to public services, Avoiding profitable expansion, Limited access to financial and Business Development Services, Limited possibilities to cooperate with formal enterprises. On the small Business Taxation Approaches its important that during the

harmonisation there should be a simplified (Presumptive) Taxation, presumptive taxation based on turnover or gross income, application of different tax rates on a standardized tax base, presumptive systems based on indicators, combination of turnover and indicator-based systems, patent systems and agreed systems.

This paper observed that there exist challenges in implementing the Proposed Taxation Reforms and observed that in addressing *the equity principal of taxation in the Small Business Tax regimes*, there are difficulties in ensuring that both vertical and horizontal equity is achieved in the regime which is a global challenge for both the regular and presumptive tax regimes. In addition, transition *from the Small Business Tax regime to the regular regime*; some MSMEs stagnate in the presumptive regime instead of graduating to the regular regime, especially where tax liability is expected to increase with graduation. There is also *low voluntary tax compliance which is a challenge* such as in the filing of returns, making it difficult to achieve the overall objective of the regime in enhancing tax compliance of the sector at minimal costs.

There is also the challenge of not *keeping proper records or manipulating the records kept with a risk* of having vendors who were initially maintaining books of accounts for tax purposes stopping to do so since they will now fall below the threshold and eventually leading to a huge number of them enjoying a lower tax obligation. So, the imposition of *penalties and fines may be ineffective as vendors may not* maintain accounting records and therefore to pay a fine or a penalty could lead to discouragement of compliance altogether. The *Incorrect declaration of turnover as businesses* will have difficulties in determination of turnover and hence the risk of under declarations. Large firms could also take advantage of the Small Business Tax regime by splitting into small firms in order to enjoy the new Small Business Tax regime. If the new tax regime is not well designed, firms may engage in fraudulent activities to evade taxes leading to a decline in revenue collections.

Plenary discussions:

The following were the highlights from the plenary discussions:

- Domestic tax harmonization is necessary before engaging the informal sector in taxation.
- Tax is a tool for development and is meant to ideally benefit everyone.
- There is a general concern on how the taxes can be harmonized when all the countries are at different levels of development
- There is need to ensure that the tax myths are demystified by educating the citizenry on tax issues and the importance of tax as failure to pay taxes may end up being more expensive through such actions as corruption.
- There is still a lack of a commonly agreed definition of SMEs and therefore the CSOs can engage in research towards having a clear definition of an informal sector as well as an SME in the region.

- There is need to create a strong EAC secretariat body as a commission that has the authority to implement policies that are agreed upon at the regional levels and hence implemented within the partner states.
- Involve the SMEs in the tax harmonization processes to enable them give their input to the system,
- Tax harmonization should work towards reaching a convergence on tax categories and taxable goods and that tax rates may be set within a certain range that is not penalizing for SMEs but also that do not create distortions in regional trade.

Presentation can be seen at: [http://www.cuts-international.org/ARC/Nairobi/ppt/Harmonisation of East African Community Tax Policies.ppt](http://www.cuts-international.org/ARC/Nairobi/ppt/Harmonisation%20of%20East%20African%20Community%20Tax%20Policies.ppt)

7) PAPER 7: NATIONAL COMPETITION POLICY AND LAW VERSUS THE REGIONAL COMPETITION LAW ACT: STATUS AND WAY FORWARD ON ADDRESSING THE IMPLEMENTATION CHALLENGES.

By Dr. Martin Kagwa, Uganda martin kagwa Uganda

Chair: Kimera Henry Richard, CONSENT, Uganda.

Dr. Kagwa in his presentation noted that there are parallel processes that have been taking place in the EAC region namely the finalization of the formation of the EAC Common Market, the EAC, SADC and COMESA discussion on integration of the three economic blocs and the Economic Partnership Agreement (EPAs) with the EU negotiations. These processes make a regional competition law important in the realisation of an envisaged regional development as it has implications on market performance and production efficiency. Uganda has therefore drafted a competition law which could be beneficial; but could also have unintended consequences. The competition policy opens market for competition (ideally) leading to: Promotion of domestic market liberalisation, increased trade, increased inward investment, Efficiency in making economic decisions and innovation, Maximisation of consumer surplus, subsequently job creation and general improvement in the standards of living.

More profoundly, the competition policy has and is still on the agenda of multilateral trade negotiations (Part of the Singapore Issues) but the difference of opinion between developed and developing countries delayed its finalisation. In Uganda the market is replete with anticompetitive practices that have restrictive anti competitive business practices, Price cartels/artificial price fixing, monopolies, bid rigging and Market sharing behaviour.

The research also notes numerous challenges in implementing the competition policy, such as in the political appointment of the Commissioner and Members, the initiation of complaints which requires the understanding of the competitive law and is below an average consumer. This makes it hard to keep a look out and reporting on uncompetitive practices has a cost that consumers may not be willing to incur and that the implementation of the law is information intensive, yet the success depends on participants having enough information of the market.

Therefore, there are strategic supports of mergers among local firms to enable them compete with foreign firms and that there is need for a clear articulation of the relationship between the draft competition law and other national policies especially the industrial policy. So, what needs to be done is to have harmonisation of sector regulations which have a bearing on competition and the draft competition law and to ensure the independence of the competition commission/authority. Importantly, the competition law should be flexible and dynamics taken into account to level development and be able to respond to changing development and should not restrict the existing policy space.

The researcher therefore recommended that there is need to intensify stakeholder awareness on the importance and relevancy of competitive markets in the EAC region, Put in place a coordinated mechanism to monitor and report on uncompetitive behavior in the market when the competition law(s) are in force and have a strong and informed body to safeguard against state capture in the implementation of the competition policy.

There is also the need to Lobby for and support to EAC governments in order to devote adequate resources to competition aspects as well as have a regional entity, recognized by all EAC member states, to coordinate/support activities of national CSOs as regards market competition issues.

PLENARY DISCUSSIONS:

The following key issues were raised:

- The current draft EAC competition policy should be harmonized with the individual EAC partner states competition policies to ensure that the national laws complement the regional laws.
- The CSOs in Uganda have not given any input into the processes of drafting the competition law. It is notable that CSOs have generally been inactive in regional integration processes and should therefore take an active role towards drafting an EAC competition policy.
- Notably, competition has a great role in the development of a nation and hence should be given consideration to ensure that healthy competition exists within the partner states.

Full Presentation can be seen at: http://www.cuts-international.org/ARC/Nairobi/ppt/Assessment_of_the_socio-economic.ppt

3. CONCLUSION AND WAY FORWARD:

The participants discussed and agreed on the following key issues to be carried out after the workshop:

It was agreed that there is need to ensure that the CSOs in EAC should unite to form a strong voice within the region, starting with the national level and building up to the regional levels by intense mobilization to give the CSOs a strong voice at all levels. In addition to this, they also agreed that there is need to establish a well outlined procedure towards the financial and technical support of EACSOF by the CSOs in the region to enable it to carry out its functions at the regional level.

It was noted that CSOs must engage in relevant research to enable them give factual and supported information that will be beneficial to the regional integration processes. Participants noted the need to have a CSO website that is interactive to enhance their internal communication as well as information sharing.

Participants agreed that there was an urgent need for EACSOF to request for an observer status within EAC as well as ensure that the governments give EACSOF recognition for their input. It was noted that there is need to ensure that CSOs prioritize their challenges and divide amongst themselves areas of specialization for best results and input to the regional integration processes. CSOs need to have a proactive approach to regional issues such as ensuring they have given inputs towards budgets before the budgets are finalized both at the regional and national levels. It was also agreed that there is need to ensure CSOs have documented their research and that engaging in lobbying and advocacy activities will help build the profile of the CSOs within the regional integration processes. It was also noted that CSOs should communicate to all the relevant CSOs in the processes with the aim of building strong positions on issues.

Participants also agreed on the need to encourage public private partnership at all levels as this would build up development within the region. Notably the importance of dissemination of information in a friendly and easy to read language for the EAC citizens will help citizens to understand the benefits accruing from the regional integration processes.

4. CLOSING REMARKS:

By Clement Onyango, Director CUTS Africa Resource Centre, Nairobi

He was grateful to the participants for the very fruitful deliberations made during the workshop and advised the need to ensure that the deliberations too become auctioned for a greater benefit for all.

ANNEXES:

- a. Workshop Agenda: http://www.cuts-international.org/ARC/Nairobi/pdf/Agenda_Regional_Workshop_on_Strengthening_the_Role_of_Civil_Society.pdf
- b. List of Participants: http://www.cuts-international.org/ARC/Nairobi/pdf/Participants_Regional_Workshop_on_Strengthening_the_Role_of_Civil_Society.pdf