CROSS-BORDER TRADE IN EAST AFRICAN COUNTRIES:

Shared Issues and Priorities for Reform

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Cover photos (from left to right) by: Cameron McCool, Rowan Seymour, Lister-Kaye Photography, Andreas Rolfer, Hendrik de Bruyne

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INTRODUCTION

The challenges facing trade in East Africa—particularly among those countries that are relatively free of conflict—are familiar, widely discussed, and generally understood. They include, most prominently, inadequate physical infrastructure; the need for reconciliation and harmonization of tariffs and border practices; persistent interference with ground transport; institutional weaknesses (ranging from state bodies charged with negotiating trade agreements to customs, health, and standards agencies); and weak trade facilitation practices at land borders and ports. Solutions to these challenges, however, remain slow in bearing fruit. In addition to the daunting expense of improving roads, building bridges, developing rail transport, supplying ports, and strengthening storage facilities—especially for perishable agricultural products—those who wish to see East African regional and international trade flourish face a tangle of stakeholder ambivalence, resistance, and conflicts of interest.

This paper summarizes the key trade issues identified over the course of diagnostic exercises conducted in six countries under the auspices of USAID's Business Climate Legal and Institutional Reform (BizCLIR) project: Ethiopia (2006); Tanzania (2007); Rwanda (2008); Burundi (2008); Uganda (2008); and Kenya (2009).[1] The BizCLIR diagnostics analyzed several key areas of the business environment in each of these countries and, in most of them, specifically studied the twin issues of **trade policy**—i.e., the legal and institutional context for developing and supporting regional and international trade—and **trade facilitation**—i.e., the procedures that traders encounter at international borders as implemented by customs officials and other state agencies. In each of these countries, strengthening trade is a government priority and many improvements have been made toward developing mature, export-oriented industries. Regionally, however, the countries of East Africa remain mired in counter-productive practices, and inadequate attention is paid to the details of strengthening their collective trade positions.

This paper first discusses the key regional issues in trade policy and trade facilitation and, second, sets forth how such issues affect the six

1 Individual country reports are available through the USAID/BizCLIR website: www.bizclir.com.

countries studied by BizCLIR. Finally, it provides a series of recommendations for trade reformers, including donor agencies and government officials, to consider as they move forward with an agenda for strengthening regional and international trade.

KEY REGIONAL ISSUES

TRADE POLICY

OVERVIEW

To understand the conditions underlying trade within and surrounding East Africa, a map is the best place to start. From the north, certain countries that would otherwise host water ports are notorious for their instability and even hostility to world trade: Sudan, Eritrea, and Somalia, in particular. The vast majority of Ethiopia's imports and exports move via truck along the Addis Ababa–Djibouti corridor through the Port of Djibouti, a trip of 925 kilometers that typically takes three to four days. The other two East African water ports are at Mombasa in Kenya and Dar es Salaam in Tanzania. The land-locked countries of Uganda, Burundi, and Rwanda depend not only on these

COUNTRY	PRINCIPAL EXPORTS	% OF POPULATION THAT WORKS IN AGRICULTURE	% OF GDP DRAWN FROM AGRICULTURE
Burundi	Coffee, tea, cotton	94%	33%
Ethiopia	Coffee, khat, gold, leather products, live animals, oil seeds	80.2%	46%
Kenya	Coffee, tea, flowers and other horticulture, vegetables, clothing	75%	23.8%
Rwanda	Coffee, tea, insecticide (made from chrysanthemums), bananas, beans, livestock	90%	35%
Tanzania	Gold, fish, ores, coffee, tea, tobacco, cotton	80%	27%
Uganda	Coffee, fish and fish products, tea, precious metals, horticulture	82%	29%

ports for their international trade opportunities, but also on the roads, border posts, and other trade-related infrastructure underlying the long journey to the ports.

In each of the six countries discussed here, agriculture is a core industry, employing 75–90% of their respective populations and providing for 24–46% of GDP. Opportunities for trade in agriculture fall far short of their potential, however, due to inadequate infrastructure, a dearth of cold-storage facilities, and other factors that make it difficult to trade in fresh fruit, meat, horticulture, and other local products. The fact that non-perishable or less perishable products dominate agriculture exports in these countries—coffee, tea, cotton, seeds, and dry beans, for example—is a tangible outcome of an environment where food and other agricultural products cannot be moved fast enough or stay fresh long enough to be viable for regional and overseas trade. Trade in manufactured goods and services employs fewer people, but represents an increasingly critical component of GDP.

To strengthen their access to international markets, Burundi, Kenya, Rwanda, Tanzania, and Uganda, have each joined the World Trade Organization (WTO), thus agreeing, at least in principle, to a core set of trading rules between nations and to use the WTO as a forum for resolving trade disputes. Ethiopia applied for admission to the WTO in 2003 and, as of spring 2009, its qualifications for membership remain under consideration. Under the WTO's Generalized System of Preferences (GSP), as well as a number of bilateral agreements, a wide range of East Africa's manufactured products are entitled to preferential duty treatment in the developed markets of the United States, Japan, Canada, New Zealand, Australia, and Switzerland, Norway, Sweden, Finland, and Austria, as well as other European countries. However, the challenge and potential of regional trade are of increasing interest among policymakers and business people in East Africa. Trade among East African countries in agricultural goods for food security, services that could foster more vibrant entrepreneurship, and locally manufactured products represent significant opportunities in the region.

Two trade agreements dominate East Africa's regional trade system: the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA). The member states of EAC are Burundi, Kenya, Rwanda, Tanzania, and Uganda. The member states of COMESA are Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe. Tanzania withdrew from COMESA in 2000, citing concerns that diminishing tariffs charged to all member countries, pursuant to an anticipated common tariff agreement, would represent too great a fiscal sacrifice. On the other hand, Tanzania belongs to the South African Development Community (SADC), another large trade pact (19 countries). Trade within both the EAC region and the larger COMESA region represents a critical portion of imports and exports for all of the countries discussed here—in the range of 30–50%.

COMESA is the largest regional group in Africa; its 19 members represent almost half of all African countries. COMESA was preceded by the Preferential Trade Area for Eastern and Southern African States, established in 1982. The Treaty establishing the Preferential Trade Area was signed in 1981 and came into effect on September 30, 1982. Its goal was to capitalize on a larger market and to allow for greater social and economic co-operation between member countries. The ultimate goal was the formation of an economic community. The treaty called for the gradual reduction and eventual elimination of customs duties and nontariff barriers and provided for the transformation of the Preferential Trade Area into a common market. This was achieved with the establishment of COMESA, which was signed in Kampala, Uganda in 1993 and ratified in 1994. In addition to Tanzania, at least three other countries have terminated their membership in COMESA: Lesotho, Mozambique, and Namibia.

The treaty establishing the EAC, comprising Kenya, Tanzania, and Uganda, was signed in 1999 and ratified in July 2000. The trade pact's objective is to widen and deepen political, economic, and social cooperation among the member states. As a result, the governments of the member states agreed to remove tariff barriers among those three countries. In late 2004, Kenya, Tanzania, and Uganda ratified a Customs Union (CU) Protocol which came into effect in early 2005. With the

MEMBERSHIP IN TRADE AGREEMENTS

Country	WTO	EAC	COMESA
Burundi	√	√	√
Ethiopia			√
Kenya	√	√	√
Rwanda	√	√	√
Tanzania	√	√	
Uganda	√	√	√

establishment of the CU came the introduction of the Common External Tariff (CET) and internal tariffs for extra-regional imports and intra-regional trade. Rwanda and Burundi joined the EAC in 2007. Of the five member states, only Burundi does not yet apply the CET.

The CET adopted for non-EAC countries is a three-tier tariff system that paves the way toward a common market. Under the protocol, EAC member states apply zero duty for raw materials and inputs, 10% for processed or manufactured inputs, and 25% for finished products. For intra-regional trade, the import duty (internal tariff rate) ranges between 0% and 25%, with a gradual phase-out by 2011. A selected list of sensitive items, comprising 58 tariff "lines," has rates above 25% for certain goods, including milk and milk products, corn, popcorn, rice, wheat, and wheat flour.[2]

A recent addition to the system of trade pacts overlaying East Africa is the Africa Free Trade Zone (AFTZ), a 26-country undertaking established in principle at a meeting of the leadership of the SADC, COMESA, and EAC in October 2008. The AFTZ aspires to reconcile conflicts and create more trade opportunities under the current set of trade pacts. However, the AFTZ and its member countries face the same challenges of institutional development, harmonization of practices, and member buy-in that undermine existing regional trade pacts.

The majority of exports originating in East Africa are offered preferential market access to the United States and the European Union, so long as they meet various threshold quality conditions and standards. The U.S. offers East African countries special access to its markets under the African Growth and Opportunity Act (AGOA). Major products that qualify for export under AGOA include tea, coffee, edible nuts, and other agricultural products, as well as textiles, apparels, and handicrafts. Pursuant to a program known as "Everything but Arms" (EBA), a wide range of manufactured products enters the EU market duty and quota-free. Trade preferences include duty and quota-free entry of all agricultural products, including coffee beans, tea, edible nuts, fresh and processed fruits, and vegetables.

Geography, agriculture, and participation in trade pacts and programs represent just part of the much larger trade story in East Africa. The countries discussed here face formidable challenges in pursuing reforms. Five out of the six rank in the bottom quartile of countries recently surveyed by the World Bank's *Doing Business* project with respect to "Trading Across Borders"—which describes the relative time and costs spent at a border. Tanzania ranks in the third quartile.[3]

2 Office of the U.S. Trade Representative, National Trade Estimate Report on Foreign Trade Barriers: Full Report (2008).

3 *See generally,* World Bank, *Doing Business 2009 (2008)*, and accompanying literature at www.DoingBusiness.org.

COUNTRY	PRIMARY IMPLEMENTING INSTITUTION (TRADE POLICY)	OTHER MAJOR BORDER AGENCIES	LEGAL AUTHORITY FOR TARIFFS	EXPORT PROMOTION AND CERTIFICATION AUTHORITIES
Burundi	Ministry of Commerce	Department of Plant Protection, Ministry of Agriculture	WTO Agreement on Customs Valuation; COMESA Common External Tariff	Ministry of Commerce; Office of Coffee of Burundi; Office of Burundian Tea
Ethiopia	Ministry of Trade and Industry	Ministry of Health; Quality and Standards Authority; Ministry of Agriculture	Although not a WTO member, Ethiopia employs WTO Agreement on Customs Valuation	Investment Authority; Export Promotion Agency
Kenya	Ministry of Trade	Kenya Bureau of Standards; Kenya Plant Health Inspection Service; Port Health Services; Port Authority	WTO Agreement on Customs Valuation; COMESA Common External Tariff; EAC Common External Tariff	KenInvest; Economic Promotion Council
Rwanda	Ministry of Commerce, Industry, Investment Promotion, Tourism and Cooperatives (MINICOM); and Ministry of Finance and Economic Planning (MINECOFIN)	Rwanda Bureau of Standards	COMESA Common External Tariff; EAC Common External Tariff	Rwanda Investment and Export Promotion Agency; Rwandan Coffee Office (OCIR); Tea Board (forthcoming)
Tanzania	Ministry of Industry, Trade, and Marketing (MITM); Ministry of Finance	Tanzania Bureau of Standards; SUMATRA (port regulatory authority); Plant Health Services; Tanzania Food and Drug Authority	WTO Agreement on Customs Valuation; EAC Common External Tariff	Board of External Trade
Uganda	Ministry of Tourism, Trade and Industry; Ministry of Finance, Planning and Economic Development	Bureau of Standards; Phytosanitary and Quarantine Inspection Services within the Department of Crop Protection, Ministry of Agriculture	WTO Agreement on Customs Valuation; COMESA Common External Tariff; EAC Common External Tariff	National Chamber of Commerce; Uganda Coffee Development Authority

COUNTRY	WORLD BANK *DOING BUSINESS* RANKING FOR TRADING ACROSS BORDERS (181 COUNTRIES SURVEYED) (2008)	TRANSPARENCY INTERNATIONAL CORRUPTION PERCEPTIONS INDEX RANKING (180 COUNTRIES SURVEYED) (2008)
Burundi	170	158
Ethiopia	152	126
Kenya	148	147
Rwanda	168	102
Tanzania	103	102
Uganda	145	126

All of them face veritable crises in corruption and conflicts of interest. Of 180 countries surveyed by Transparency International in 2008, only Tanzania and Rwanda rank in the third quartile, with Burundi, Ethiopia, Kenya, and Uganda falling among the 25 countries perceived as most corrupt in the world.[4] Several of the countries—Burundi, Rwanda, and Kenya in particular—have recent histories of conflict. Concerns over health, access to and quality of education, energy, water, and institutional capacity in general are also significant in all of the countries.

Against this backdrop, certain priority issues emerge with respect to trade policy in East Africa. They are discussed below.

ROADBLOCKS AND WEIGH STATIONS

A fundamental issue with respect to the transport of goods to market in East Africa—but one conspicuously absent from the regional trade policy agenda—is the overwhelming costs imposed by roadblocks and weigh stations in the region. The extent to which this issue undermines the regional trade environment makes it a policy issue that lawmakers should be discussing at the highest levels. A 2008 survey of the East African Business Council found that random police checks that impose costs and delay trucks are pervasive. Such practices are unheard of in more developed economies less tolerant of petty corruption.[5] For example, truckers traveling west to Mombasa or Dar es Salaam report an average of 19 roadblocks and 4.4 weigh stations per trip, resulting in almost 12 hours spent on such diversions. In one instance, there was a combined total of 47 roadblocks and weigh stations between Kigali and Mombasa.[6] Although each bribe sought from

4 Transparency International, Corruption Perceptions Index (2008).

5 East African Business Council, *The Business Climate Index*—Survey 2008 (October 2008) at 28.

6 The Economist, "Network Effects—Logistics in Africa," October 16, 2008.

a trucker at a roadblock or weigh station is usually not large, the total becomes dramatic; nearly US$8 million is reportedly paid at the roadblocks and weigh stations per year in the EAC countries alone. More importantly, the time lost in transport imposes untold costs in trade opportunities: fresh agricultural goods that might otherwise be suitable for market—whether domestic or international, processed for export or raw—are often lost due to such delays.

Governments, donors, and investors alike have been paying attention to building better roads and bridges, improving customs and other border processes, and otherwise strengthening the facilitation of transport in East Africa. Yet smooth passage along domestic roads is generally neglected as a trade policy issue. In fact, outsiders in a position to influence the practice may not appreciate the extent of the problem, as diplomatic license plates and tourist vehicles are more likely to be waved through roadblocks. For the remaining road users, however, the intimidation level is high when vehicles are stopped by armed officers.

Executive or legislative action in EAC and COMESA countries that effectively bans random roadblocks and reduces the number of weigh stations is necessary. At this time, however, the vast and disparate local interests vested in maintaining this infrastructure for corrupt or otherwise misguided purposes remain under-explored, insufficiently discussed, and, as a result, virtually intractable.

RECONCILIATION OF INTERNATIONAL AND REGIONAL TRADE PACTS

Regional integration is critical to enhancing trade opportunities as well as to ensuring food security among East African countries. The overlapping nature of the regional trade agreements in East Africa, however, poses a number of administrative difficulties. The EAC customs union has had difficulty promoting the free internal movement of goods between EAC countries because border controls are necessary to ensure that EAC preferences are not accidentally granted to Southern Africa Development Community (SADC) and COMESA countries. Overlap adds extra costs and delays to the trading process. In addition, it is not feasible for Kenya, Burundi, and Uganda to join the customs unions of *both* EAC and COMESA, because the two trade agreements have different customs and CET requirements. Meanwhile, the absence of Tanzania from COMESA confuses the role of that agreement within the five EAC countries. The new AFTZ will add another layer that will need rationalization with existing pacts.

One important step toward harmonization of trade policy is currently taking place as a result of outside demand. In recent years, the EU has negotiated Economic Partnership Agreements with individual East African countries. An EPA with the entire block of EAC countries is being negotiated, with hopes for completion in 2009. A significant challenge in these negotiations is reportedly "the overlapping membership of various regional integration organizations with diverging integration agendas."[7]

Similarly, since mid-2008, the EAC and the United States have been party to a Trade and Investment Framework Agreement (TIFA), the purpose of which is to "strengthen the United States-EAC trade and investment relationship, expand and diversify bilateral trade, and improve the climate for business between U.S. and East African firms."[8] This initiative, too, requires clarification among all stakeholders—from officials at the highest policy levels to customs officers on the front line of enforcement—about the precise applicability of various tariffs

CHALLENGES TO AFRICAN ACCESS TO AGOA TRADE-PREFERENCE SCHEMES

Item	Challenge
Apparel	Sharp competition from Asian markets. Exclusion of denim under AGOA supply provisions.
Agricultural products	High transport costs; counterproductive land tenure practices; unreliable utility supplies, such as water and electricity; lack of technical capacity to meet international product requirements.
Cut flowers	High shipping costs; lack of direct flights; selling direct to the United States instead of through traditional marketing and distribution networks in Europe.
Prepared/preserved fish	Need for additional investments in local fishing fleets, modern and efficient processing plants, and cold storage equipment and facilities. Also need to manage sustainability of local fish stock.

Source: USTR 2008 report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of AGOA (2008)

7 Office of the U.S. Trade Representative, *2008 report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of AGOA* (2008) at 36.

8 See website of the Office of the U.S. Trade Representative at http://www.ustr.gov/countries-regions/africa/east-african-community.

and other requirements. With at least nine regional trade pacts in sub-Saharan Africa, the challenge of reconciliation, member buy-in and consistency of implementation is significant both as a trade policy and trade facilitation issue.

THE CHALLENGES PRESENTED BY TRADE PREFERENCE SCHEMES

Through EBA, AGOA, and other trade-preference programs, the large markets of the EU, the US, and other regions of the world aspire to be open to East African goods. Producers and traders face many hurdles, however, in taking advantage of these opportunities. In 2007, the top five AGOA beneficiary countries were Angola, Chad, Gabon, Nigeria and South Africa. Not one of these countries, of course, is located in East Africa.

Chiefly, quality controls imposed by large, developed markets, including sanitary and phytosanitary measures (SPS) on agricultural products, serve as a major nontariff barrier facing East African exports. For example, Kenya has struggled to reconstruct its fishing industry after facing several SPS-related bans from EU buyers who wanted eco-friendly fish harvesting and processing from suppliers. From 1997 through 2000, Uganda faced similar bans due to pesticide levels in Lake Victoria and other concerns.

East African countries acknowledge a need to build capacity to meet the quality requirements of outside markets in order to take advantage of trade preference opportunities. For example, existing laboratories in the region are perceived as not capable of testing and verifying product standards due to the lack of necessary technical information, equipment, and trained staff. These countries also acknowledge a need for significant investment in the institutional capacity and technical expertise of local and regional institutions that can carry out conformity assessments for product standards and production processes. Thus investment in relevant scientific educational opportunities at vocational schools, universities, and training centers is regarded as necessary. When considering support for and investment in these areas, however, institutional governance cannot be neglected. Investment in capacity-building should not fall prey to corruption, waste, or conflicts of interest.

TRADE IN SERVICES

For a region that seeks to broaden its markets and take advantage of synergies and opportunities, East Africa is slow to recognize trade in services as a regional priority. Indeed, as dependence on agriculture diminishes, the importance of services—including tourism, professional services, business process outsourcing, health care, or other opportunities—will increase. However, countries vary in their willingness to allow skilled labor and business services across their borders. For example, in 2007, Rwanda dramatically streamlined the technical requirements for East African professionals and businesses operating inside its borders. Other countries, however, remain wary of allowing regional workers to flow in according to the model set in the 1990s by the European Union's Schengen accord. Business travelers seeking to enter Tanzania must provide letters attesting to the existence of specific business opportunities before receiving a visa. Implementation of laws relating to business travel in Tanzania is also somewhat arbitrary: travelers from the same country entering the country for the same purpose often pay different visa fees. Clearly, trade in services is an opportunity that requires greater understanding and improved implementation within the East African countries.

The economic priority of access to finance demands immediate attention with respect to trade in services. Specifically, mobile finance tools—including the capacity to pay debts over increasingly ubiquitous cell phones—are currently operable within single country zones only. To allow banks and other providers to expand their capacities to permit regional service will take a legal and institutional infrastructure that all participating countries collectively develop and recognize. Similarly, the emergence of private credit bureaus—institutions discussed at length in individual BizCLIR country reports—would benefit strongly from a regional approach to service. Again, however, the legal and institutional infrastructure for this kind of trade in services must be put into place.

EXPORT ZONES

The policy of dedicating special incentives to companies that produce goods for export has been considered and implemented throughout the world with varying results. The lack of consistency among the export incentive programs in East Africa is striking. For example, in Uganda, legislation for the establishment and operation of export processing zones was being drafted at the time of the BizCLIR diagnostic in September 2008. In Burundi, the law has long treated the entire country as a "free zone" for the manufacture or preparation of goods for export, although the administration of this system, established in 1992, has proven sluggish and generally ineffectual. In Tanzania, export processing zones have been authorized since 2002, and 13 such zones are in place. They are intended to facilitate export-led industrialization,

REVISED KYOTO CONVENTION

The International Convention on the Simplification and Harmonization of Customs Procedures—known as the **Revised Kyoto Convention—**was adopted by 114 Customs administrations attending the World Customs Organization's 94th Session in June 1999. It came into force on February 3, 2006, three months following India's becoming the 40th signatory to the Protocol of Amendment; 61 countries had formally consented to the Convention as of April 2009. The RKC establishes the key components of a modern customs law and is an excellent basis on which to facilitate trade, ensure economic growth, and improve the security of the international trade system. It is a practical blueprint for modern and efficient customs procedures throughout the EAC. At this time, the only EAC country to have acceded to the RKC is Uganda (June 27, 2002).

thereby increasing foreign exchange earnings, creating employment, increasing the use of new technologies, and promoting the processing of local raw materials. Despite generous incentives, however, few investors have taken advantage of the program, in part because access to water and power is not readily available prior to setting up operations.

Kenya's EPZ's have been in place since 1990. Currently 42 are in operation, accommodating 76 enterprises. Up to 20% of goods produced in a Kenyan export zone may be sold on the domestic market. Most EPZ companies manufacture textiles destined for the United States market under AGOA. However, since inputs are not sourced locally, the manufacturers are already concerned over what will happen after 2015, when the fabric must be produced within the country to qualify for this trade preference.

East Africa is in the early stages of exploiting the benefits presented by export zones. At this time, there is a window of opportunity for countries in the region to learn from each other. Moreover, as a region, the countries of East Africa should look to the success stories of free trade zones in Southeast Asian countries, especially Vietnam and the Philippines.

TRADE FACILITATION

OVERVIEW

A nation's customs service represents the first line of interest for traders: in East Africa, as elsewhere, customs is the principal state authority charged with enforcing import tariffs, keeping out contraband, and guarding against incoming products that violate intellectual property laws, among other functions. Other state agencies, including those overseeing health and safety of food, plants, consumer items, and other imports, also play a key role at the borders. The fairness and efficiency of these trade facilitation efforts have a major impact on a country's reputation as a viable partner. When time spent at the border is needlessly belabored or rife with corruption, trade will be encumbered and the desirability of the country as a trading partner will be diminished. Each of the East African countries discussed here has endeavored to strengthen its trade facilitation practices, but, individually and collectively, there is a long way to go.

Each of the EAC member states, except for Burundi, now operates under the EAC 2005 Customs Management Act (CMA). The CMA represents an important effort to harmonize customs practices in the region but, unfortunately, it does not fully align with the World Customs Organization (WCO) Revised Kyoto Convention, which lays out the key legal components of a modern customs operation. Moreover, the EAC's slow pace in developing implementing regulations for the CMA has resulted in continued inconsistencies in border practices throughout the EAC. Ambiguous provisions result in excessive officer discretion, particularly with respect to penalties. For example, because the CMA provides only for maximum amounts, fines in practice often prove excessive and vary widely within the EAC. In Kenya, penalties ranging from US$250 to US$2,000 for inadvertent errors were repeatedly cited during the BizCLIR diagnostic.

Contrary to international best practice, the CMA lacks an established appeal system. Accordingly, EAC countries typically rely on local tribunals to resolve disputes. Consequently, many goods remain stuck at the border due to the state's unwillingness to release them under bond pending resolution of issues. The CMA's lack of clarity on enforcement results in a requirement for full payment for such releases. Often traders are unable to secure sufficient funds and their goods are forced to remain in customs' custody, thereby incurring storage charges.

Another problem is that the CMA requires vessel manifests to be filed 24 hours after arrival, whereas the international standard is to file 48 hours before arrival. As a result, clearances are often delayed, since neither ports nor customs can release cargo without manifest data.

As members of the WTO, each of the EAC countries has accepted the World Customs Organization Agreement on Customs Valuation

(ACV). For calculating the duties charged on imported goods, the agreement calls for the greatest possible use of transaction value, which means the price paid or payable for imported goods. The EAC member states generally adhere to this ACV-endorsed practice, thereby supporting stability, predictability, and transparency for the trade sector.

For a truly facilitative customs environment, the laws and regulations governing the import and export of materials and goods must support modern risk-management—a systematic approach to making decisions under uncertain conditions by identifying, assessing, planning, and communicating risk issues. Customs and other border agencies currently attempt to achieve total control of documents and goods for every shipment. A risk management system provides for a rational, data-driven process for selecting certain cargo for intensive examination. Thus, a large proportion of international shipments could cross the border quickly with no inspection and minimal formal requirements. In addition, the increased transparency

COUNTRY	PRIMARY IMPLEMENTING INSTITUTION (TRADE FACILITATION)	CUSTOMS LAW SYSTEM	CUSTOMS AUTOMATION
Burundi	Office of Customs, Ministry of Finance	Customs Code (2007)	ASYCUDA V2.7
Ethiopia	Ethiopia Customs Authority, Ministry of Revenue	Ethiopian customs law (1997)	ASYCUDA++
Kenya	Customs Service Department, Kenya Revenue Authority	EAC Customs Management Act (2004)	Simba
Rwanda	Customs and Excise Department, Rwanda Revenue Authority	EAC Customs Management Act (2004)	ASYCUDA V2.7
Tanzania	Customs and Excise Department, Tanzania Revenue Authority	EAC Customs Management Act (2004)	ASYCUDA++
Uganda	Customs and Excise Department, Uganda Revenue Authority	EAC Customs Management Act (2004)	ASYCUDA++

accompanying a risk management system would reduce opportunities for bribery.

The East African countries discussed here are generally aware of the benefits of risk management, but implementation has been slow. For example, Burundi, through its ASYCUDA customs automation program, has the ability to launch a risk-management program, but has not yet done so to any meaningful degree. Similarly, although Kenya's port at Mombasa has made some significant improvements in recent years, including "24/7" operation as of August 2008, use of risk management is only at a preliminary stage. Great advances in risk management have been made in other developing countries, and East Africa could benefit from those experiences.

Beyond risk management, well-run trade facilitation environments also provide the following:

- A coherent authority structure for the essential trade-related institutions
- Clearly stated regulations and procedures that form a basis for an adequate balance between facilitation and controls essential for public health and welfare
- A productive environment of cooperation and procedural coherence with other government agencies that have border control responsibilities
- A cooperative and consultative atmosphere of dialogue between government agencies, the international trade community, and national legislatures to accomplish goals and eliminate roadblocks.

Ultimately, transparency, predictability, and fairness in a country's dealings with the international trade community are the hallmarks of modern trade facilitation. Given these core aspects of a modern trade facilitation environment, certain priority issues emerge with respect to trade facilitation in East Africa. They are discussed below.

INTEGRITY AND PROFESSIONALISM

In East Africa, as elsewhere, border corruption can be particularly pernicious to a healthy economy. Traders who collude with officials to smuggle become "free riders," who then are able to sell goods at greater profit than their law-abiding competitors. Additionally, corruption at the border causes congestion at the ports and borders, and adds to the cost of imported and exported goods. Customs administrators face three main areas of corruption:

- **Facilitation payments.** Importers (or customs brokers or their representatives) pay bribes to obtain a normal or trouble-free release.

- **Customs-complicit fraud.** Importers circumvent procedures and pay less—or nothing at all—in duties, taxes, and fees compared to their law-abiding competitors. This can involve other government ministry jurisdictions such as food purity and plant/animal quarantine strictures. Customs officers either ignore or are actively involved in the fraud.

- **Criminal corruption.** Operators pay bribes to use customs channels for illicit purposes involving lucrative contraband ranging from drugs to arms and munitions.

Corruption in the area of trade facilitation has been addressed to some degree in East Africa, but the region is still perceived as mired in bribery and other illegal conduct. In Burundi, for example, corruption adds substantially to transaction costs. Unlawful transactions reportedly occur principally with imports, with exports generally being less subject to collection of informal fees. In Kenya, sustained initiatives in the customs agency have reduced corrupt practices. A code of conduct is in place, dismissals have occurred for transgressions, and processes have been redesigned to reduce officer discretion and contact between the trade community and customs officers. Nonetheless, informal payments to speed processing and other informal fees remain a built-in cost for many traders. In Rwanda, international companies claim that there is less corruption than in recent years, although some local operators assert that unofficial payments to state officials are still not uncommon. In Uganda, it is reportedly common for inspectors to be given bribes to issue phytosanitary certificates. Falsification of certificates of origin to incur lower tariff rates is also a common problem.

OVERLAPPING BORDER FUNCTIONS

In all of the East African countries surveyed here, increased cooperation among trade-related agencies is needed, not only among those located at the border (including health and standards agencies), but also among those ministries regulating imports and exports from the seat of government. Such efforts would not only facilitate trade but also lead to increased border control to combat smuggling, drug trafficking, and terrorism threats. In several countries, turf protection among agencies is a major problem. Concepts such as "single window" where representatives of all relevant agencies are co-located and border management is integrated, need to be effectively employed.

Quantification of the costs of duplication at borders in such areas as laboratory testing and staffing could serve as an attractive incentive for corrective action. If support for wholesale legislative change cannot be secured, joint agreements on shared testing, designation of product focus, and other means of cooperation might be adopted between the affected agencies. In any event, public support for such initiatives is crucial, and impacted trade associations must be energized to advocate for the reforms.

CUSTOMS AUTOMATION

Increased use of customs automation worldwide has resulted in streamlined border operations and, most importantly, reductions in time spent by traders at borders. However, progress in East Africa has not kept up with competition from other regions, such as Asia and Latin America. In the case of the EAC, all of the members' systems will need to be harmonized and have the ability to interact, trade files, and communicate with each other. Properly implemented, automation can and should be used for the following functions:

- Transit monitoring
- Risk management, risk profiling, and risk analysis and intelligence analysis
- Post-release audit systems
- Valuation processing and analysis
- Inventory control/warehousing and transit locations
- Processing of goods declarations
- Tariff and documentation control
- Revenue accounting
- Accurate and timely trade statistics
- Monitoring and evaluation strategies
- Electronic payments
- Customs release notification
- Bond management systems/electronic bond retirement

Throughout East Africa, there are many opportunities for improved use of customs automation. First, the carrier manifest process needs to be automated fully, with the resulting data used for targeting or selective review. Failure to implement the manifest function means that import entries and export declarations cannot be reconciled automatically with the carrier's reports (bills of lading/airway bills) of manifested goods. With an automated process, goods or containers that have not received customs declaration clearance could be identified and ordered to state-owned warehouses, which will ease port congestion. Besides improving the accuracy of matching, automation could provide a large labor savings compared to the old-fashioned, manual processing of "red lining."[9] Customs and other ministries could also use the data from the carriers for targeting and selectivity. Most importantly, analysis of the combined data set of entry and manifest could reveal potential integrity violations.

Second, automation is an excellent resource for monitoring the performance of port personnel. For example, the number of declarations that a customs officer designates as "red" or "green" could be tracked, with individual officers held accountable for their actions (an unusually high rate of red designations could suggest requests for bribes). Also, if the results of declarations are accurately recorded, the efficacy of the physical examinations could be measured and evaluated. The data could be used for a variety of other purposes, such as targeting companies for post-release audit, analyzing trends, and measuring release times.

Third, automated systems could provide the foundation for a much-needed "single window,"[10] through which *all* state agencies with border functions could view standardized border information. An integrated automated system could be used to receive electronic licenses, permits, and certificates from stakeholders, thereby eliminating paper filings for the other authorities. Implementation would also simplify import transactions and reduce costs.

Fourth, enhanced automation could improve tariff collections, especially for the larger and more frequent payers. Accumulating payments for multiple entries into lump sums on a daily or weekly basis instead of individual checks or payments for each declaration could ease the burden on the private sector, customs' cashiers, and cooperating banks when combined with an Automated Clearing House payment feature. A more sophisticated collections process could ferret out bogus surety bonds and guarantees presented by unscrupulous traders.

9 "Red lining" is the marking of declaration numbers or other clearance information manually by customs officers using red ink on the paper carrier manifest until all bills of lading are accounted for.

10 A "single window" is a facility that allows parties involved in international trade and transport to lodge standardized information and documents with a single entry point to fulfill all import, export, and transit-related regulatory requirements. If information is electronic, then individual data elements should only be submitted once.

Finally, better automation in East Africa would improve the quality of trade statistics. More accurate statistics on transactions, markets, and other aspects of the trade process is desirable for potential investors, both domestic and foreign.

As noted in the individual country discussions below, and as detailed in the individual country reports, automation in the trade facilitation process in East Africa is improving, but remains significantly short of its potential. Five out of the six countries discussed here are based on a model of the ASYCUDA system—which provides all necessary automation resources for risk management and generation of statistics—while Kenya alone operates on the much less effective Simba system. Trade facilitation reform experts should be mindful of compatibility and integration issues pertaining to these systems. More fundamentally, they should understand the technical limitations faced in East Africa, which include inadequate supplies of power, electrical systems that cannot support modern technology, and scant access to the internet. A public-private initiative to bring an undersea system of fiber-optic cables to East Africa promises to bolster internet access in the region, thus supporting many technology-oriented jobs and businesses, if not in 2009, then likely next year.

INTEGRATION OF THE PRIVATE SECTOR IN TRADE FACILITATION REFORM

Since East Africa's trade community is the primary stakeholder in improved trade facilitation, soliciting its input into the redesign of border practices and developing an environment of mutual trust are vital to successful implementation of reforms. Public-private dialogue takes place with varying success in East African countries. In Uganda, for example, the customs agency has committed to immediate problem resolution, a practice which is considered effective on the part of both parties. However, meaningful partnership in policy development and implementation has yet to be achieved. The lack of consultation with the private sector, in particular by clearance agents, results in the trade sector struggling to absorb changes and to realize the benefits available to their clients due to automation.

Similarly, in Ethiopia, suspicions run deep concerning the attitude of the government toward the private sector. Many of the required service sectors that support international trade remain closed to competition, including telecommunications, energy, shipping, and banking, among others. The pace of change is slow and measured with cautious steps forward, usually accompanied by excessive regulation and control.

For its part, Kenya has made significant strides toward integrating private sector concerns into its trade reform initiatives. The current political paralysis of the government, however, puts reform of trade facilitation among the many victims of poor governance.

DONOR COORDINATION

Several bilateral and multilateral donor agencies have made long-term commitments to supporting robust regional and international trade in East Africa. In addition to the European Union and USAID, the governments of Great Britain, Norway, Japan, and other countries have dedicated resources to the development and harmonization of trade policy and improvements in trade facilitation. The World Bank has similarly made large commitments to strengthening key trade-related infrastructure.

One major impediment to broad-based reform in trade facilitation, however, is the extreme fragmentation of aid. As suggested recently by *The Economist,* "There are too many agencies, financing too many small projects, using too many different procedures."[11] Indeed, the BizCLIR diagnostics identified an absence of a comprehensive trade facilitation strategy in East Africa which provides structure for sequencing, specific targets and goals, accountability, and integration of all public border institutions. The current approach, driven chiefly by individual donors and domestic agencies, is fragmented and provides no clear consensus or authority to address issues of regional concern. Although individual projects have the potential to lead to important gains in productivity and understanding, the BizCLIR diagnostics found scarce evidence of lessons being shared and incorporated among donor projects. Efforts at donor coordination are made with increasingly effective results in certain of the East African countries, but there is room for significant improvement on the regional level.

11 The Economist, "A Scramble in Africa," September 6, 2008.

COUNTRY ISSUES

BURUNDI

TRADE POLICY

As a landlocked country surrounded by Rwanda, the Democratic Republic of Congo, and Tanzania, Burundi depends on its neighbors to access regional and international markets. Burundi relies mainly on the ports of Dar es Salaam and Mombasa. Its overland links suffer from poor infrastructure and high transportation costs, which have damaged the country's ability to trade both regionally and internationally.

Burundi has been a member of the WTO since its founding in 1995. The country has signed numerous regional trade agreements, including the Economic Community of Central African States (ECCAS), the EAC, the Economic Community of the Great Lakes Countries (CEPGL), and COMESA. Of these, the EAC is the most important for Burundi's short and medium-term trade development. Regional integration with the EAC is ongoing and will be a major driver of improved trade facilitation. Such efforts promote harmonization and simplification of the trade process. However, preferential trade regimes add complexity to the task of customs officers. Without proper training and controls, such efforts can increase the potential for abuse.

Burundi plans for full entrance into the EAC customs union in July 2009. Meeting this goal requires legislative and procedural restructuring and resource commitment, which, at the time of the September 2008 BizCLIR diagnostic, was just underway. Burundi's aspiration is application of a common external tariff, elimination of duties on intraregional trade, and a requirement of full harmonization and integration of customs processes. Tariffs within the EAC have already been reduced by 80% (with the exception of trade with Tanzania, which will see reductions when bilateral trade negotiations have been completed). The World Bank estimates that Burundi will lose 1.7% of its revenue with integration, but implementation of a national value added tax and improved efficiencies should offset most losses. Anticipated initial improvements will include 24/7 staffing of the borders, co-location of customs and immigration at the border points so that formalities can be completed at one stop, and location of Burundi customs officers at major ports of entry such as Dar Es Salaam to expedite clearances.

TRADE FACILITATION

The international trade community in Burundi is small. No more than 120–150 companies export, and few major companies import, although a fairly large number of individuals and small companies go abroad to buy consumer goods for resale in the local markets. Improved trade facilitation is important to them and to attracting new business, both foreign and local, for economic growth.

Although trade facilitation should be a national strategy that incorporates all aspects of the trade chain, including customs modernization as a key pillar, this is not currently the case in Burundi. A comprehensive plan to address improved border processes is not yet in place. Many of the trade-related ministries and departments lack the continuity of leadership to plan and implement reform strategies, or the mandate from high government levels to initiate them.

Burundi's Office of Customs appears to have both the legal framework and the automated management system to move forward with needed improvements. The Customs Code of 2007 provides the basic legal framework for a modern customs service. The introduction of a modern automation system in 2005 resulted in improved import-export procedures. These processes are still not transparent, however, and require excessive controls and approvals of multiple agencies that are not coordinated.

Transportation costs in Burundi are excessive due to the collection of both formal and informal fees throughout the overland journey and extensive border inefficiencies. Congestion and poor management at neighboring ports add substantial costs and delays to shipments. Suspicion and distrust permeates the relationship between customs and the trade community, preventing constructive dialogue or partnership in the modernization process. Moreover, customs has yet to realign its organization or staff to fully realize the benefits of the newly installed automation system. Furthermore, the emphasis on collections as the primary mission of customs—as opposed to trade facilitation—often overshadows modernization efforts.

Corruption is prevalent within the trade process and adds substantially to transaction costs. This occurs principally with imports, while exports are generally not subject to collection of informal fees. Importers not subject to special exemptions pay substantial duties and taxes relative to the value of the goods, and the entire process is permeated with fraudulent practices and the payment of unofficial fees to move shipments to clearance.

ETHIOPIA

TRADE POLICY

Ethiopia has begun the process of accession to the World Trade Organization in earnest. Since the submission of its Memorandum on Foreign Trade Regime (MFTR) in December of 2006, Ethiopia has steadily added key provisions that both comply with the WTO and support economic development. Nonetheless, huge gaps exist, and much of the basic policy, legal framework, and implementing and supporting institutional architecture needed to facilitate trade remains underdeveloped. Some import barriers were lifted as far back as the 1990s, with the implementation of a streamlined, six-band tariff structure. This resulted in a maximum tariff of 35 percent, and a trade-weighted average tariff level of 17.5 percent. Significant attention to the Intellectual Property Protection/Enforcement regime has resulted in a relatively sophisticated system for protecting the intellectual property of Ethiopian entrepreneurs and artists, as well as that of foreign businesses (a step critical for WTO accession). Other more recent reforms include significant steps in the development of a Standards Authority for the enforcement of sanitary and phytosanitary rules; the establishment of a commodities exchange; and renewed enthusiasm for reform of the Competition Commission. Despite the reforms to the trade regime in the 1990s and early 2000s, however, additional reforms are needed before the regime is up to international standards of good governance. Policy reforms are needed particularly in the areas of transparency, due process, trade facilitation, and pro-poor policies, programs, and laws. Moreover, various trade-supporting institutions, such as Chambers of Commerce, the courts, and trade-related government bodies remain hampered by a lack of political latitude to reform their own institutions and an inability to retain quality personnel.

Further, in spite of substantial regional participation in a new European Partnership Agreement (EPA) designed to replace the expired Cotonou Agreement, Ethiopia has thus far chosen not to agree to the terms, instead relying on simpler tariff relaxations provided to Ethiopia as a Least Developed Country (LDC).

Ethiopia's decisions early in this decade to apply for membership in the WTO and pursue a bilateral partnership agreement with the EU represented key opportunities to further modify its trade regime to support economic development and promote domestic and foreign investment. However, despite substantial outside help in modifying laws and building institutional capacity, progress has been slow. As of June 2009, there was little hope for a speedy WTO accession, mostly due to Ethiopia's lack of capacity to design and implement effective reforms, as well as a continued misunderstanding and distrust of the process. Donors, meanwhile, continue to encourage local businesses to think of accession not as an end in itself, or as an obstacle, but as an opportunity for growth through trade.[12] The CLIR diagnostic[13] found that Ethiopia lacks an effective partnership between the business and public sectors, primarily a result of public sector mistrust of the private sector. Likewise, the private sector lacks faith in the government and considers advocacy of little practical use. The private sector, with the possible exception of the coffee export industry, generally does not participate in developing government policy or procedures, both because of mistrust and because invitations are rarely extended. Draft laws are typically circulated to the public without sufficient time for review. This situation may be gradually changing, however, with the increasing interest on the part of some groups (e.g., floriculture exporters) in contributing to the evolution of trade policy at earlier stages of its development.

12 Daily Monitor, "Ethiopia: Private Sector must Prepare for WTO Challenges—USAID Chief" (April 1, 2009).

13 Ethiopia's business and trade environment was assessed using the CLIR diagnostic tool—the predecessor to the BizCLIR diagnostic. The CLIR diagnostic tool utilizes the same analytical approach as BizCLIR—assessing the legal framework, implementing institutions, supporting institutions, and social dynamics of a country—and similarly covers a variety of business environment and trade subject areas. However, the material assessed is organized under different subject matter areas. Whereas the BizCLIR diagnostic covers Trading Across Borders, the CLIR diagnostic breaks the subject down into chapters on International Trade Law and Flows of Goods and Services.

Perhaps the most significant progress, as well as the best prospects for future improvement in the trade regime, has come through the support and development of the WTO Steering Committee and WTO Technical Committee within the government of Ethiopia. While the Steering Committee marshals the necessary political support to push WTO-compliant reforms through quickly and efficiently, the Technical Committee's advises on the more mechanical processes. The Technical Committee, made up of experts throughout government and civil society, also has authority to commit the resources of ministries to the pressing needs of reforms.

TRADE FACILITATION

Ethiopia is landlocked and has no commercially navigable rivers. Thus, it lacks the transport options that generally present the lowest costs for moving break-bulk (non-containerized) cargo. Moreover, Ethiopia's rail system is antiquated and used only minimally for trade; 80% to 90% of imports and exports move via truck along the Addis Ababa–Djibouti corridor through the Port of Djibouti, a trip of 925 kilometers. Transit time is three to four days, and most truckers average only three round-trips per month. The current highway is not adequate to handle fast, unobstructed movement of commercial traffic. Transport costs rank among the highest in the world. Privately owned and operated toll roads that could be used in parallel with the existing highway system to accommodate commercial traffic are not under consideration even though such roads are in use elsewhere in Africa. Likewise, donor funding for inter-modal projects, such as the linking of rail and road transport from Ethiopia to the port of Mombasa is currently not available.

Approximately 60 private companies manage flower farms in Ethiopia, with almost all exports destined for the European Union. The majority are local investors, although foreign investors, principally Dutch, German, and Israeli, are major growers that bring extensive experience to the trade. The industry has a limited number of large operations (350 hectares or more under cultivation), some medium-sized operations (20 to 50 hectares under cultivation), and a majority of small producers (about 5 to 20 hectors under cultivation). Most operations are located within 150 miles of the capital. Flower exporters have full-time Customs inspectors on site at the farms, on a reimbursable basis, to inspect shipments when loading, and to accompany the product to the airport facility to eliminate any problems or delays in delivery. Lack of high-quality, cool-chain management negatively affects flower export production, prohibits Ethiopian flowers from being recognized as consistently high quality, and prevents operators from receiving the maximum prices. Ethiopian roses are generally considered to be of low or variable standards. Improvements to cool-chain facilities must be made to ensure the consistency and quality of the flowers. Prices decrease a minimum of 10% when temperature at arrival exceeds 10–15°C. Flowers then often have bent stems, are open, and must be examined for the presence of fungus. Lack of intellectual property protection for new plant varieties also impedes the introduction of innovative products for production. Nonetheless, according to some estimates, export revenues in the flower sector have risen by a factor of six in the past five years. Exports to the U.S. for these products increased from just $400,000 in 2006 to almost $2 million in 2007.

KENYA

TRADE POLICY

In recent years, Kenya has incorporated international and regional agreements into its legal and regulatory frameworks and created or strengthened a variety of institutions charged with implementing these agreements. The country is a founding member of the WTO, a charter member of the EAC, and an active member of COMESA. Recently, Kenya joined the effort to integrate the EAC with COMESA with a goal of eliminating the agreements' redundancies, an initiative that will take considerable dedication, coordination, and follow-through.

Despite certain areas of progress, since the violent aftermath of its 2007 election Kenya has endured major institutional problems that have dramatically hindered opportunities for advancement in regional trade. A pervasive perception exists in Kenya, especially since the formation in 2008 of the coalition government, that talk of reform is merely idle rhetoric. Throughout the BizCLIR diagnostic, interviewees explained how reforms in Kenya fall short due to a variety of obstacles, including the following examples:

- Legislative change is the cornerstone of many necessary reforms, including those in trade. For example, to undo persistent duplication and overlap of state regulatory activities at the border, it is necessary to change certain enabling legislation—a time-consuming process. However, the clock has not even begun ticking on important reforms because they lack parliamentary champions and meaningful stakeholder input.
- Existing reform initiatives have moved too slowly. For example, following a decision to proceed with 24/7 service, transformation of the port at Mombasa took more than two years to implement.
- Although various initiatives are underway to create an automated "single window" for use by all border agencies—most notably the One-Stop Border Post (OSBP) supported by the Japanese government—the relevant ministries have not agreed to develop an integrated approach for border management and streamlined processing.

Opportunities for trade policy reform are widely understood in Kenya, and many have been underway for some time. Removing obstacles to their implementation should be a key priority.

TRADE FACILITATION

The Mombasa port facilities, managed by the Kenyan Port Authority (KPA), are fundamental to the movement of international trade, not only for Kenya but also for the region. Port throughput continues to increase and exceed capacity. At the same time, the rate of empty throughput, at 31% of total volume, is significantly above the global average of 21%. This fact reflects the trade imbalance between imports and exports, which doubles import transport costs.

Mombasa's infrastructure issues, including a lack of adequate space and equipment, are the greatest impediments to speedier reforms. Initiatives are underway to expand container capacity and increase road access to the port. Further constraints include Mombasa's imposition of fees for handling that are higher than those of neighboring ports, as well as the lack of an automated port system that can fully integrate port activity, receive and post manifests, and track movements. Implementation of the anticipated Port Community-Based System in late 2010 might address these issues.

Despite constraints, Mombasa's increased reliability and strengthened level of service continue to make it the port of choice within East Africa. The most notable indicator of improved facilitation is the recent increase from 12 to 24 moves per hour, although this rate is still at the lower end of international standards. Other improvements include effective use of weekly stakeholder meetings and expanded use of Container Freight Stations, with 95% of all imports transferred there for clearance. Although CFSs expedite cargo movement from the port, delays are encountered in both the transfer of containers to these facilities and processing within the CFSs. Some are not sufficiently equipped to handle assigned cargo, which should be more effectively determined in the approval process.

Concerning the overland travel of goods from Uganda, Rwanda, and Burundi, Kenya's appalling system of roadblocks and weigh stations constitutes a significant constraint on trade in the region. As previously referenced, the East African Business Council recently found that the stoppage of trucks for random police checks results in lost time and added expenses that are unheard of in economies less tolerant of petty corruption.[14] For example, truckers traveling west to Mombasa or Dar es Salaam report an average of 19 roadblocks and 4.4 weighbridges per trip, resulting in a total of nearly 12 hours per trip spent on such diversions. In one instance, a total of 47 roadblocks and weigh stations were imposed between Kigali and Mombasa.[15]

Once a transporter arrives at a land border or a port, the border processes must be harmonized, simplified, and automated. Estimates are that 40% of transport costs are attributable to these "soft" infrastructure issues. Kenya's border processes are increasingly predictable and transparent, and various administrative improvements have been made. But the pace of reform has been slow, and modern border processes are not yet institutionalized. Perhaps most importantly, Kenya lacks a comprehensive trade facilitation strategy that is properly sequenced,

14 East African Business Council, *The Business Climate Index—Survey 2008* (October 2008) at 28.

15 The Economist, "Network Effects—Logistics in Africa," October 16, 2008.

provides measurable goals and accountability, and includes all public border institutions.

RWANDA

TRADE POLICY

The reconstruction and liberalization efforts made by Rwanda after the 1994 genocide have been considerable. The country joined the WTO in 1996, undertook liberalization of its trade regime, reduced its border taxes, and further adjusted its customs tariff to that of COMESA's common external tariff, which it joined in 2004. In addition, Rwanda joined the EAC in 2007. Rwanda's liberalization and privatization measures have been designed with a clear distribution of roles: the private sector is to be empowered as an engine of growth, while the government is to foster an enabling environment. Together with accompanying sector reforms, such measures seek to create stable macroeconomic conditions, suitable for trade, investment, and greater competition.

Rwanda's competitiveness in the international markets is marked by dramatic fluctuations in the price of its main export commodities (tea, coffee, and minerals) and poor diversification. Both coffee and coltan (colombo-tantalite) experienced a particularly sharp decline in world commodity prices during 2000, 2002, and 2003, translating into a 28% fall in export revenue and a trade deficit of US $127 million in 2003. Furthermore, weather conditions have dramatically affected its harvests and, thus, the export volume of crops.

With 90% of the population dedicated to agriculture (mainly subsistence farming), contributing roughly 40% of the GDP, Rwanda's economy clearly needs to diversify in order to reduce exposure to commodity prices and weather uncertainty, and to fight the current account deficit caused by continuously growing import demands (mostly capital and intermediate goods, such as machinery and transport equipment, followed by oil). In 2006, imports totaled US$488 million, while exports totaled US$145 million, rendering a current account deficit of US$180 million.

In addition to poor export diversification, Rwanda's trade environment is hampered by production and processing constraints, unfair trade practices, nontariff barriers to trade, and insufficient FDI. Although the country is a beneficiary of various duty-free and quota-free initiatives available to Least Developed Countries (LDCs), such as the EU's Everything but Arms program, the United States' AGOA program, and Canadian and Japanese initiatives, its vulnerability to international commodity prices and supply-side constraints impinge on its ability to benefit from such preferences. Further, government officials lack the necessary capacity to deal with complex trade issues. This hinders successful participation in international trade negotiations and adequate implementation and observance of WTO and regional trade commitments in Rwanda.

TRADE FACILITATION

Concrete reforms to enhance trade across Rwanda's borders include the following:

- A reduced number of documents required to conform with international standards, placement of some of the required documents on the Internet, and creation of a one-stop center for exports;
- A speed-up of inland transportation and handling, with the aid of a one-stop border post concept (negotiations of a draft agreement with Uganda for the establishment of such a post are well advanced), and the use of an electronic exchange of information system (RADDEX) developed by the East African Revenue Authorities (EARA), enabling the tracking of cargo information between Uganda, Kenya, and Rwanda;
- Improvement of customs clearance and technical control with the implementation of pre-arrival clearance and a 24-hour customs service;
- Improved ports and terminal handling by opening offices of the Kenyan and Tanzanian port authorities in Kigali for cargo handling.[16]

In recent years, Rwandan customs has increased the number of declaration acceptance points, thereby reducing the waiting time to submit declarations. An important administrative procedure recently implemented is the separation of files into those that require a physical check and those that do not. The latter group are thus not delayed, since they do not have to wait behind those files that require physical checks. Overall, the reorganization of customs, especially Kigali's "Dry Harbor" should also lead to an improvement of procedures, especially with regard to greater transparency on the issuance of technical and health certificates. The BizCLIR diagnostic found a great deal of ambiguity with respect to how long it takes to

16 *See* World Bank, "Report On Doing Business Workshop," Workshop at Prime Holdings, Kimihurura (November 16, 2007).

obtain such certificates. Better access to information, including better trade statistics, is needed.

TANZANIA

TRADE POLICY

Following substantial economic liberalization in the business and trade environments in the 1990s, Tanzania's international trade regime has markedly improved. The contribution of international trade to Tanzania's gross domestic product (GDP) has grown, on average, by 7% between 1999 and 2005, and now accounts for nearly three-fifths of GDP.

Tanzania is poised to continue its reforms, both with respect to its international trade regime generally and the facilitation of trade at its borders. The country is endowed with an abundance of natural resources and is strategically located to engage in trade. It borders five landlocked countries and offers the port of choice for eastern Congo. As a Least Developed Country, Tanzania receives preferential treatment in all of the world's largest export markets, including the European Union, the United States, Japan, and China.

Recently, Tanzania enhanced its trade potential by incorporating international and regional agreements into its legal and regulatory frameworks and by creating or strengthening a variety of institutions charged with implementing these agreements. The country is a founding member of the WTO, a member of the EAC, and a member of the Southern African Development Community. By adopting the EAC Common External Tariff, Tanzania replaced a four-band tariff structure with a simplified three-band tariff structure of 0, 10, and 25%. As noted above, Tanzania withdrew from COMESA in 2000, citing the practical costs of membership.

TRADE FACILITATION

Tanzania has made important strides toward improving the facilitation of movement of goods at its borders. Under the World Bank's *Doing Business* initiative, Tanzania scores the highest among the EAC countries in the category of "Trading Across Borders." Initiatives are underway to ensure integrity, transparency, and consistency for the trade community. These initiatives, if continued in earnest, could improve the enabling environment for private-sector growth and investment over the next generation.

Tanzania's customs authority is moving from a "control" viewpoint, under which most import articles are checked, verified, scrutinized, and undergo a full documentation review, to a more modern system where most importers are trusted once customs has verified their knowledge, professionalism, and high compliance rates through random examinations and post-release audit. To illustrate this paradigm shift, in June 2007, customs inaugurated a new "gold card" program called the "compliant trade scheme" for the largest 50 importers in Tanzania. In exchange for a series of performance guarantees and internal compliance measures, firms that have a faultless record are given a high percentage of "green line" designations for their shipments. A green line indicates no physical examination and document check, which accelerates a firm's release time.

Tanzanian customs has an automated system that is not up to the level of other customs services' systems for import or export transactions. Customs has installed the ASYCUDA++ computerized customs management system but does not enjoy the full functionality of the system yet. Moreover, Tanzanian customs has yet to utilize the system to reconcile the carrier manifest bills of lading with importers' import declarations. Additionally, cleared bills of lading and released import declarations are not communicated electronically with trade stakeholders. As a result, the system constitutes another layer of bureaucracy over the existing manual systems. The other border agencies that exercise discretion over imports and exports are not integrated with the automated system.

Importers and other members of the trade community report that customs personnel in Tanzania routinely solicit and receive small bribes for facilitation of service. Some firms refuse to pay and suffer the consequences of delay, excessive document checks, and physical examinations of their cargo. However, observers praise the revenue authority's internal affairs unit, which investigates allegations of misconduct, and conducts lifestyle and financial checks on individual employees.

Tanzanian customs does not routinely look for counterfeit goods. Customs officers receive no training in detection methods or legal responsibilities. A substantial amount of contraband, including counterfeit goods, moves around customs via the expansive Lake Tanganyika, as well as across remote and unofficial border crossings. Counterfeit fertilizer, in particular, is said to hamper crop production, since it is inferior to legitimate offerings. Counterfeit medicines threaten public health.

If Tanzanian ports, especially the overburdened Dar es Salaam port, improve their operations, growth in transit movements would be exponential. Counterfeit and smuggled legitimate goods are not only brought across maritime and land borders, but are also brought in to some degree in offloaded transit goods. Customs uses paper controls, although the EAC countries are planning a common automated solution.

Indeed, a great number of trade facilitation reforms have yet to take place in Tanzania. With respect to trade in goods, a number of taxing schemes, bureaucratic delays, and other regulatory constraints continue to limit the competitiveness of Tanzanian exports. Trade in services is similarly not reaching its potential, due in part to restrictions on the free movement of labor. In addition, Tanzania has not committed to important international standards in trade facilitation. It has not signed the International Convention on the Simplification and Harmonization of Customs Procedures (the Revised Kyoto convention) and does not yet observe core international transit procedures.

UGANDA

TRADE POLICY

In 2007, Uganda completed the establishment of a National Trade Policy, which sets forth the government's trade agenda and its trade liberalization program. The main objectives of the trade policy are to achieve poverty reduction, create jobs, and promote export diversification. The idea behind the National Trade Policy was to pull together various trade priorities across Ugandan institutions and sectors and create a single, comprehensive agenda for trade. The National Trade Policy also contains components of public enterprise reform, divestiture, and commercial law reform. Emphasis was placed on the private sector to help implement policies that would drive economic growth. Uganda also adopted a National Development Plan, the PEAP, which features trade policy. The extent to which the National Trade Policy serves as the guiding authority for the various institutions it affects is not clear. There is considerable evidence that individual institutions continue to act according to their own priorities and leadership.

Uganda is an original member of the WTO and benefits from duty-free access under the European Union's "Everything But Arms" initiative and the United States' AGOA program. Uganda initiated an interim Economic Partnership Agreement (EPA) with the EU to replace the African, Caribbean, Pacific (ACP)-EU Cotonou Agreement, which expired at the end of 2007. Uganda also receives a Generalized System of Preferences (GSP) from Australia, Belarus, Canada, Iceland, Japan, New Zealand, Norway, Russia, Switzerland, and Turkey. These countries allow Uganda's exports duty-free access. Uganda does not participate in the Agreement on the Global System of Trade Preferences (GSTP).

Uganda has signed various bilateral trade agreements with developing countries, granting them most favored nation treatment. These countries include Egypt, India, Iran, Nigeria, Pakistan, and Sudan. Uganda participates in both COMESA and the EAC and has been actively promoting regional integration. In joining the EAC customs union in 2005, Uganda adopted the CET which removed virtually all internal tariffs among member countries. The CET raised Uganda's average duty rate from 11.3% to 12.9%. Tariffs on food and live animals faced the largest increases.

Under COMESA, Uganda has reduced its tariffs by 80%, greatly promoting trade with member countries. Uganda's export trade with COMESA countries equals its trade with the EU. The government remains hesitant to join the COMESA free-trade area, however, because of concerns that zero tariffs will hurt the manufacturing sector and diminish government revenue.

The government is working to combat the problem of corruption. In 2005, an anti-corruption policy was launched as part of a national strategy. An Inspectorate of Government was hired to investigate and prosecute corruption in public office. The Directorate of Ethics and Integrity is mandated to promote ethics and integrity in the public sector. Uganda's use of risk management at this time falls short of the potential the approach offers.

TRADE FACILITATION

As a landlocked country, Uganda relies heavily on transport through Kenya to access foreign trading markets. Kenya's inadequate ports and rail service, however, constitute severe barriers to Uganda's trade activity. Despite its landlocked position, Uganda's access to Lake Victoria and the Nile has allowed fish to become the leading non-traditional export of the country. As a result of recent discoveries of oil, Uganda may also become an oil producer in the near future. This potential is now being seriously explored.

In recent years, Uganda has taken significant measures toward strengthening its facilitation of trade in both import and export processes. Implementation of a custom management system based on modern systems of information technology has helped simplify and standardize processes. Delays at borders and at customs processing centers have been reduced. Efforts to fully implement the EAC Customs Union have increased harmonization and facilitation of regional customs practices, resulting in a higher level of predictability for the trader. All of these actions have been undertaken under the umbrella of the well structured, well planned Customs Modernization Program.

Despite recent successes, however, vast challenges remain. These include the need to:

- eliminate non-tariff barriers in the region;
- improve the use of risk-management practices;
- address underutilization of IT systems in the trade process;
- remedy the country's weak infrastructure.

In 1996, Uganda initiated the use of the modern customs management IT system, UNCTAD's ASYCUDA. It migrated to the more advanced ASYCUDA ++ model in 2003. Several upgrades have occurred since then, and plans have been approved for migration to the newest version, ASYCUDA World, a web-based system, once funding and planning have been completed. Currently, Uganda's IT system is operational at 26 of the 34 posts and captures 95% of all import, export, and transit transactions. Traders are responsible for logging the required data into the system, either directly from their offices or their clearance agents' offices, or through use of one of the 40 privately operated service bureaus. Customs provides system access, training, and support assistance free of charge.

In October 2007, Uganda and Kenya jointly introduced a Revenue Authority Digital Exchange (RADDEX). This system accommodates the automated data exchange of import/export data between the participating countries, allowing shipment data to be transferred electronically from one national system to the next though an intermediate server as it crosses the border. RADDEX eliminates re-input of data by the customs clearance agents at the border, reducing the possibility of clerical error.

The full potential of RADDEX to expedite border processing and reduce opportunities to avoid proper declaration of goods is not yet being realized. Clearance agents continue to "re-input" data rather than use the new technology. In July 2008, 745 transactions were the result of data transfer via RADDEX; total declarations exceeded 25,000. Reportedly, border agents fear that progress in processing information will eliminate the need for their services. Low usage is also attributable to sparse internet access, which is required to use RADDEX.

Undervaluation of imports is a major issue facing Uganda. Undervaluation results in significant losses of revenue and unfair competition against the legitimate trader. The valuation department within the Ugandan customs agency is responsible for supplying the tools by which an examining officer can make a valid determination of the correctness of the value stated on the declaration. The valuation office reviews 5–10% of all entries after release, using the data in ASYCUDA to determine which shipments have a higher risk of improper declaration. A high percentage of those reviewed contain errors, some of which are significant. Another task for the valuation unit is pre-entry certification of value when requested by the importer. However, importers note that these validations are often not accepted by other customs officers who might question the value during a routine road stop while the cargo is in transit. In such cases, an importer must pay a fine that equals 50 percent of the imported value. Importers then have the option of challenging the action before the Tax Appeal Tribunal, which negates the time-saving benefit of the pre-entry certification system.

RECOMMENDATIONS

TRADE POLICY

CONFRONT THE PROBLEM OF ROADBLOCKS AND WEIGH STATIONS AS A REGIONAL POLICY ISSUE

The many stops on the road to Mombasa are primarily a matter of local fundraising. In Kenya, for example, most local governments can "enforce" road violations, typically through random and intimidating traffic stops. Although there must, of course, be mechanisms for monitoring speed limits and avoiding overweight trucks, the current state of affairs is nothing less than a crisis in trade policy. Efforts have been made to quantify the economic impact of the stops, but more can be done to understand the problem and then deal with it collectively.

APPROACH TRADE POLICY HARMONIZATION AS AN ISSUE OF CAPACITY-BUILDING

The BizCLIR diagnostics found a promising momentum toward strengthened trade policy in East Africa, but also insufficient professional expertise that would allow local leaders to drive the harmonization of the region's trade agreements. Educating policy makers on how other regions of the world have managed overlap—or failed to do so—would allow the implementation of East African trade agreements to be based on a genuine understanding of the purpose of harmonization. Trade officials should receive training in relevant issues before drafting laws and regulations on those issues. This training should be supplemented by a continuing education on trade issues for lawyers and improved law school curricula.

IDENTIFY AND APPLY TO EAST AFRICA THE LESSONS LEARNED FROM AGOA-SUCCESSFUL COUNTRIES

What have Angola, Chad, Gabon, Nigeria and South Africa done to take advantage of trade preference schemes such as AGOA that Burundi, Ethiopia, Kenya, Rwanda, Tanzania and Uganda have yet to do? Trade reform advocates should study the positive experiences of the "top five" AGOA countries and employ steps that East African countries can take to improve their own viability in developed markets.

STRENGTHEN TRADE IN SERVICES

The BizCLIR diagnostics found that regional attitudes interfere with the important opportunities afforded by trade in services. Tanzania and Kenya are particularly loathe to abandon entrenched attitudes about each other, and this wariness is holding up business. Members of both EAC and COMESA should continue to explore the European experience in lowering barriers toward trade in services, as well the experiences of other regions, such as the member states of the Caribbean Community (CARICOM) and the Association of South East Asian Nations (ASEAN). Moreover, Rwanda's recent experience in lowering immigration barriers against outsiders working and doing business within its borders should be reviewed as an example for the rest of the region to follow. To achieve maximum competitiveness, the region's goal should be free movement of people.

CONTINUE TO EXPLORE AND PROMOTE THE BENEFITS OF "FREE ZONES"

East Africa is currently a laboratory for "free zones" and "export zones." A researcher could do the region a great favor by quantifying the results of each approach and examining the factors behind practices that work best. Also, an impact study should compare East African free zones with their successful counterparts in countries such as Mauritius and Botswana. Successful experiences from East Africa's competitors in Vietnam and the Philippines—including the use of free zones to export services, such as health services or business process outsourcing services—should also be examined and shared with trade policymakers in the region.

TRADE FACILITATION

REVIEW AND AMEND THE EAC CUSTOMS MANAGEMENT ACT (CMA) FOR COMPLIANCE WITH THE INTERNATIONAL PRINCIPLES SET FORTH IN THE WCO REVISED KYOTO CONVENTION

Kyoto is considered the international blueprint for trade facilitation. Its provisions outline basic principles for customs practices and provide the foundation for implementing regulations once a legal framework has been set in place. Although some attempt was made in drafting the CMA to adhere to Kyoto, full compliance was not accomplished. To set the proper legal framework for advancement of the EAC customs union, revision of the CMA must take place. Otherwise, continued facilitation efforts will be stymied by a lack of legal authority.

EXPEDITE THE DEVELOPMENT OF THE EAC CUSTOMS UNION CMA IMPLEMENTING REGULATIONS

Lack of trust and inadequate understanding of modern practices have slowed promulgation of CMA implementing regulations. This has allowed inconsistencies in procedures to persist. Outside expertise could accelerate the development of regulations and serve as an impartial and knowledgeable voice of best practice outlined in the Kyoto provisions. The end result would be the required legal framework and regulatory practices that ultimately support country accession to the Kyoto convention. To achieve such a goal would demonstrate to the business community and potential investors that the EAC's trade practices are in line with international best practice.

REVIEW CURRENT MANDATES OF ALL BORDER AGENCIES TO IDENTIFY AREAS OF OVERLAPPING JURISDICTION, THE COSTS OF SUCH DUPLICATION, AND SOLUTIONS FOR REDUCING OR ELIMINATING REDUNDANCIES AT THE BORDER

Competing jurisdictions of various ministries in all of the East African countries, particularly in the area of food safety, delay border releases and increase costs. A review is needed to identify the redundant processes and their costs to both the trader and the government. Such an initiative must be supported at the highest level of government to ensure the commitment to this reform is in place. Identification of what duplication at the border costs EAC and COMESA countries in such areas as laboratory testing and border staffing could also serve as an attractive incentive for corrective action.

REVISIT THE CHALLENGE OF CORRUPTION AT THE BORDER

There is much to be gained from administrative solutions that reduce opportunities for corruption, including automation of transactions and implementation of single-window processing and risk-management. But these solutions must be accompanied by a frank analysis of the consequences when government officials seek or accept bribes. East Africans must recognize that charging for services that government representatives are supposed to do anyway is stealing. Low civil service salaries and ambivalence over obligations to the state (as opposed to one's family) often serve as a rationalization for corruption. However, any discussion of corruption should include not only the practical side of combating it, but the cultural and ethical issues underlying its pervasiveness, so that the next generation might see a genuine change of practice.

CONTINUE TO EMPHASIZE THE BENEFITS OF RISK MANAGEMENT

Well prepared risk profiles determine the level of risk of shipments, which then drive selective document review and inspection. Although certain of the countries discussed here currently employ some degree of selectivity, this takes place with far less efficiency and use of automation than desirable. Document review is too intensive, parallel paper and electronic systems continue in place, and the ratio of findings to inspections is low.

At the regional level, a model risk management strategy should be developed through EAC and/or COMESA. The model program should include detailed procedural requirements. Immediate release on verification and payment of electronic declarations for low risk goods should be a major objective. Thereafter, implementing agencies could benefit from assistance in how to conduct a threat assessment and categorize levels of risk; how to gather, chart, and analyze intelligence data to prepare valuable risk assessments; and how to use electronic manifest data in developing profiles. To measure success of risk-management initiatives, indicators should include an increase of paperless releases, a reduction in number of inspections, and increases in discrepant findings during the inspection process.

TRAIN BORDER AGENCIES BEYOND CUSTOMS IN THE USE OF RISK MANAGEMENT SO THAT THEY CAN EMPLOY SELECTIVITY IN PROCESSING

100% inspections, sampling, and laboratory testing at the border typically occur on most products regulated by agencies other than customs. Resistance to selectivity, especially when items involve food safety, is evident. Nonetheless, the possibility of accepting quality certifications from reputable export authorities in lieu of import testing should be considered. Technical experts knowledgeable of successful risk-management applications applicable to food safety issues should be assigned to work with the major border agencies to demonstrate how risk management can be employed without jeopardizing public safety. Visits to other countries that employ such strategies would be helpful. Selective processing would reduce clearance times, with success measured by the number of shipments released without interventions.

COORDINATE AUTOMATION EFFORTS

The EAC countries generally have automated border systems that can "talk" to each other, but the benefits of this capability have not yet been fully realized. Existing information about how data can be shared between countries, with the goal of reducing duplication and speeding trade across borders, should be periodically reviewed and updated. Policymakers should set clear plans and timetables for realizing meaningful coordination. The undersea cable that is arriving soon in the region will dramatically assist such efforts to coordinate. To the extent that they do not do so already, the EAC and COMESA should sponsor technology committees that provide for the integration and effective use of data.

ENCOURAGE PRIVATE INVOLVEMENT IN TRADE FACILITATION SOLUTIONS

There is much to be learned from experiences in Africa and beyond regarding public-private partnerships. As many countries have learned, the private sector will often invest in upgrades of government equipment and state services, if they allow for speedier transaction of business. Another opportunity for significant public-private coordination is the maintenance of trade statistics. Government agencies can spearhead the collection of statistics, but they should always encourage and support the development of private sector sources of information as well.

STRENGTHEN DONOR COORDINATION

There is enormous interest among donors in assisting East African countries in strengthening their respective environments for trade. A multitude of successes and failures exist among donor-supported programs in all aspects of the trade facilitation process. Donors should learn from the experiences of other agencies and avoid undermining the goodwill of local partners by failing to integrate past lessons. In particular, they should avoid programmatic duplication and overlap that can frustrate, rather than strengthen, trade facilitation in the region.

Nicholas Klissas
USAID/EGAT
202.712.0115
nklissas@usaid.gov

Wade Channell
USAID/EGAT
202.712.1909
wchannell@usaid.gov

Anastasia Liu
USAID/EGAT
202.712.5837
aliu@usaid.gov

Elizabeth Shackelford
Booz Allen Hamilton
703.902.4931
shackelford_elizabeth@bah.com