

# *Issue Paper*

## **Key issues from the Public – Private sector dialogue**

### **Introduction**

The overall objective of the EAC Common Market Protocol (CMP) is to widen and deepen cooperation among the partner states in the economic and social fields through removal of restrictions on the movement of goods, persons, labour, services and capital and the rights of establishment and residence. However, the implementation of the Common Market Protocol faces challenges. The 2016 EAC Time Bound Program (TBP) on elimination of NTBs in the region shows that while some NTBs have been resolved, many remain unresolved and new ones are imposed which results in hindering free movement of goods in the region. For example, Ugandan Clearing Agents are denied access (Port Passes) into the Port of Mombasa under the Single Customs Territory denying them market opportunity to clear within Kenya. Normally the Port Authorities insist on allowing only Licensed Kenyan Clearing Firms and their staff and occasionally the owners of the goods. They also experience a lot of difficulty in trying to obtain Port Passwords and the Passwords for Simba System. Shipping Lines also do not allow containers to be released from port to Ugandan Clearing Firms since they demand either bank guarantees or cash deposits whereas the Kenyan Clearing Firms have access to guaranteeing by Cheque deposits or on the basis of agreements; and. Arbitrary Auctioning of Ugandan goods and harassment of Ugandans at the Port of Mombasa.

The efforts by Ugandans to petition the Kenya High Commission and Kenya Ports Authority representative in Uganda have not yielded substantial results to solve the problem.

There is need for commitment from the Kenyan government to do away with any measures that affect access to the Port by other Partner States: specifically allow clearing agents and shipping lines access to the Port of Mombasa and desist from arbitrary auctioning of Ugandan goods.

### **Issues arising**

- Currently, there is incoherence in the calculation of port charges. This increases the uncertainty in trade further presenting an NTB. In Dar es Salaam for example, port charges are derived on the basis of the CIF. On the other hand, in Mombasa, the charges are fixed. Currently, the port charges at Mombasa are very high.
- There is also a high level of inefficiency of the shipping lines as well as clearing agents.
- There remains a desire by partner states to protect their nationals' interests i.e. sovereignty.
- Ugandan based firms can't easily operate at Mombasa except by entering into partnership with a Kenyan firm.
- The Shipping Lines do not allow containers to be released from the Mombasa port to Ugandan clearing firms since they demand either bank guarantees or cash deposits whereas the Kenyan clearing firms have access to guaranteeing by Cheque deposits or on the basis of agreements.
- There is Arbitrary Auctioning of Ugandan goods and harassment of Ugandans at the Port of Mombasa.
- High toll charges for Ugandan vehicles of up to \$200 compared to the \$50 which is charged on Kenyan trucks.

- Time wastage at Weigh Bridge stations which has proven to be a major NTB.
- Ugandan private sector face difficulty in obtaining Port and Simba System.
- High road toll charges for Ugandan vehicles of up to \$200 compared to the \$50 which is charged on Kenyan trucks.
- There is slow progress in elimination of NTBs and non-conforming measures in various laws.
- There is also limited government commitment. Certain bureaucrats appear to be benefiting from existing loopholes and frameworks.
- There is lack of evidence to support complaints presented to the concerned authorities to further investigations on cases at hand.

## **Recommendations**

- ✓ Broaden the spectrum of analysis of existing legal frameworks with potential non-conforming measures. For example, the meeting identified that there is need to amend the Toll Act of Uganda.
- ✓ There is need for the government of Uganda to undertake bilateral negotiations to address some of these anomalies
- ✓ Private sector should present their complaints with clear evidence of experience and impact
- ✓ Harmonize and improve communication and information flow between weigh bridges to allow for re-weighing of trucks that have damaged seals.
- ✓ Amend the Toll Act of Uganda. Road toll should not be charged in the truck's country of registration under the auspices of the EAC.
- ✓ There is need for bilateral negotiations to be undertaken by the Government of Uganda with the Government of Kenya and United Republic of Tanzania to harmonize the mechanisms for calculating port fees in Mombasa and Dar es Salaam.
- ✓ Cargo transport on Lake Victoria should be revamped as this could bring down the cost of transportation from the both ports to port bell in Luzira.
- ✓ Kenya Ports Authority should avail a clear procedure for waiver applications. This will help in reducing charges & penalties on private sector as a result of delays at the port.
- ✓ The private sector should take note of the report mechanism through \*201# which can be used to report NTBs such as delays at weigh bridges, Standards inspections, Customs, Immigration, Police road blocks, Business registration & License, Plant and Animal Inspection.