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**DEPARTMENTAL COMMITTEE ON FINANCE,
TRADE AND PLANNING**

**REPORT ON THE EAST AFRICAN CUSTOMS
UNION PROTOCOL**

(Serena Beach Hotel, Mombasa
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WORKSHOP ON THE EAST AFRICA COMMUNITY CUSTOMS UNION

INTRODUCTION

In 1999 the East African Community (EAC) was re-established with the objective of promoting regional integration between its three Member States namely Uganda, Tanzania and Kenya. In the Treaty for the establishment of the East African Community, the three Member States undertook to establish a Customs Union. This is provided for in Article 2(2) of the treaty, which reads as follows.

“In furtherance of the provisions of paragraph one of this article and in accordance with the protocols to be concluded in this regard, the contracting parties shall establish an East African Customs Union and a common market as transitional stages to and integral parts of the Community.”

After lengthy negotiations, the three heads of state eventually signed the protocol on the establishment of the East African Community Customs Union on 2nd of March 2004 in Arusha, Tanzania. The National Assemblies are now supposed to ratify the protocol by June 2004 so that the East African Customs Union can become a reality.

The Customs Union will be in line with the European Union or the Southern African Customs Union. It will harmonise the external tariffs and abolish internal tariffs.

Since the Members of Kenya Parliament are required to ratify the Customs Union protocol, the Workshop was organised to inform, them about the following:

- The process and importance of East African Community Integration Process.
- Significance of the East African Community Customs Union for the regional integration process.
- The Institutional and organisational set up of the Customs Union.
- How the different sectors of the Kenyan Economy will be affected by the Customs Union.

The workshop was also meant to enable Members of Kenya National Assembly to make an informed decision during the debate on the ratification of the East African Community Customs Union Protocol.

The workshop participants included Members of the Finance, Planning and Trade Committee, Defence and Foreign Relations Committee, the nine Kenyan Members of the East African Legislative Assembly and the two Kenyan Members of the ACP-EU Joint Parliamentary Assembly.

Resource persons were from the Ministry of Foreign Affairs, Integrated Development Consultants, Ministry of Trade and Industry, Central Bank of Kenya, Kenya Association of Manufacturers, Customs and Exercise department of Kenya Revenue Authority and Ministry of Trade and Industry.

IMPLICATIONS OF THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY CUSTOMS UNION

Participants were informed that the Customs Union will lead to:

- Elimination of internal tariff
- Removal of non tariff barriers
- Enlarged market
- Trade facilitation through co-ordination of transport facilities, customs administration and co-operation in Standards and technical regulations on trade.
- Common customs law
- Additional investments due to expanded market
- More predictable economic environment for both investors and traders
- Regional solidarity and identity
- Negotiating as a bloc with others
- Application of common trade policies, Customs rules and procedures including documentation.
- Opportunity for deeper integration.

However participants were also informed that the Customs Union will have some negative effects, which include the following:-

- Reduction of protection for final goods produced in Kenya
- Increased imports from third world countries
- Increased competition from imported products
- Increased competition from other industries within the region
- Some of the smaller industries will face operational difficulties.
- Tanzania importers might prefer to import Ugandan products because goods from Uganda will be imported duty free while Kenyan products will attract a maximum of 25% duty. The same will apply for Ugandans importers sourcing products from Tanzania. The resultant effect is loss of market share for Kenyan products.

The protocol allows for a Customs Union to be achieved over a five-year period. Within the five years exports of Tanzania and Uganda to Kenya will receive immediate and full duty free treatment upon the entry into force of the Customs Union protocol. 859 and 426 export items from Kenya to Tanzania and Uganda respectively will be subject to tariffs. These tariffs ranging from 25% in Tanzania to 10% in Uganda will progressively be reduced over the five-year period.

The Protocol recognises some sensitive goods, which require additional protection. They include milk, wheat, maize, rice, Palm oil, sugar and worn clothes.

Preferential trading arrangements associated with customs unions require the use of “rules of origin”. As the term suggests the rules specify the origin of each imported product into the territory for the purpose of determining which tariffs apply. The rules of origin are meant to ensure that a member state does not become a venue for mere final processing of third country products which then become labeled as goods originating from that particular Member state. The East African Community Rules of Origin were finalised in 2002. They are based on COMESA and SADAC Rules of Origin and have been determined as World Trade Organisation compliant. A product is said to originate from a Member State if it is wholly produced in a partner State or if it is produced using materials wholly produced in a partner state or using materials from outside the partner state as long as the value added in the production process is at least 35% of the value of the total inputs used in the production of the good.

The Protocol on the establishment of the East African Community Customs Union is made up of 44 articles divided into nine parts namely:

Part A	Interpretation
Part B	Establishment of the East African Community Customs Union
Part C	Customs and administration
Part D	Trade Liberalization
Part E	Trade related aspects
Part F	Export promotion schemes
Part G	Special Economic Zones
Part H	Exemption regimes
Part I	General provisions

Participants noted that the Customs Union will be faced with the following challenges for some time:

- There will be need to harmonise maize standards in order to arrive at an East African Community Standard
- Partner countries have to conduct pest risk assessments and harmonize pest lists on maize for COMESA and EAC
- EAC countries have to educate/train traders on customs documentation and other requirements for cross border trade
- Border officials have to be sensitised on their role as trade facilitators on aspects of regional integration
- Commodity market information has to be disseminated across the region
- Border operating hours have to be harmonised across the region
- There will be need to establish a common currency for the Member States of the EAC

RECOMMENDATIONS AND THE WAY FORWARD

1. The workshop observed that there is need for fast tracking of the regional integration and a review of the philosophy and spirit underlying the co-operation in order to ensure that all stake holders are involved in it and that the idea is owned by the East Africans.

2. That there is need to have Ministers appointed whose sole responsibility will be the affairs of the East African Community to enable them attend on a timely basis to problems and challenges facing the Community as opposed to the situation currently obtaining where Ministers responsible to the Community have other responsibilities.
3. After the presentation on the Draft Bill on the proposed East African Customs Management Act, it was agreed that EALA should move with speed to debate and pass the said Draft Bill.
4. It emerged during the Workshop that there would be no substantial revenue loss to all partners upon the coming into force of the Customs Union and that loss for Kenya, which is exacerbated by the 25% tariffs to be imposed by the other partner states in the next five years in a reducing order, will be cushioned by an increase in imports following the lowering of tariffs. Goods greatly affected will be subjected review to annual previous.
5. The Workshop decried the high cost of production in the region which has made finished products unaffordable. It called for improvement of infrastructure in order to make goods produced in East Africa affordable otherwise the local market will be flooded with cheap foreign goods.
6. The Workshop noted that the working of the East African Customs Union would create a win-win situation for citizens, business sectors and the overall economies. It was observed that insufficient information had created fear on the possible losses for partner states.
7. The Workshop called for strengthening of EALA and to be given more responsibilities in order to discharge its mandate and make the co-operation a reality. It was resolved that EALA should work closely with relevant committees in national Parliaments.

