



PAGE 3: B. ABOUT YOU

Q1: Respondent details

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Q2: Country or Customs territory

KENYA

Q3: Organization

NGO

PAGE 4: C. ABOUT YOUR CASE STORY

Q4: Title of case story

Elimination of non-tariff barriers to trade in East Africa

Q5: Case story focus

Trade Facilitation.

Q6: Case story abstract

NTBs present a serious challenge to trade with an EAC wide cost estimate (2010) being approximately US\$ 490 million. This case study highlights progress of TMEA's NTB projects in reducing the time taken and costs involved in trading along the key corridors in East Africa. Results indicate a significant number of NTBs have been identified (112) and removed (87) (EAC Time Bound Programme on the elimination). There have been reductions in both the time taken, and costs involved, in trading across borders in the EAC in recent years. TMEA's support in NTBs elimination, among other initiatives in the region such as the establishment of One Stop Border Posts, port capacity improvement, and transport logistics improvements have contributed to the results.

Q7: Who provided funding?

Other (please specify)
TradeMark East Africa with funding from USAID

Q8: Project/Programme type

Regional

Q9: Your text case story**a. Background**

The EAC Partner States of Burundi, Kenya, Rwanda, Tanzania and Uganda established a Customs Union in 2005, and a Common Market in 2010. This reduced internal tariffs between the Partner States to zero. As a result, the major challenge to intra-EAC trade is not tariffs but non-tariff barriers to trade. Article 13 of the EAC Customs Union states that each Partner State agrees to remove with immediate effect all existing NTBs to the importation into their respective territories of goods originating in other Partner States and thereafter not to impose any new non-tariff barriers. The protocol also states that Partner States shall formulate a mechanism for identifying and monitoring the removal of NTBs. NTBs continue to present a serious challenge to regional trade and integration in East Africa. They account for a

significant proportion of high trade costs in the EAC and drive up the costs of importing and exporting goods, making business uncompetitive, and transferring costs to consumers across the entire region.

In line with the Customs Union protocol, The Partner States established the EAC Time Bound Programme on Elimination of Identified NTBs, which TMEA has directly supported, along with the development of the EAC NTBs Act, which was passed by the East African Legislative Assembly (EALA) in February 2015. The EAC NTBs Act provides legal grounds for resolution of NTBs. The NTB Act is an unprecedented step for holding Partner States to account and is currently at the stage of ratification by the EAC Partner States. When the law enters into force it is envisaged that companies will be able to sue for damages incurred as a result of NTBs.

b. Approach

TMEA implemented an innovative solution to eliminate NTBs, working from the ground level with stakeholders, including business and civil society organizations that monitored and oversaw progress on eliminating NTBs at national and regional levels.

c. Work with NMCs

EAC Partner States established the NTB Monitoring Mechanism in 2007, in an effort to strengthen the efforts to monitor the occurrence of NTBs, as envisaged in the EAC Treaty and the Customs Union Protocol. The mechanism provided for the establishment of National Monitoring Committees (NMCs) on NTBs, with the responsibility of identifying, monitoring and facilitating the elimination of NTBs. TMEA's elimination of NTBs programme supported the NMCs at the national and regional level to monitor the occurrence and resolution of NTBs. This stemmed from the fact that previously (pre 2010), the NMCs were not effective and efficient in leading the NTB elimination process due to various constraints. The NMCs were launched in 2007 and 2008 in all Partner States. NMCs have membership across the private and public sectors. They are usually chaired by a representative from the ministry responsible for trade or EAC Affairs, and the vice chair is usually from a private sector business member organization (BMO). This ensures that the private sector has a channel to table the NTBs they come across while conducting business across the region. Later, they developed the Time-Bound Programme for elimination of NTBs, which was approved by the Council of Ministers in September 2009. All NMCs meet quarterly, in what is referred to as the Regional Forum, to update the Time-Bound Programme on the elimination of NTBs. In this forum, the private sector reports NTBs, and timelines are set for their elimination. Previously, NMCs were not vibrant, and could not meet frequently enough, thereby denying the private sector the opportunity to report NTBs encountered.

Bilateral channels: In addition to supporting regular regional meetings for the NMCs, TMEA has supported the use of bilateral channels by NMCs have been used for the resolution of NTBs. Partner States have been engaged a number of formal and informal bilateral negotiations which have led to the resolution of NTBs, and this illustrates a different, successful way of resolving NTBs.

Online NTB reporting at the regional level: TMEA also provided financial support to the EAC Secretariat by hosting the Tripartite online and SMS reporting system. This is a COMESA-SADC-EAC website where NTBs are reported in real time, and an administrator follows up with national focal points for resolution. This is a faster way to report and resolve NTBs as members do not need to wait for the quarterly forum to report NTBs. The system is currently being supported by the African Development Bank, but TMEA continues to have close partnerships with the administrator.

SMS NTBs reporting at the national level: At the national level, TMEA has supported three countries in the EAC namely Rwanda, Tanzania, and Uganda, to implement SMS NTB reporting systems. Tanzania has an award winning electronic NTB reporting system. It was designed and implemented by the Tanzania Chamber of Commerce, Industry and Agriculture (TCCIA) and has been operational since 2014. TCCIA spearheaded the system, with existing staff designing it and operating it. The electronic NTB reporting system enables the private sector to report, monitor and use information as evidence to advocate for the removal of NTBs and allows the public sector to analyse and understand the extent and scope of NTBs encountered. Complainants access the system via SMS by dialling a given number, through which they can also get a status update on their case. It provides a "real-time", efficient and cost effective means of reporting and monitoring NTBs, allowing traders to track progress on a reported case. There were 181 NTB entries in 2014/15.

Uganda launched its electronic and mobile NTB Reporting System in July 2014 based on both emails and use of an Unstructured Supplementary Service Data (USSD) code available on all mobile telecommunication networks. There have been 64 NTBs reported out of which 54 have been resolved, based on information dating back to May 2015. The Ugandan system is unique in the control provided by simultaneous reporting of complaints to the Ministry of Trade, Industry and Cooperatives, the responsible ministry and private sector representative.

Awareness Raising and Sensitisation. Over 400 stakeholders have participated in awareness raising and training sessions, ranging from traders at border crossings, to officials of the Uganda Revenue Authority and apex lorry drivers associations. In Tanzania, at least 245 freight forwarders, transporters and traders have been exposed to NTB awareness raising, with an average about 35% of participants at events being women

d. Increase in identifying and resolving NTBs:

There has been significant progress in identifying NTBs with approximately 47 identified in 2010 (at the onset of the TMEA programmes) and 112 identified by 2015. Out of the 112 identified NTBs, 87 have been resolved to-date. Removal of NTBs is the explicit objective of the NTB projects and this has been achieved through a combination of work by the EAC Secretariat and NMCs; as well as bilateral negotiations between countries.

The World Trade Organisation categories of NTBs include, government participation in trade and restrictive practices tolerated by the government, customs and administrative entry procedures, technical barriers to trade, sanitary and phytosanitary measures, specific limitations, charges on imports and other (procedural problems). Looking at the matrix, 45% of the resolved and 28% of the unresolved NTBs in the EAC are associated with customs and trade facilitation measures.

An **assessment of the latest version of the EAC Time Bound Programme on Elimination of identified NTBs** reveals the following indicative trends:

Resolved NTBs

- Work is in progress in Tanzania to install modern weighbridges supported by weigh-in-motion technology at Vigwaza, Manyoni and Nyakahura, which would further reduce the number of weighbridges along the Central Corridor to 3.
- On the Northern Corridor there are currently 8 weighbridges of which 4 are located in Uganda (Mbarara, Lukaya, Magamaga and Busitema) and 4 in Kenya (Webuye, Gilgil, Mlolongo/Athi River and Mariakani). This follows a successful reduction from 6 to 4 in Kenya (removing weighbridges at Eldoret and Mai Mahiu). In both Kenya and Uganda, permanent police road blocks have been largely eliminated.

Unresolved NTBs – the countries that reported the most NTBs in the EAC Time Bound Programme on Elimination of Identified NTBs which remain unresolved are Rwanda and Kenya. Some of the unresolved NTBs relate to existing laws that require legal reforms and so require protracted change processes. A minority of unresolved NTBs have remained unresolved for a long period.

New NTBs – during the 21st EAC Regional Forum on Elimination of NTBs held in June 2016, the EAC Secretariat reported 6 new NTBs. New NTBs continue to be an issue as Partner States formulate and implement new laws and regulations that aim to achieve legitimate public policy objectives. As mentioned, there is an urgent need to discourage Partner States from introducing new NTBs – through compliance mechanisms in the NTB Act. A number of resolved NTBs re-emerge as existing and so need to be resolved again. This could be addressed through stringent enforcement mechanisms.

Regional - There has been significant progress in the number of NTBs that have been identified (112) and resolved (87) through the EAC Time Bound Programme on Elimination of Identified NTBs supported by TMEA – in a large part due to work undertaken by the NMCs and EAC Secretariat since the onset of TMEA support from 2011.

Kenya - On the Northern Corridor there has been a reduction from 6 to 4 weighbridges. The number of police road blocks has also reduced.

Uganda - The number of weighbridges in Uganda have been reduced to 4 and permanent police road blocks have been eliminated. Uganda introduced the electronic NTB Reporting System in July 2014, with 64 NTBs reported out of which 54 have been resolved and 10 remained un-resolved.

Tanzania - Since 2010, weighbridges have been reduced from 15 to 8, with a target of 3, subject to on-going infrastructure investments. Roadblocks have been reduced from 58 to 8, now all connected with weighbridges. Inland transportation times from Mombasa to Kigali and Dar es Salaam to Kigali have also dropped considerably, now to 5 and 3.5 days respectively.

Rwanda - The Rwanda NMC has demonstrated strong consistent attendance and a Memorandum of Understanding with Uganda has yielded positive results in contributing to reduced NTBs. A road transit survey and road freight competitiveness study have been undertaken on the central and northern corridors, which are critical to building an evidence base. Rwanda has a NTB reporting system with 12 registered NTBs by mid-2015. There has also been a reduction in the costs involved in trade. The cost for transporting a standard (40 foot) container from Mombasa to Kigali is now only US\$4,800 down from US\$6,500 in 2011 which is estimated to have generated a saving (at constant volumes) of approximately US\$7 million on the Mombasa-Kigali route alone.

Burundi - Although the time to import to Burundi is the highest in the EAC, it has reduced the most from 60 days in 2010 to 43 days in 2014.

Harmonization of road tolls: The Rwanda NTB project supported development of diagnostic studies including the “Rwanda Road Freight Industry Competitiveness Study 2014” which was commissioned by the Ministry of Trade and Industry. A key finding was that high road tolls in neighbouring countries, especially Tanzania, were causing a decline in Rwanda’s share of the road freight market. For example, a Rwanda registered truck entering Tanzania was charged US \$500 while a Tanzania registered truck entering Rwanda charged only US\$152. Policy makers used these finding to

to broker an agreement with the Government of Tanzania, This process then resulted into harmonisation of road tolls at US\$152 saving an estimated US\$800,000 for Rwandan transporters. A costs and benefits analysis of the Rwanda NTB project indicates that this activity saved an equivalent of 44% of the total budget of the Rwanda 5-year NTB project and is a saving that may continue into the future.

Q10: Lessons learnt

- **Foundational work:** TMEA first worked with the NMCs to develop the national strategies for eliminating NTBs. This then informed all other interventions at the country level. The strategies identified key stakeholders nationally and regionally and their respective roles in the reporting and elimination of NTBs. In future, TMEA may need to support a review of the national strategies in light of the new NTB Act and developing practical guidance on eliminating NTBs.
 - **Partnerships:** TMEA forged key partnerships with other stakeholders in NTBs elimination area. For instance, TMEA supported the existing tripartite online system, a strategic approach at regional reporting of NTBs, instead of developing one from scratch. The private sector in Tanzania, through TCCIA developed and implemented the SMS reporting system, a more sustainable approach to supporting the system. TMEA is also integrating NTB support with other initiatives such as the Northern Corridor Integration Project.
 - **Raising Awareness among Stakeholders:** TMEA has combined solutions with concerted efforts in raising awareness about the supported solution. This was especially so in Uganda where the SMS tool was accompanied by training of truck drivers, revenue authority staff, and traders. To reach even more beneficiaries in future, TMEA will be accelerating and augmenting creating awareness and communication activities in culturally appropriate ways will be a priority in future programming in elimination of NTBs.
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