



What types of non-tariff barriers affect the East African Community?

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Key messages

- The East African Community (EAC) has made decisive advances in the elimination of non-tariff barriers (NTBs) affecting trade within the region. However, several NTBs have proved hard to solve and new ones have emerged.
- Reported NTBs vary markedly in terms of their type and breadth of application, suggesting that some NTBs will require much lengthier and complex multi-institutional processes to remove than others.
- Some measures have been addressed several times, implying that some NTBs resurface from time to time.
- Around a quarter of NTBs were resolved in less than three months, suggesting that they appear to be complaints, requiring simple administrative acts for their resolution, rather than actual NTBs.

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Introduction

The East African Community (EAC)¹ introduced a Customs Union in 2005 and a Common Market in 2009, to achieve free circulation of goods, people, services and capital among the five East African Partner States. However, trade in East Africa is still riddled with a number of non-tariff barriers to trade (NTBs). The EAC defines NTBs as quantitative restrictions and specific limitations that act as obstacles to trade (EACS, 2009).

In 2009, the EAC agreed to establish a Monitoring Mechanism of NTBs that would lead to the swift identification of NTBs in the region and to their subsequent removal. Moreover, it was foreseen that this would allow for a more strategic approach to the removal of NTBs, focusing first on the 'low-hanging fruit' while allowing for the removal of politically more sensitive barriers in a more gradual fashion. To this end, the East African Community Secretariat (EACS) was tasked with maintaining a regularly updated inventory list of resolved and unresolved NTBs affecting regional trade. The resulting series of reports providing quarterly updates on the evolution of this list constitutes a living document on how NTBs have evolved in the East African region. While these reports do not provide specific evidence on how NTBs have been resolved, they reveal the type, country of responsibility and sector coverage of both resolved and unresolved NTBs.

As of June 2016, 25 NTBs continued to restrict intra-EAC trade; 104 had been removed since the establishment of the NTB Monitoring Mechanism. This policy brief draws on the reports mentioned above, through an analysis of 16 (from March 2012 to June 2016) covering NTBs from 2009 to 2016. We compare the key characteristics (type, country of responsibility and coverage) of resolved and unresolved NTBs in the EAC and draw a series of key policy lessons to accelerate the removal of the remaining NTBs affecting trade in the region.

Classifying NTBs

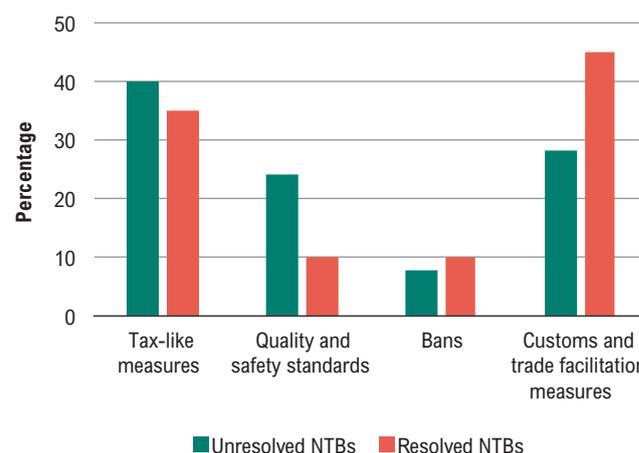
NTBs can be divided into the following categories:

- *Tax-like measures*: measures that impose monetary costs on imports (including non-application of preferential tax arrangements).
- *Quality and safety standards*: quality- and safety-related measures and their enforcement (excluding outright bans).
- *Import bans*.

- *Customs and trade facilitation measures*: cost-increasing measures incurred as a result of the monitoring and enforcement of trade facilitation and customs rules (excluding the enforcement and monitoring of standards and quality and safety measures).

As the figure below shows, 45% of the NTBs resolved to date were related to customs and trade facilitation, affecting all trade transactions across the region. Tax-like measures make up 35% of the NTBs resolved since 2009, encompassing a range of charges, transit levies and non-application of preferential treatment of imports. Standard-related measures and import bans account for the remaining 20% of resolved NTBs. Tax-like measures account for the largest share (40%) of unresolved NTBs. The share of customs and trade facilitation measures in unresolved NTBs (28%) is significantly smaller than its share in resolved NTBs (45%). Meanwhile, the share of NTBs falling into the standards and bans categories is also higher among unresolved NTBs.

Figure 1: Resolved and unresolved NTBs by type of measure



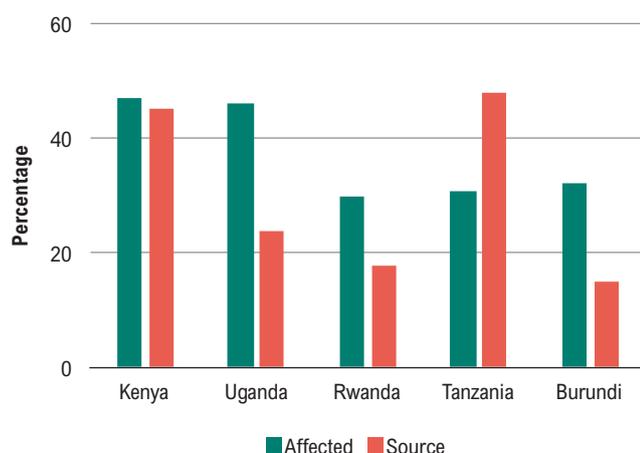
Characteristics of resolved NTBs

The list of resolved NTBs identifies 104 measures (up to June 2016) that have been satisfactorily addressed since the NTB Monitoring Mechanism was adopted in 2009.

The degree to which Partner States have been either responsible for establishing NTBs or affected by NTBs has varied significantly across the EAC, as figure two illustrates. Overall, NTBs have affected Kenya and Uganda relatively more than they have affected Rwanda, Tanzania and Burundi. Tanzania has generated the most NTBs that have now been resolved, followed closely by Kenya. Uganda, Rwanda and Burundi have been significantly more affected by NTBs than they have been a source of NTBs. This may suggest different degrees of commitment to the EAC integration process across the five countries.

1 The EAC is a regional economic community composed of Burundi, Kenya, Rwanda, South Sudan, Uganda and the United Republic of Tanzania. South Sudan is not an active member of the regional work on NTBs and is therefore not considered for this work.

Figure 2: Resolved NTBs affecting each country vs. originating from each country



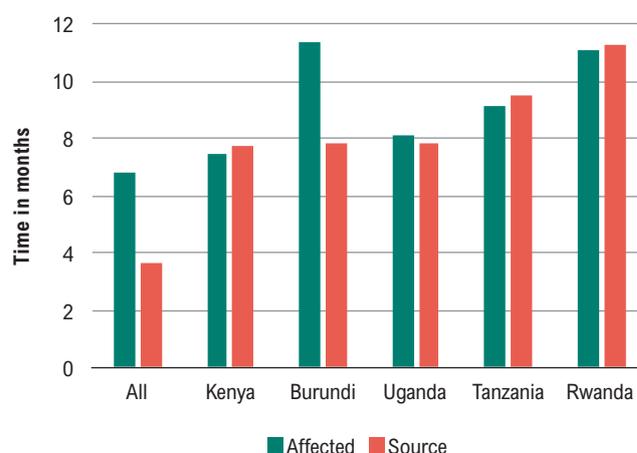
Note: NTBs can affect and originate in several countries at the same time.

Time to resolve NTBs²

The information contained in the EAC Regional Monitoring Committee meeting reports also provides a basis from which we can make inferences about the time period in which each of the resolved NTBs was first reported by the affected country/countries as well as the period in which each was resolved. Using this information, we can estimate the average time taken to resolve different types of NTBs in the region.³ NTBs related to customs and trade facilitation measures have generally taken the longest time to resolve, with resolution taking, on average, close to 10 months. Resolving tax-like measures and bans is marginally faster, on average, at between eight and nine months. Resolution of NTBs relating to quality and safety standards in the region tends to be fastest (although the computed average is based on just two observations).

Type of barrier	Time to resolve (months)
Tax-like measures	4.75
Quality and safety standards	8.25
Bans	8.97
Customs and trade facilitation measures	9.05

Figure 3: Average time to resolve NTBs when a country is affected vs. when the country is the source



We now compare the average time taken to resolve NTBs from the perspective of each EAC Partner State, distinguishing between instances where the country either has been affected by the NTB or is the source of the NTB. NTBs that involve all countries in the region are generally resolved in the shortest timeframe – less than four months when the NTB is applied by all countries and less than seven months when all countries are affected by the NTB. This is perhaps because of the greater scope for regional intervention to address these barriers. At the level of individual countries, NTBs involving Kenya (both when Kenya is affected by the NTB and when the NTB originates there) are, on average, resolved more expeditiously. NTBs originating in Burundi or Uganda are, on average, resolved more rapidly than those originating in Tanzania or Rwanda. At the opposite end of the spectrum, NTBs affecting Burundi generally take the longest time to resolve (nearly 11.5 months on average), followed closely by Rwanda (marginally more than 11 months on average, although the number of NTBs affecting Rwanda is small in comparison to the number affecting Uganda, Tanzania and Kenya).

² For this section, we take into consideration only NTBs resolved in the period since March 2012, as this is the period for which more detailed reports are available. Consequently, the analysis is confined to the 78 NTBs resolved through the Monitoring Mechanism over the period from March 2012 to June 2016.

³ We measure this as the number of months between when the NTB first appeared in a meeting report under the category of ‘new NTBs’ and the month in which it was first reported as resolved. The latter is adjusted to account for the possibility that the NTB was actually resolved in the period between the month in which it was first reported resolved and the publication of the preceding meeting report. To do so, we use the mid-point of the number of months between these two periods.

Conclusions

This policy brief has reviewed the characteristics of NTBs reported to the NTB Monitoring Mechanism since its establishment in 2009 and the process by means of which NTBs have been removed. The analysis demonstrates that reported NTBs vary greatly in terms of their type and time required for resolution. This variation in reported NTBs calls for different resolution mechanisms. The subsequent narrative discusses our findings and puts them into perspective.

The analysis shows that customs and trade facilitation measures were much more common among resolved NTBs than among unresolved NTBs, whereas tax-like and quality/safety measures were more prevalent on the list of unresolved NTBs. It would thus appear that the former are more difficult to resolve than the latter. However, this conclusion may be premature given that some tax-like measures (particularly those related to the non-application of preferential treatment) may be much more obvious and explicit, increasing the likelihood of stakeholders reporting them. In addition, the list of resolved NTBs includes some measures that have been addressed several times, implying that NTBs can resurface from time to time. This suggests that a large number of the NTBs that

are currently reported to the EACS emerge because of an implementation gap in commitments made at the regional level. An in-depth examination of the underlying reasons for these implementation problems is beyond the scope of our assessment, yet political economy constraints as well as inadequate communication channels between authorities and institutions responsible for implementing EAC commitments are likely to be part of the explanation.

The analysis also seems to confirm that some countries appear to be making greater use of NTBs than others. Since 2009, Tanzania has been the country imposing the largest number of tax-like and quality/safety measures, by quite a large margin. Tanzania is also the country that takes the longest to resolve reported NTBs. This would suggest a lower level of commitment to the EAC integration process in Tanzania than in other countries – a perception supported by the findings of other studies and the media.⁴ Responsibility for trade and customs facilitation is shared more equally between Kenya and Tanzania, yet this is hardly surprising given that they are the only countries in the EAC with direct access to the sea and that they are home to the largest stretches of the main transport corridors in the region.

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4 See, for example, Versailles (2012), UNECA (2016) or <http://www.theeastafrican.co.ke/news/coalition-of-the-willing-will-not-hurt-EAC-integration/-/2558/2057486/-/hhi97k/-/index.html>



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