



**BRIEF ON KEY ISSUES AFFECTING THE PRIVATE SECTOR IN THE EAC:
PRESENTED TO H.E. YOWERI MUSEVENI, PRESIDENT OF THE
REPUBLIC OF UGANDA; ON 29TH MARCH 2012, AT THE NAKASERO
STATEHOUSE, KAMPALA, UGANDA:**

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Your Excellency, on behalf of the East African Business Council (EABC), it is my privilege and honour to thank you most sincerely for your continued support to the Private Sector in the East African Community (EAC) and to EABC in particular, which you have variously demonstrated through your actions.

In particular, we thank you for availing the time to meet with us today, during which time we seek to bring to your attention various issues that need to be addressed to enable the private sector to effectively play its role:

1. ADOPTION AND IMPLEMENTATION OF THE FRAMEWORK FOR PUBLIC-PRIVATE DIALOGUE:

The EAC Treaty calls for *“a people centered and market driven co-operation”* integration process, thereby placing the private sector at the heart of EAC’s strategy to grow our economies, create jobs and wealth for the region. Between May and November 2011, the EAC Secretariat, together with experts drawn from Partner States, the private sector and other Non State Actors (NSAs) developed a Framework that will enable the private sector and NSAs to participate more effectively during the various EAC policy formulation processes.

The Framework calls for more structured and comprehensive consultation with affected stakeholders before policies are enacted and also provides room for regular feedback to the policy makers on challenges affecting the private sector and other non state actors.

This Framework was presented to the Ministers responsible for EAC Affairs in January 2012 and while in principle it was agreed, further consultations were called for, further delaying its adoption and implementation. Yet over 4 consultative meetings were held in 2011, with each having more than 30

participants and one having over 100 participants. These participants included experts from all the 5 Partner States, the private sector and other non state actors.

We Recommend:

- *That the Dialogue Framework be presented to the Council of Ministers for adoption in their next meeting;*
- *That implementation of this Framework commence as soon as the Framework is adopted to ensure more effective participation of the private sector.*

2. IMPLEMENTATION OF AGREED POLICIES:

Your Excellency, implementation of the following already agreed policies is very critical to private sector's increased participation in investment and trade in the region and it is necessary to ensure a predictable policy environment:

i. EAC Double Taxation Agreement (DTA):

Although signed in 2010 and expected to come to force in July 2011, the DTA is yet to be operationalised.

We Recommend:

- *That the DTA be implemented across the region.*
- *The model DTA with third parties, which was developed in April 2011, should be finalized.*

ii. EAC Standardisation, Quality Assurance, Meteorology Testing (SQMT) Act, 2006:

The EAC Treaty recognises the importance of standards and quality assurance in facilitating trade, yet standards related issues remain a key impediment to doing business across the region in spite of an SQMT Act. To fully implement the SQMT Act, **We Recommend** that the following should be fast tracked:

- *The approval of the 3 draft EAC SQMT Regulations (designation of testing laboratories regulations, product certification regulations and enforcement of technical regulations regulation).*
- *The establishment of the EAC technical regulation framework will greatly enhance reduction of standards related barriers to trade.*

- *The implementation of the principle of mutual recognition of product standards as provided for in Art. 24 of SQMT Act will promote intra EAC trade.*
- *Resources should be allocated across the region to improve quality infrastructure across the region, in order to enhance implementation of the SQMT Act.*

iii. Competition Act (2006)

The Act is meant to promote fair competition in the Community in order to ensure a level playing field. To support the Act, the EAC also developed competition regulations in 2010. However, a regional Competition Authority has not been established and Partner States continue to implement their national competition policies and regulations, which has created uneven playing field, thereby inhibiting trade.

We Recommend:

- *The EAC should establish the Competition Authority*
- *Partner States should approximate the Competition Act and its supporting regulations, where necessary.*

iv. Overweight Control Measures:

The EAC has agreed to harmonise a number of overweight control measures. However, Partner States have not implemented some aspects of these measures.

We Recommend:

- *Fast tracking of the legal framework for the Overweight control measures through coming up with the necessary EAC Law and gazetting it.*

v. Stay Applications and lack of enforcement of the agreed EAC Common External Tariff (CET) for certain products:

There are many cases of suspended CET rate, without due consultation with affected private sector across the region. This has given importers advantage over local manufacturers. Examples abound but those from cement and motor vehicles have been raised severally at various levels.

We Recommend:

- *To ensure policy predictability, the agreed upon CET should be adhered to the extent possible.*
- *Pre-budget consultations at the regional level should be open and transparent. Key amendments to CET should include timely consultations with all affected stakeholders.*

vi. EAC Industrialization Policy

We welcome the recently adopted industrialization policy, whose main objective is to turn the EAC region into an industrialized region. To ensure effective realization of its objectives, there is an urgent need to develop an implementation strategy/ matrix of the policy.

We Recommend:

- *That Partner States begin realigning their priorities to the EAC adopted policy and strategy and allocate the necessary resources for implementation.*
- *That policies focused on SMEs, including women owned SMEs, who make up the majority of traders in all the Partner States, be enacted regionally to ensure that this important sector is empowered.*

vii. Non Tariff Barriers (NTBs):

NTBs continue to frustrate trade in spite of the establishment of the National Monitoring Committees; an EAC Time Bound Framework for the elimination of NTBs and an online reporting mechanism across EAC, COMESA and SADC.

We Recommend:

- *The legal framework to enforce the elimination of NTBs should be fast tracked.*
- *Integrate risk management into border clearance to minimise physical inspections by numerous agencies capturing the same data.*
- *Commitment and political goodwill is needed for the effectiveness of the NMC mechanism in eliminating these barriers.*

3. THE EAST AFRICAN POLYTHENE MATERIALS CONTROL BILL 2011:

The EALA passed the EAC Polythene Materials Control Bill, 2011 on 3rd February 2012. The purpose of the bill is to provide for control and regulation of use, sale, manufacture, and importation and use of polythene materials and products through the prohibition of manufacturing, sale, importation and use of polythene materials. The implementation of the law will be by the national environment authorities in the Partner States.

Your Excellency, in our view the bill appears to have shifted focus from where the real problem lies, which is the management of plastic waste. The Bill does not provide an alternative to the use of polythene but only seeks to impose a blanket ban without due regard to the far reaching implications on the socio economic spheres of EAC Partner States. The bill will shut down established industries (350 factories per our calculations); resulting in a number of East Africans, both those employed in the manufacturing sector as well as the traders to lose their source of revenue. The impact on industries dependent on plastics in any of their processes is adverse; and ultimately, this will also have a negative impact on government revenue.

These are issues raised during the limited consultation that EALA carried out, yet they were ignored.

We therefore:-

- o *Humbly petition the EAC Heads of States and you personally **not to assent** to the Bill as it will be detrimental to the huge investments in the region;*
- o *Request that EALA be directed to review the provisions of the bill, taking into account the overall object of the bill and the view of all affected stakeholders.*

4. ROAD MAP TO A FULLY FLEDGED CUSTOMS UNION:

To ensure that we are fully fledged Customs Union, which was not only expected in January 2010, but which is fundamental to the implementing the EAC Common Market, the following are issues that **We Recommend:**

- *The application of uniform Customs Procedures, which have already been drafted.*
- *All stay applications on the CET and exemptions should be rationalised.*
- *Partner States should agree to the clearance of goods at first point of entry into the Customs territory to allow for free circulation of goods. All issues hindering this decision, such as revenue collection / sharing should be resolved. i.e. fast track the establishment of a single customs territory.*
- *Establishment of EAC Customs Authority with a clear mandate.*
- *Harmonisation of Domestic Tax regimes such as excise taxes, VAT, income tax, tax incentives and tax procedures, among others. An EAC Roadmap in this aspect was agreed in 2009, but has not been implemented.*
- *EAC should be seen to drive the process towards the Tripartite FTA which will deal with the complication brought about by the different trading blocs.*

5. IMPLEMENTATION OF THE EAC COMMON MARKET PROTOCOL:

Although the Common Market Protocol implementation begun in July 2010, the pace of implementation has been slow and several matters remain to be addressed.

We Recommend:

- *That Partner States expedite the carrying out of the legal reforms and institutional requirements necessary to implement the EAC Common Market Protocol.*
- *Those tasks designated to the Council of Minister in the Protocol, such as developing and approving harmonized classification of work permits and forms, fees and procedures, should be carried out to complement efforts at Partner State level.*

6. INFRASTRUCTURAL IMPEDIMENTS:

We appreciate that both the Summit and Council of Ministers have acknowledged the significance of efficient infrastructure towards our overall competitiveness. Infrastructural impediments, especially related to power, ports, transport (road, rail and air) and telecommunications continue to

constraint EAC businesses, making us uncompetitive in the face of more competitive and efficient producers and markets.

We therefore recommend:

- *The needed improvements at the Ports of Mombasa and Dar es Salaam must be addressed from a regional perspective, instead of leaving them to be driven by specific states.*
- *There is need to increased regional investment in the energy and railways sector in order to reduce related costs.*
- *On air transport, EAC governments should make EAC airspace domestic, with a view to making air travel affordable within the region.*

CONCLUSION:

Your Excellency, once again, EABC appreciates your support to the private sector and we reaffirm the private sector's commitment to the integration process. We look forward to your continued support and that of the Summit

We Thank You.

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EABC CHAIRMAN: