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ROLE OF SUB-NATIONAL GOVERNMENTS' IN SAFEGUARDING CROSS BORDER INVESTMENTS AND TRADE WITHIN THE EAST AFRICAN COMMUNITY

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Abstract: *Sub-Saharan African economies have been inextricably linked for centuries. Traders, often belonging to the same ethnic group or family, have been regularly crossing what are now borders to exchange goods and services, giving rise to intense flows that account for a significant part of the continent's total trade. The formation of trade blocs and integration of economics in the world has increased in the recent past. Institutions and organizations have been developed in order to; facilitate trade and other economic matters, combine resources for the achievement of common goals, and strengthen international and intercultural dialogue. Kenya, Uganda and Tanzania are among the East African countries that have through the East African Community implemented most of these policies. On the other hand, the world is experiencing deglobalisation and a shift towards nationalization. With these parallel processes, the presence of sub-national governments through various forms of decentralization continues to influence the implementation of regional trading arrangements. This study examined the role of sub-national governments in safeguarding of cross border investments and trade within the East African Community member states of Kenya, Uganda and Tanzania. The objective scope of the study was to analyze the implementation of the East African Community Common Market Protocol by sub-national governments in Kenya, Uganda and Tanzania in relation to cross border investments and trade. The study was informed by theories on Regional Integration and International Trade. This study utilized a combination of the case research designs and library research. The study employed mainly primary data from interviews and secondary data that included published works/books, papers, journals, the internet and other unpublished works.*

Key Words: *sub-national governments, cross-border investment, trade, regional integration*

1.1 Introduction

Cross Border Trade (CBT) is the buying and selling of goods and services between businesses in neighboring countries, with the seller being in one country and the buyer in the other country (Little, Sarris & Morrison, 2010). Cross-border trade (CBT) may also refer to the flow of goods and services across international land borders within a reach of up to 30 kilometers. CBT is highly sensitive to the treatment meted out to traders by conditions imposed by national governments. Its success depends critically on the ability of individuals to routinely cross the border without paying a large unofficial payment or prohibitive tariff duties and border charges, and to cross the border with their own passenger vehicles or with light vehicles from bordering regions (Little, Sarris & Morrison, 2010).

Cross-border trade is characterized by the duality of the routes taken by the traders while crossing the border with goods, a feature frequently referred to as formal and informal trade. It is argued on one hand that the resources that are used by the traders who cross the border formally are individually owned on the other hand in the form of physical and human capital (Buigut & Valev, 2015). On the other hand, while informal cross-border traders have less of such economic resources, they access in addition, the social resources accruing from their accumulation and use of social capital.

CBT is an increasingly important phenomenon in East Africa, but one that remains surrounded by considerable controversy. For many parts of Africa the overall effect of structural adjustment has resulted in a significant expansion of cross-border trade (Meagher, 2017), especially by large numbers of unemployed youth and women.

The EAC Common Market Protocol under Article 29 defines Cross Border Investment as any investment by a national of a partner state in the territory of another partner state. It further defines investment as any kind of asset owned or controlled by an investor of a Partner State in another Partner State in accordance with the national laws and investment policies of that Partner State and includes:

- (a) an enterprise;
- (b) share, stock, and other forms of equity participation in an enterprise;
- (c) bonds, debentures, other debt instruments and loans;
- (d) futures, options and other derivatives;
- (e) turnkey, construction, management, production, concession, revenue-sharing and other similar contracts;
- (f) intellectual property rights;
- (g) licenses, authorizations, permits and similar rights conferred pursuant to applicable national laws; and
- (h) other tangible or intangible, movable or immovable property, and related property rights such as mortgages, liens and pledges (EAC Common Market Protocol)

The EAC Common Market Protocol defines an investor as a national of a Partner State who has made an investment in the territory of another Partner State. The EAC Common Market Protocol obligates the Partner States to protect cross border investments and returns of investors of other Partner States within their territories.

1.2 Problem Statement

Trade and investments contributes significantly to a country's gross domestic product (GDP) thus the motivation for the engagement of trade beyond its borders. While trade between countries has always existed, the influence and presence of subnational governments of Partner States within a Regional Trading Agreement (RTA) such as the EAC cannot be gainsaid. The implementation of policies on trade, investment and other sectors does not take place at the regional level but at these subnational levels.

The EAC Treaty requires member states to come up with policies that encourage cross border trade and investments. On its part, the Protocol on the Establishment the EAC Customs Union obligates member states to pursue liberal trade practices (EAC, 2018). As already stated, the EAC Common market Protocol expressly provides for the protection of cross-border investments.

According to Dabrowski and Myachenkova (2018) various Sub National Governments in the region continue imposing charges of tariff equivalence effects on transit goods contrary to the spirit or commitments made in regional integration agreements. These imposed charges also hurt the competitiveness of the member's products and as a regional transit hub and business base. This paper sought to examine the role of sub-national governments in safeguarding of cross border investments and enhancing trade within the East African Community Countries of Kenya, Uganda and Tanzania.

1.3 Research Objectives

The main objective of the study was to examine the role of sub-national governments in safeguarding of cross border investments and enhancing trade within the East African Community Countries of Kenya, Uganda and Tanzania.

1.4 Literature Review

Liberal Intergovernmentalism

This is a state based theory. It emphasizes the central role of national governments in the integration process and is associated with the work of Stanly Hoffmann (1966) and later developed by Andrew Moravcsik (1993).

Hoffman who developed the theory of intergovernmentalism critiqued the neo-functionalist approach to integration when he argued that the nation state and national governments were considerably more "obstinate" than they were 'obsolete'. The theory of intergovernmentalism suggests that governments control the level and speed of integration. Hoffman argued that every international system owes its inner logic and its unfolding to the diversity of domestic determinants, geo-historical situations, and outside aims among its units. The diversity sets limit to the degree to which the 'spillover' process can function. "It restricts the domain in which the logic of functional integration operates to the area of welfare". Hoffmann advanced the suggestion that "in areas of key importance to the national interest, nations prefer the certainty, or the self-controlled uncertainty, of national self-reliance, to the uncontrolled uncertainty" of integration.

This theory is a reminder of the importance of the international system and the role that national governments play in defining the interests of their people within this system.

While the theory on Liberal Intergovernmentalism (LI) can be likened to the international relations theory on Realism as both theories define the state as the most important actor in integration. The distinction is in the fact that Realism posits that the state is only pursuing its interests in the international system while in LI the state is an actor that supports the integration process. Morasvick argues that unlike realism, national security is not the dominant motivation and that in LI, partner states are ‘Masters of the Treaty’ and continue to enjoy pre-eminent decision making power and political legitimacy. LI assumes that States are purposive and rational and that the agreement to cooperate or to establish international institutions is a collective outcome of interdependent (strategically) rational state choices realized through intergovernmental negotiation. States first define preferences, then bargain to substantive agreements, and finally create or adjust institutions to commit to and secure those outcomes in the face of future political uncertainty (Morasvick, 2004).

The state within the framework of LI despite criticism by institutionalists can delegate power to the functional institutions to implement on the bargained agreement. The decision making process comes from the state to avoid compromise on domestic politics and other factors. It posits that states have capacity to make good decisions for the region. Morasvick argues that hegemons in regions tend to undermine LI by aligning the integration process to their political philosophies.

However, there is a reluctance by governments of EAC member states to cede sufficient authority to the regional institutions and to enact legislations and regulations necessary to guide the integration process, the regional concerns and processes are often also not really reflected in the national policies and the governments simply do not accord the regional integration project due regard (Wanyama & Omolo 2017). Wanyama and Omolo further posit that due to the reluctance of states to cede powers to supranational bodies, the EAC is characterized by an excessive state monopoly over decision making processes and institutions which in turn poses a serious challenge to successful integration.

Sub-National Governments

Sub-National Governments are a system whereby the national government allows the establishment of local levels of government with powers and authority to make decisions on local priorities and actions and to mobilize local resources for development. This definition identifies Sub-National Governments as spheres of government with a level of autonomy over decisions, planning and resource mobilization and application. The process of having sub-national governments started with a wave of decentralization, particularly in the education and health sectors, followed by the increasing of other responsibilities of local governments, and most recently topped off by the allocation of additional investment resources fueled by the commodities boom of the mid-2000s (Gutierrez A 2015). The term sub-national government is used interchangeably with others such as sub-sovereign, local and decentralized governments.

By the aforementioned definitions, most of the local governments in East Africa still have progress to make as they remain in most cases largely dependent on their national governments (Matovu, 2018).

The EAC Treaty is anchored on the principles that govern the practical achievement of the objectives of the Community. These principles include *inter alia*:

- (a) people-centered and market-driven co-operation;

- (b) the principle of subsidiarity with emphasis on multi-level participation and the involvement of a wide range of stake-holders in the process of integration;
- (c) the principle of variable geometry which allows for progression in co-operation among groups within the Community for wider integration schemes in various fields and at different speeds.

The Treaty emphasizes the strengthening and consolidation of traditionally existing political, socio-economic and cultural ties between partner states peoples in the promotion of a people centered mutual development (Fjeldstad, 2015). The actions of sub-national governments should therefore be cognizant of the common market the region has adopted that encompasses free movement of labour, goods, services and capital across the East African Community.

The Treaty further creates an enabling environment for multiple players to participate in the process of integration including the civil society and private sector. It calls for promotion and continuous dialogue to improve the business environment, and to stimulate market development through infrastructural linkages and the removal of barriers and constraints to market development and production. According to Fitzgerald and Wolak (2016), it is not enough to have the legal frameworks and dispensation without any focus on its practical application to the prevailing reality on the ground and in particular the task of mainstreaming all players within the broad framework of the integration process.

Sub-National Governments in the United Republic of Tanzania

Tanzania is a unitary country with a single level of sub-national governments. Decentralization by devolution initiatives started in 1982 with the reintroduction of local government administration, and Tanzania is currently implementing decentralization by devolution through the Local Governments Reform Program (LGRP).

Art. 145 and 146 of the Constitution of the United Republic of Tanzania states categorically that the National Assembly must provide for local government through legislation.

The country is divided between Mainland Tanzania and the archipelago of Zanzibar, which have a separate government. Local authorities are composed of 118 rural councils and 42 urban councils. There are three types of urban councils (city, municipal and town councils), and two types of rural councils (district and village councils). There are neither city councils nor village councils in Zanzibar (UCLG and OECD 2016).

The country is also divided into 30 regions (25 in mainland Tanzania and 5 in Zanzibar), wards, *vitongoji* and *mtaa* for administrative purposes. Local governments are enshrined in the Constitution. All councillors are democratically elected; council elections are held every five years. The main subnational governments' responsibilities are laid out in the specific powers of district and village governments and detailed in the principal local government acts that have been amended since 1999 as part of the LGRP. Most local authorities' competences are shared with the central government. These include primary education, primary healthcare, agriculture and livestock, water supply, local road maintenance. Local authorities' own competences include the establishment and maintenance of recreation grounds, promotion of public health, the construction of drainage works, the administration of markets, etc.

The three government levels receive their finances from national budget allocations through different ministries. Apart from the national budget allocations, local governments can raise funds

from different sources, including fees (e.g. on forest products), licenses, property taxes and rents, charges and fines. Generally speaking, the local authorities have a weak revenue base. To strengthen this, the Local Government Finance Act of 1982 was amended in 1999 to appoint local governments to be licensing for commission agents, manufacturers' representatives, brokers, travel agents, motor vehicle sales, import trade, regional trade, and companies' co-operative societies tax revenue. Local authorities have the ability to levy the taxes, fees and charges established in the Local Government Finances Act. They include the council property tax, a tax on crop cession, a tax on forest produce cession, a guest house tax, a service levy, etc, most of them being difficult to collect.

Local governments are not able to create taxes besides those allocated to them by the central government grants and subsidies. Transfers are the main source of revenues for local governments. Transfers to local authorities include earmarked transfers for five national policy priority areas education, healthcare, water, roads and agriculture, as well as public administration. These transfers cover recurrent expenditures, including salaries and operating expenses; the charges for operating expenses are estimated through a formula. Most transfers are earmarked for education (approximately 60%) and healthcare (approximately 16%); the bulk of recurrent financing is for salaries. 30% of national revenues from the fuel levy are transferred to local authorities for the maintenance of roads, and local governments also receive 20% of the revenue from land rent. In Zanzibar, local authorities may receive transfers from the Revolutionary Government of Zanzibar, in the form of conditional grants, block grants, equalisation grants, state support grants, and in addition donor grants. Other revenues for local authorities include fees for user services (parking, refuse collection, health facilities, etc.), administrative fees (for market stalls, auctions, land surveys, etc.), license fees (business and professional licenses for commercial fishing, liquor, etc.), fines, permits (building permits, etc.), property income, etc. Local governments are only able to levy fees authorised by legislation from the central government and therefore they cannot be described as being autonomous or independent.

Intergovernmental relations are formally structured under the amended local government legislation and the Regional Administration Act 1997. The regional secretariats have a pivotal role, facilitating links with the center and carrying out their enabling function at regional, district and divisional levels. The Regional Administration Act 1997 also established regional and district consultative committees for each region and district. These committees must provide advice to LGAs regarding their development plans and monitor and ensure coordination of the overall economic development of the region (Government of Tanzania, 2019). Each committee consists of the regional commissioners and district commissioners of all districts within the region, all chairpersons/mayors of district and urban authorities, all directors of urban and district authorities, and MPs of constituencies within the region. ALAT has a formal role for collective bargaining and dispute resolution in the local government service. National government ministries issue guidelines which should be used by LGAs in the implementation of national policies. Decisions made by LGAs should not be at variance with national policies (Government of Tanzania, 2019).

Sub-National Governments in Kenya

The unique expression of democracy in Kenya with the devolved structures of government provide an avenue for the EAC to reignite public participation and a people centred approach to governance including the addition of the voices of the subnational government. Devolution has been the most

fundamental pillar in the transition of Kenya from a highly centralized , top-down and inequitable system of governance to a devolved government that has the object of institutionalizing bottom-up decision making, equitable development and popular participation (Kangu, 2015). The devolved system of governance has thus dispersed power to the most decentralized grass-root levels allowing the citizenry through to take charge of their affairs through their elected representatives.

The promulgation of the Constitution of Kenya in 2010 vested County Governments with substantial powers. It uplifted the former local Governments from subordinate level of Government to a significant sphere with its own right with constitutionally entrenched functions, powers and finance. Devolution is one of the values and principles recognized in Article 10 of the Constitution of Kenya 2010 (the Constitution). The main objective of adopting a devolved system of Government was to bring services closer to the people and enhance development through development friendly legislation and policies. It was anticipated that with devolution as a key development tool, the country's economy would grow and the cost of doing business would go down because the services would be closer to the people (Ng'eno, 2018).

In Kenya, the promulgation of the Constitution of Kenya in 2010 vested County Governments with substantial powers. It uplifted the former local Governments from subordinate level of Government to a significant sphere with its own right with constitutionally entrenched functions, powers and finance. Apart from promoting good governance, local democracy, provision of services at the local levels and decentralization by devolution, county governments in Kenya have a critical role to play in the regional economic trade and investment process (Khaunya & Wawire, 2016).

The County Governments are empowered to collect entertainment taxes, property taxes and other taxes as may be permitted by an Act of Parliament. Further, counties are centralized to impose charges for the services they provide. Article 209 (5) of the Kenyan Constitution requires that taxation and other revenue-raising powers of a County must not be exercised in a way that prejudices national economic policies, economic activities across County boundaries or the national mobility of goods, services, capital or labor. The counties have in most cases been unable to follow the requirements of this Article thereby imposing problematic taxes, levies and charges on traders delivering or passing goods through their counties. The experience has been viewed as the introduction of barriers to trade by the County Governments, taking Kenya steps behind in the implementation of the EAC Common Market Protocol (Shilaho, 2015)

The multiplicity in charges and taxes by county governments in Kenya not only affected the intra-country trade in Kenya but also trade within the EAC at large. In raising an alarm on the multiple taxes, fees and charges in the new devolved system and their effect on intra EAC trade, Tanzania reported Kenya to the EAC in 2013 as having introduced non-tariff barriers (NTBs) through the levies charged by the counties in total disregard of Kenya's obligations in the EAC. In Kenya, Narok, Migori, Homa Bay, Kisumu, Bungoma, Busia, and Trans Nzoia Counties border other EAC partner states. Mombasa is considered as one of them too mainly due to the fact that it is the coastal County and since among the five partner states, only Kenya and Tanzania have coastal lines. That leads to Uganda, Rwanda and Burundi importing products either through the Kenyan or Tanzanian ports (Mkutu, Marani, Ruteere, Murani & Ruteere, 2017).

Kenya faces the challenge of correcting any negative impact caused by devolution on the economic development of the country in light of the achievements made in the EAC regional integration process. The region is far into embracing full economic integration through elimination of barriers to trade and it is undesired for Kenya to introduce any new barriers through the new devolved system of Government that only back tracks the integration process in the region (Ogola, Njenga, Mhando & Kiggundu, 2015).

There are formal relationships between counties and national government guided by the Intergovernmental Relations Act 2012. The Act provides for a National and County Government Coordinating Summit, an Intergovernmental Relations Technical Committee and a Council of County Governors. The summit is chaired by the president, with the chairperson of the Council of County Governors as vice-chairperson, and its other members are the governors of the 47 counties. The functions of the summit include, among other things, to facilitate consultation and cooperation between the national and county governments. The Intergovernmental Relations Technical Committee (IGRTC) provides a secretariat to the summit, among other key responsibilities (COG, 2018).

County governments are responsible for collecting taxes, and user fees and charges. These include property and entertainment taxes, which they collect in collaboration with the Kenya Revenue Authority (KRA). There is currently no policy in place to support an increase in locally raised revenue. County governments receive revenue from the state and, according to the constitution's Article 203(2) this amounts to at least 15% of the revenue raised by national government (COG, 2018).

Sub-National Governments in Uganda

Uganda is a unitary country with a two-tier level of government. The higher-tier of government is made of 111 districts and 1 City Council, under which there are 174 lower Local Governments Councils and 22 municipalities. Local governments' councils have directly elected representatives that are accountable to the citizens, and have legislative and executive powers. Besides, Administrative Units Councils are political advisory bodies on planning and implementation of services, to assist local government's councils (UCLG-OECD 2016).

Decentralization in Uganda began in 1986 with the aim to promote people's participation in the democratic process of the State of Uganda, and to improve service delivery and proximity with the citizens. This first took the form of Administrative Units – Resistance Councils (RC) characterizing from the village to district levels. Uganda's 1995 constitution and 1997 Local Government Act gave finally effect to the devolution of functions, specifying five levels of local government – district, county, sub-county, parish and village, among which the districts and local government unites (sub-counties) have political authority and financial autonomy. Main subnational governments' responsibilities.

Local governments, in particular districts, play a key role in public service provision. They are responsible for major functions and services previously carried out by the central government. However, all decisions and assignment responsibilities remain at the centre, in particular regarding healthcare and education.

District councils are responsible for functions and services including: primary, secondary, trade,

special and technical education; hospitals other than hospitals providing referral and medical training; health centres, dispensaries and aid posts; the construction and maintenance of roads; provision of water supplies; agricultural extension services, land administration and surveying; and community development. Semi-autonomous agencies play an important role in Ugandan service delivery, and include 9 universities, 13 district referral hospitals, missions abroad and the Uganda Revenue Authority, among others. Finally, urban councils are responsible for service delivery in urban areas and they enjoy both financial and planning autonomy.

There are two associations of local government, the Uganda Local Government Association (ULGA) and the Urban Authorities Association of Uganda (UAAU). The objectives of these associations are to advocate for the interests of local government and to lobby for their inclusion in decision-making at the national level. In addition districts are permitted to cooperate on projects and to form secretariats or trust funds for cooperation on specified activities. There is a general feeling that the two associations should be merged to make a stronger association, given the similarity of their objectives. Negotiations between the two associations and stakeholders are ongoing (GoU, 2017).

Local governments in Uganda can levy taxes and receive non-tax revenue as prescribed by parliament. Over the years, government has made alterations to the types of taxes, with the latest introductions into the system being a local service tax and a hotel tax. In rural areas, the district councils set taxes and the sub-county councils collect tax and non-tax revenues on behalf of the various tiers of local government. In urban areas the municipal town councils set their own taxes, which are then collected by divisions of the city council and by town councils. Locally raised revenue is, by law, shared between district councils (35%) and sub-county councils (65%). In the city and municipal councils, the divisions retain 50% and remit the other 50% to the higher local government (GoU, 2018).

1.5 Research Methodology

This study utilized a combination of the case study research design. The study population comprised Ministry of EAC officials, KEPSA officials, COG officials, Ministry of Foreign Affairs Officials and investors from Kenya, Uganda and Tanzania who are involved in cross border investment and trade. This study adopted the purposive sampling technique. The study also adopted a census approach and thus the sample size was the 21; Ministry of Foreign Affairs Officials, KEPSA officials, EAC officials, COG officials and investors involved in EAC cross border trade.

The study utilized composite interview guides and one on one interviews as the primary research instruments. The questionnaires were administered physically or through email. The data obtained from one-on-one interviews was, where permitted professionally recorded by use of a dictaphone for record. Data analysis was undertaken using descriptive statistics. The study used mainly qualitative analysis methods. The Statistical Package for Social Sciences (SPSS) software were used as tools of interpretation.

1.6 Results And Discussions

Subnational Governments and Cross-Border Trade

The rationale for promoting and effecting a people-centered and market driven EAC integration process that is anchored on the vibrant role of local government is premised within the EAC treaty itself. The Treaty emphasizes the strengthening and consolidation of traditionally existing political, socio-economic and cultural ties between partner states peoples in the promotion of a people centered mutual development (Fjeldstad, 2015). It further lays out the operational principles including people-centered and market driven co-operation; the provision by the partner states of an enabling environment such as conducive policies and basic infrastructure the principle of subsidiarity with emphasis on multi-level participation and the involvement of a wide range of stakeholders in the process of integration equitable distribution of benefits and measures to address economic imbalances and the principle of complementarity (Moreno, 2016).

The respondents were asked on the role of sub national governments and if they are independent enough to implement EAC Common Market Protocol initiatives. The Council of Governors official responded that;

“Functions of local governments such as licensing and issuing of business permits need to be brought in line with the aspirations of regional integration of the EAC Common Market Protocol so as to ensure investors from other member states are welcome and can invest with minimal formalities in any locality throughout the region.”

The respondent added that;

“Ensuring the availability and proper maintenance of key infrastructure and provision of social amenities is a key factor in encouraging investors. It’s the function of county governments to ensure that county roads are passable and clean water is available. It is the role of county governments to ensure that the environment is protected and kept clean at all times. All these details have an important part to play in improving the business climate for investors.”

The respondents were asked if the sub national governments are independent enough to implement the EAC Common Market Protocol initiatives. The Council of Governors official responded that;

“The subnational governments have strived to provide the right infrastructure, formulating proper policies, minimizing administrative and legal bottlenecks in addition to operating a favorable financial and tax systems.”

According to Mauro, Joly, Aisen, Alper, Boutin-Dufresne, Dridi and Mira (2015), the role of the local government should be cognizant of the free market the region has adopted that encompasses free movement of labor, goods, services and capital across the East African Community. The Treaty further sets the ground for creating an enabling environment for the civil society and private sector. It calls for promotion and continuous dialogue to improve the business environment, and to stimulate market development through infrastructural linkages and the removal of barriers and constraints to market development and production. According to Fitzgerald and Wolak (2016), it is not enough to have the legal frameworks and dispensation without any focus on its practical application to the prevailing reality on the ground and in particular the task of mainstreaming local government within the broad framework of the integration process to avoid being found to be the organs derailing the regional integration progress.

Support to cross-border investors has been limited, although this is beginning to change. There is increasing recognition at the national and regional levels of the importance of such investment and trade, and regional institutions are currently implementing initiatives to support cross border investors. For example, EAC has adopted and is supporting the implementation of regulations which define the rights and obligations of traders, and is funding Trade Information Desks which assist traders in crossing borders. It has also developed a Simplified Trade Regime (STR), which introduces customs duty exemption and simplified clearance procedures for low-value transactions typically conducted by small-scale traders. Although incomplete, in that it does not waive documentary requirements such as permits, certificates, and licenses, the regime is clearly a step in the right direction (Mauro, Joly, Aisen, Alper, Boutin-Dufresne, Dridi & Mira, 2015).

A number of governments are also implementing projects that specifically focus on small-scale trade. With support from the World Bank, the governments of the Kenya, Rwanda, and Uganda, in cooperation with EAC, are implementing the EAC Cross Border Trade Integration Project. This project seeks to facilitate cross-border trade by increasing the capacity for commerce and reducing the costs faced by traders, especially small-scale and women traders, at key borders in the East African Community (Matovu, 2018).

The intervention funds targeted improvements in border infrastructure to cater for the needs of small-scale traders (such as pedestrian lanes, lighting, and fencing), along with the construction of border markets, and supports the simplification of policies and procedures for small-scale traders, training and capacity building of traders and officials, and the introduction of better monitoring and performance management for agencies operating at the border. It also introduces a workers' code of conduct to prevent and mitigate risks of gender-based violence (GBV) in trade-related infrastructure development works. One of the quick wins under the project has been the introduction of solar-powered lighting at borders between the Kenya and Rwanda, which has not only improved the safety and security of traders and officials but has also led to an extension of border opening hours. This is of particular importance to small-scale women traders, as it allows them to better organize their trading activities around family commitments (Mkutu, Marani, Ruteere, Murani & Ruteere, 2017).

Cross Border Investments and Trade Impact on the Region

Income derived from cross border investments is key to reduce poverty, yet its impact on long-term developmental outcomes needs to be investigated further. Traders make little profit from small-scale trade, with most of the revenue covering basic household needs such as food and schooling; as a result, re-investment in their businesses is difficult. Nevertheless, revenues from cross-border trade are often the main source of income for the households of cross-border traders. For example, a survey of more than 600 traders in Kenya and Rwanda found that cross-border trading activities provide the main source of family income for three out of four traders (Bresnahan, Coxhead, Foltz & Mogue, 2016).

The respondents were asked on the impact of cross border investment in EAC integration. The EAC officials responded that;

The EAC Common Market Protocol (CMP) has opened up trade opportunities of all member countries as intra trade is expanded. "The bloc has significantly reduced barriers to cross border trade among the five members' states."

In addition, the KEPSA official responded that;

“The cross border investments as provided in the Common Market Protocol has promoted economic development of the member states by increasing the employment level in the country as the production levels increased. In addition, the respondents indicated that cross border trade facilitated further economic development by increasing the market share of the members produce.”

Another KEPSA official narrated that;

“With the introduction of the East African Common Market, the cost of doing business had drastically reduced following the free movement of goods, services and labour. The respondents indicated that it became cheaper and convenient especially as it encouraged labour mobility which is important for companies offering professional services. With the reduced cost of doing business and the expanded market, the businesses are more profitable than before.”

1.7 Recommendations

The study recommends the need to provide an enabling environment where cross border investments and trade (formal and informal) can coexist with the formal EAC countries' economies. By creating such supportive environment for the traders across EAC, both EAC countries and cross-border investors stand to benefit more. Consequently, the EAC countries should involve sub-national entities in consultative decision making as this will enable the regional institutions to be able to collect better information of the goods, values and quantities traded amongst them and to prioritize the needs of the East Africa Community from a people-centred approach. Better information collected will improve the planning and decision-making of the EAC countries. In addition, the EAC countries will be able to increase revenue collection across borders to finance their national development as the need for investors to opt for informal methods will have been reduced; and lastly, to the EAC countries, there will be more goods produced in the EAC countries, more employment and more people earning an income, thereby improving the standards of living in all the EAC countries.

Similarly, EAC can create a conducive environment for investment that is aligned to the forms of decentralization of a Partner State. This will lead to reduced cost and time of doing business and therefore result in lower prices of goods and higher earnings for the trader.

It will be important also for EAC countries to pay due attention to data collection and statistics through their sub-national government entities as this will enable the community to prescribe the sector suitable policies. The EAC countries should strive to have a common definition of what constitutes sub-national governments such that it can be well targeted with appropriate policies. There will be need for EAC governments to undertake an inventory and set common thresholds for determining and classifying data to correctly identify the biggest beneficiaries of any reforms that may be targeted at involving sub-national governments.

In all processes, it will be important to involve other non- state actors such as civil society organizations and the private sector in formulating and implementing policies that are supportive and beneficial to the growth and coexistence of cross border investments.

There is a need to undertake aggressive publicity and dissemination of the EAC Treaty, the

Common Market Protocol, the Community's policies and other applicable laws and principles. There is also a need to educate government agencies especially sub-national governments on the Common Market Protocol including formulation of laws and regulations that are aligned to regional instruments and Treaties.

Simplifying and reducing documentation requirements and formalities: lowering the levels of fees and charges for importation and exportation; expediting the release and clearance of goods from customs custody; enhancing transparency and predictability of trade-related regulations and fees; and improving border agency coordination (both within and across countries) will lower both direct trade transaction costs arising from compliance with trade-related regulations and the payment of taxes and charges, and indirect costs arising from waiting times at the border and lack of predictability of the trading environment.

Furthermore, they can lower the incidence of corruption and significantly enhance the efficiency of controls at the border (e.g., through risk management techniques and enhanced regional border coordination), thus improving compliance with trade-related regulations. Such measures bear a particular importance for smaller firms which often do not have the necessary capacity nor resources to deal with complex documentation requirements; cannot easily absorb trade-related fees and charges and might be subject to additional inspections at the border.

Lastly, the National Treasuries in the EAC be the national enforcer and regulator of business activities in the country as well as the main adviser on various levies and charges to be imposed by the subnational governments before they commence any collection.

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