



GENDER ANALYSIS OF THE EAST AFRICAN COMMUNITY (EAC) ROADMAP

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Foreword

This study was commissioned by the Eastern African Sub-regional Support Initiative for the Advancement of Women (EASSI) with financial support from DFID. EASSI works towards elimination of all forms of gender inequalities, social justice, peace and development and covers eight countries of: Burundi, Eritrea, Ethiopia, Kenya, Rwanda, Somalia, Tanzania and Uganda.

The study's main objective was to carry out a gender analysis of the EAC Integration process-the four pillars which comprise the Customs Union, the Common Market, the Monetary Union and the Political Federation to assess whether the specific interests and aspirations of women but also men were integrated into this road map including the policy and legal frameworks, programs and activities of the EAC.

Cross-border trade an important economic phenomenon of the EAC integration process is particularly examined because this is an economic activity which highly engages a high percentage of women in the region. It is therefore important to assess whether the gender dimensions peculiar to cross border trade were integrated in the EAC trade agreements and protocols including other regional processes.

Gender equality is a recognized development tool and strategy which without its inclusion in regional development policies, programs, activities and goals Integration processes cannot be regarded as whole. Women in the EAC region have been at the forefront of cross – border trade both as a source income and employment yet studies indicate that trade policies and regional protocols have not yet fully integrated this important sector into the on-going integration processes.

The findings and recommendations of this study will be used to create a mechanism that will inform policy and decision makers of the EAC region and also work out a strategy for policy reforms to eliminate gender disparities in the integration process and in cross border trade.

Acronyms

AU-African Union

AWEPON-African Women's Economic Policy Framework

CM-Common Market

CU-Customs Union

EACB-East African Central Bank

EAC-East African Community

EAMU- East African Monetary Union

EASSI-The Eastern African Sub-regional Support Initiative for the Advancement of Women

GDP- Gross Domestic Product

ICBT-Informal Cross Border Trade

MEACA-Ministry of East African Community Affairs

SEATINI- Southern and Eastern African Trade Information and Negotiation Institute

UNECA-United Nations Economic Commission for Africa

UNIFEM-United Nations Development Fund for Women

Introduction and Background

An inclusive form of regional integration requires the realization of gender equality in all its processes and frameworks. Gender equality denotes men and women to equal access to social, economic political and cultural opportunities through recognition and valuing of the differences and similarities that exist between them. It is therefore essential for stable growth and sustainable development.

Although the East African Community (EAC) regional Integration has created a lot opportunities economically, socially and politically, there are also elements and trends that have exacerbated inequalities between men and women. An analysis of the specific effects of the regional integration process on women and men is necessary to bring out the salient gender dimensions that need to be addressed to create an all inclusive beneficial process.

The Treaty establishing the East African Community (EAC) came into force in July 2000. With the treaty the Partner undertook to establish among themselves the customs union, a common market, subsequently a monetary union and ultimately a political federation. One of the fundamental principles of the treaty is “People Centeredness and market driven cooperation” where it seeks to create mechanisms for constant consultations, full and active participation of the citizenry of East Africa in the Integration processes and agenda. Springing from this is another fundamental principal of the treaty “the mainstreaming of gender in all its endeavors and the enhancement of the role women in the social, economic, cultural, political & technological development”. While these principles are well enshrined in the treaty their interpretation, practical application or translation into action to create the desired impact is yet to be realized. Further, the treaty has the vision of creating wealth, raise the living standards of all people of East Africa and

enhance the international competitiveness of the region through increased production, trade and investments.

Trade constitutes an important aspect of the EAC regional Integration process. As an economic phenomenon within the region it has created employment and business opportunities in most of the key sectors like agriculture, manufacturing and services sector, and has significantly contributed to intra-regional trade, export competitiveness and industrial diversification.

Cross-border trade though informal is a strong component of Intra -regional trade and an important aspect of the East African Community regional integration process. It should however be noted that even without cooperation agreements cross border trade has always existed and flourished between borders contributing significantly to employment creation and income among the participating groups.

The kind of cross-border practiced across the East African borders is the informal cross border trade (ICBT). Women constitute the largest proportion in this sector practicing small scale business transactions in a range of products trade. According to the UNECA study trade provides 60% of non agricultural self employment to women in sub-Saharan Africa with informal traders representing 70% - 80%. While trade in its different forms and spheres is an important aspect of the EAC regional integration and a major source of income, growth and development, studies have shown that it also has strong implications both positive and negative for gender equality. The East African Community trade agreements and protocols have not yet created gender responsive policies and programs that support cross border trade activities. Can we consider the Draft EAC Protocol on Gender Equality?

It is within this context that this study takes a comprehensive gender analysis of the East African Community Roadmap-the four stages or pillars of integration including an assessment of the cross-border trade and women's participation. However, since the EAC Treaty sets and creates the legal and regulatory framework from which the four pillars evolve its analysis is also very relevant and significant to this study.

This study is a desk review of the various studies carried out in the East African region on gender and cross border trade, and through this literature a comparative analysis will be made.

Part 1 gives Policy, legal and Institutional framework for gender equality and empowerment of women at national and regional levels

Part ii is specific and looks at the cross border trade environment of the EAC region and how women fair in this sector in comparison to men

Part 3 makes a gender analysis of the treaty and the four pillars of EAC regional integration process and how they impact on cross border trade

Part iv provides specific recommendations that can be used to advocate for reforms in various regional policies and frameworks.

Study Objectives

The study has the main objective of undertaking an assessment of how the EAC integration process has in comparison to men taken into consideration women's specific interests, needs and aspirations especially women engaged in cross border trade since women's involvement in the EAC integration process is still highly limited to cross border trade. The study therefore will specifically

- i) Analyze key regional protocols and policy frameworks and how they impact on women particularly women in cross border trade
- ii) Review and analyze the gender dimensions of the four pillars of the EAC regional integration including the treaty
- iii) Examine studies and literature to assess the nature of cross border trade in East Africa, and the operating environment of women engaged in this trade
- iv) Explore opportunities and challenges for women in this sector
- v) Propose relevant interventions needed to redress the imbalances

Significance of the study

This study comes at a time when policy reforms are going on in the EAC. The Treaty is under review, the customs union is being fully implemented including the Common market. Negotiations have also started on the monetary union and a number of studies and consultations have been carried out on the Political Federation. The timing is right to advocate for policy reforms to be gender responsive and to integrate cross border trade in all key relevant policy frameworks and processes.

Study findings indicate that the East African Community (EAC) regional policy frameworks and programs have not holistically integrated women's needs and aspirations especially with regard to cross border trade where there are highly engaged. Women and men have for generations survived on cross border trade to make ends meet yet this is the sector that has not been mainstreamed in regional processes. This calls for policy and legal reforms that can address both the general and specific constraints if this sector is to be supported to grow and expand in a more systematic manner. Emphasis is on the treaty, the Customs Union and

Common market protocols since they are already under implementation and are key policy and regulatory frameworks for promoting trade in the region.

The objectives of the monetary union are examined but not fully since the process for negotiating this protocol has not yet been completed. However, this is a critical stage for taking into consideration the gender dimensions of cross-border trade. Political Federation is also considered as an important ultimate stage of the EAC Integration process but they are no answers yet to several key questions related to the establishment of the East African Political Federation until such time when an agreement has been reached and decision made over the type of political federation that will be established in the East African region.

Methodology

- Desk review and analysis of existing studies and literature

Consultations of relevant stakeholders and institutions were also made **Regional diversity to ensure a diversity of perspectives,**

Limitations of the study

Secondary data was used to make an analysis of the situation most of which does not capture the most recent developments and trends in the EAC region. The EAC region has undergone so many changes in the past 3 years most of which was not reflected in the studies analyzed.

Secondly there is a lot of literature and information including studies on Kenya, Uganda and Tanzania while not much has been done on Burundi and Rwanda. This does not provide a holistic analysis. Nonetheless most of the information was still very relevant to the objectives of study.

Part 1: Policy, legal and Institutional framework for promoting gender equality and development in the region

Although women are still marginalized in so many ways, their role and contribution to social, economic and political development has increasingly been recognized globally (Maputo Protocol) and regionally. This recognition is reflected in the policy; legal and institutional frameworks both at national and regional levels where supportive policies and strategies aimed at empowering women have been developed and implemented though at regional level not effectively in some sectors. Although at national level quite a number of policies and programs do exist for gender and economic empowerment of women studies show that cross border has to a great extent been neglected and not mainstreamed in these processes.

At the EAC level much as there is mention of gender and women in the treaty and other policy frameworks, practically there no strong policy and program actions including budgeting that show commitment to support women but also men take advantage of the opportunities being created by the establishment of the customs union and the common market. Cross border trade which is at the centre of the EAC integration process has no specific consideration and support in all these processes despite its contribution to the livelihoods of border communities and national economies at large.

Assessment of the EAC Secretariat

Policy Environment

The EAC Secretariat has not yet developed a regional gender policy. However at the helm of policy development and program monitoring is the Forum of Ministers

for Social Development which has facilitated a harmonized approach for program development and monitoring between the inter-related social sectors of health, education, water and environment, gender, children, youth and community development. The forum however is being subsumed by the newly established Sectoral Council on Gender, Youth and Social Development which was the missing link among the above sectors. A Sectoral Committee on Gender was also established with membership from Partner States ministries that coordinate policies and programs in the sectors mentioned above.

Through the Forum of Ministers two interrelated gender development programs were developed-The EAC Gender and Community Development framework developed in 1998 by the Sectoral Committee on Gender and the EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development (2011-2015) (SEATINI A gender Impact analysis for the EAC). The two programs aim at creating a mechanism that will commit the EAC Secretariat to mainstream gender in regional policies, programs and projects while at the same time facilitate a strategy for harmonizing and strengthening policies, programs and processes at Partner States level.

Legal and Institutional framework

The legal basis and framework for development of regional gender mainstreaming programs and all other related activities is the EAC treaty which clearly spells out in Articles 5, 6, 7, 121 and 122 the principles and objectives for “mainstreaming gender in all its endeavors and the enhancement of the role of women in cultural, social, political, economic and technological development” Through this framework, a Gender and Community Development unit was also established to coordinate all issues relating to gender mainstreaming at the Secretariat and partner states levels including development and monitoring of regional programs for social

and community development. This unit is still very weak in terms of manpower and budget to effectively execute these roles and responsibilities.

Partner States Level

All the five EAC Partner States (Republics of Burundi, Kenya, Rwanda, Uganda and United Republic of Tanzania) have demonstrated commitment and practical application of policies and programs that promote gender equality in their respective countries. First, they have all ratified and are adhering to International, regional conventions, charters and declarations. Second all national constitutions support and promote gender equality and equity including economic empowerment of women. Third all the five Partner States have in place- among others- National Gender Policies and Action Plans including National Machineries that coordinate, implement and monitor action plans and activities that promote gender equality and equity.

What is however lacking are effective mechanisms that would facilitate a harmonized coordination of the various policies and programs including a strategy to guide prioritization of programs and activities. Each of the partner States is still concentrating inwardly on national programs but there is need to have a strategy in place that can guide priorities and allow concentration regionally on a few vital issues that can create change and sustained impact on women especially women in cross border trade where the majority are actively engaged.

Part II: The Cross Border Trade Environment of the EAC Region and How Women Fair in this Sector in Comparison to Men

The Context:

Cross Border Trade since is still largely regarded as informal and illegal has not yet attracted an explicit definition from scholars. There is therefore no conceptual clarity and different scholars have adopted different definitions. “The conceptual ambiguity has also created problems in addressing policy and regulatory measures with regards to the sector” (Women in Informal Cross Border Trade in East Africa – Ruth Meena et ---). Despite this gap, Cross Border Trade has come to the spotlight as there is growing appreciation of its contribution to employment and poverty including to GDP which has also prompted basic studies to be carried out some of which form the basis of analysis in this particular review.

EAC Regional Cross Border Environment

The kind of cross border trade practiced in the EAC region like elsewhere in most developing countries is the informal Cross Border (ICBT). It is informal because the most of these businesses are not registered, and the processes and activities of this kind of trade are not officially recorded in main stream government policies and books of account neither are the taxes levied. Women and men have for generations engaged in this trade though at varying degrees and have survived and supported their families through cross border. It is therefore not surprising that cross border is regarded as an economic activity that contributes significantly to poverty reduction.

The study carried out by SEATINI (Women and Cross Border Trade) rightly points out that women are known to be the leading agents of informal cross border trade (70%-80%) and their involvement is substantial though they often use informal methods of trade. The majority are small-scale traders who depend on modest profits generated and agriculture makes the bulk of cross border trade. The second category includes consumables such as sanitary/beauty products, medicines, footwear and textiles etc (UNECA 2009).

Most of the literature analyzed indicated that women compared to men face myriad obstacles in informal cross border trade¹ at all border points of the East African region-Busia, Malaba, Gatuna, Mutukula, Namanga etc - all face similar challenge though their views with regard to regional integration slightly differs.

Further the age bracket shows young and middle aged women 30-45 years with majority secondary school level of education. Professionals/semi-professional diploma and certificate level traders are second at 25% (UNECA 2009)

The challenges/obstacles faced by women cited in most of the studies include but not limited to the following:

Policy and Legal framework

- National and regional policies are not yet in favor of cross border trade to facilitate its expansion and growth in a well structured manner. The legal and regulatory regimes also work against this sector for example security procedures, the 90 day pass permits, lack of harmonized standards etc all affect the operations of cross border trade and women are hit hardest compared to men.

The Customs Union and Common Market Protocols though provide opportunities to cross border trade but have no specific clauses or articles focusing on neither cross- border trade nor particular regard to the involvement of women in this sector.

Institutional/Infrastructural challenges:

- Poor interconnectivity in terms of road networks which are still in bad shape making transactions costly. According to the study by UNECA high

¹ See references at end

transport charges was among the highest percentages of cases weighed by difficulties experienced 9.43%, including long delays in releasing goods, high taxation 11.74% and interaction with custom officials the highest 12.79%.

- Lack of harmonized trade rules and regulations including lack of centralized computerized systems leading to tedious and time consuming immigration laws that hamper free movement (see percentage above)
- Lack of provisions that can facilitate access to relevant information to women traders in a simple and efficient manner. Information for example on taxation and any other relevant to cross border are not available at customs offices in every border (Meena et... 2008)
- credit facilities do not also favor women traders mainly because of the nature and size of their business and lack of collaterals
- Currency exchange problems where women and other traders lose a lot of money in the process of exchange coupled due in part to lack of currency exchange facilities which are sufficient

Capacity Challenges among women

- Persistent and high illiteracy levels among the majority of women who engage in cross border trade to be able interpret rules, regulations policies and protocols to their own advantage. Some of the traders are unable to even fill the Import Declaration forms or fear to fill them due to ignorance of what it entails
- Lack of Skills and exposure especially in import/export business including proper record keeping mechanisms.

While men are also highly engaged in cross border trade, their characteristics and levels of engagement differ. Men are much more enlightened on trade rules and

regulations and the majority graduate easily from informal cross border trade to formal. According the UNECA study others are also highly involved as transporters or middle men “A considerable number of the closest contacts between male and female has to do with transport where male transporters also double up as middlemen” (UNECA 2009)

Men engaged in cross border traders unlike women can easily access credit; their transactions are done much more efficiently as they are aware of opportunities and are always fast to seize the opportunities. In instances where men are not aware of the regulations and come into conflict with customs officials, men have shown the ability to maneuver their way through. Men unlike women are in most cases not tied down by the socio-gender challenges which arise from family responsibilities. Women have to juggle between their business interests and family responsibilities and often it’s the business which suffers most.

The Customs Union and Common Market Protocols are expected to increase trade opportunities in the East African region and beyond. Both protocols provide an environment for increasing trade competitiveness regionally and globally at all levels of involvement. Women however are not fully aware of these opportunities to tap into them.

Part III – Gender Analysis of the of the treaty and the four pillars of EAC regional integration process and how they impact on cross border trade and women traders

The treaty establishing the East African Community came into force in July 2000. It has twenty nine chapters (29) and One hundred fifty three (153) articles which provide the legal and institutional framework that guides the EAC regional

integration process and binds the five Partner States in the attainment of the joint socio-economic and political goals.

As earlier pointed out in the introduction articles 5-7 of the treaty commit partner states to people centeredness and market driven cooperation. In addition, the treaty emphasizes multi-level participation and the involvement of a wide range of stakeholders in the process of integration. Further in Article 6 (d) the treaty continues to lay emphasis on social justice, equal opportunities, gender equality as well as the recognition, promotion and protection of human and people's rights.

The notion of "People Centeredness" expresses the desire to have an all inclusive strategy for regional integration where women, men, the youth and private sector are recognized as having a central role to play in the integration process and agenda. The treaty also states explicitly in Article 5(d) as of one its main objective the "mainstreaming of gender in all its endeavors and the enhancement of the role of women in cultural, social, political, economic and technological development". This particular objective is further explained in chapter 22 articles 121 and 122.

Much as however there is this fundamental recognition in the treaty of gender, including a framework for promotion and support of women empowerment, the interpretation and practical application or translation into action is yet to be realized.

The treaty came into force in 2000 when for over three decade's gender and women economic empowerment issues had been at the forefront with so many studies done, so much literature available including practical experiences for mainstreaming gender regionally, international and nationally. With such strong background, the design would have been much more comprehensive in integrating gender into the structures and sectors of the treaty. The main sectors like

agriculture, education, health, mentioned in the treaty and where women are highly involved lack in-built legal mechanisms to guide the mainstreaming of gender into their sectoral plans and budgets. Insufficient attention to gender means that women's contributions and concerns often remain ignored in economic policies and structures such as trade systems, labor markets etc. It is therefore not surprising the old EAC Development Strategy 2006-2010 lacked gender integration into all sectoral policies, programs and activities.

Further Article 5, 6, and 7 continue to emphasize the commitment to improving the quality of life, the provision of an adequate and appropriate enabling environment such as conducive policies and basic infrastructure, the vision of creating wealth, raise the living standards of all people of East Africa and enhance the international competitiveness of the region through increased production, trade and investments.

Studies indicate that cross border trade is a source of development and poverty alleviation within the East African region (Collaborative Centre for Gender and Development women and cross border trade 2007) by providing employment and income to a high percentage of women including men. The treaty however does not provide any legal support and framework that would form the basis for creating an enabling policy environment in the EAC for cross-border trade to improve its operations and flourish.

Trade agreements and trade facilitation measures have also not integrated cross border trade and its gender dimensions. A commitment to empowerment of women as stated in the treaty would necessitate gender responsive trade policies including in the EAC protocols the Customs Union and Common Market and other measures that have been undertaken in the EAC.

A look at the structures as mentioned in the treaty indicate that these too lacked a legal back-up which was needed to guide the integration of gender into their day to day operations. This study however singles the Sectoral Committees in Chapter Seven of the treaty particularly the Sectoral Committee on Gender and Community Development because of its relevance to the issues being discussed.

In the Treaty Sectoral Committees have the main responsibility of planning and developing prioritized programs for implementation at regional and Partner States level, including monitoring and evaluation of these programs. The Sectoral Committee on Gender and Social Development set up in 1998 is one of the different sectoral committees established at regional level according to specific sectors. It's purpose is to ensure that gender and economic **empowerment issues** are mainstreamed into the entire framework of the EAC as well as its programs and projects. Consequently the Sectoral Committee on Gender coordinated the development of the Gender and Community Development Framework 2009, and the EAC Strategic Plan for Gender, Youth, Children, Social Protection and Community Development 2011-2015.

While the establishment of this Committee was a promising step in the right direction, concern is on its membership and mechanisms for developing the sectoral plans and programs. Currently membership is from the Partner States ministries of gender, water and environment, Health and Education. At the EAC level the gender unit coordinates all activities of this sectoral committee.

Effectiveness of this committee would have required membership from other Directorates of the EAC. The planning, program formulation and budgeting stage is very critical for integrating gender issues into the program and budget frameworks. If at this stage these issues are not considered it becomes very difficult to incorporate them. The implication is that gender issues at the EAC are

still regarded in isolation and not well mainstreamed into key sectoral plans and budgets. A strong linkage with other sectoral technical Committees and Directorates at the program and budgeting stage is required to ensure that gender issues are well integrated.

Chapter Ten – The Secretariat and staff of the Community

The Secretariat is the executive organ of the community and its functions are clearly outlined in Article 71 of the treaty. The observation to make here is that strong commitment to gender mainstreaming and equity would require a clause stating that the “Secretariat while executing its duties and responsibilities would ensure gender equity and gender responsive actions and plans”. This would be the guiding framework for the EAC in ensuring gender equity and sensitivity in its operations including the human resource policy, welfare issues and the entire working environment of the Secretariat. The institutional review currently going on alongside the treaty should consider integrating gender concerns to create a gender responsive environment at the EAC Secretariat.

This concern involves all other structures and sectors outlined in the treaty. A comprehensive gender audit is required to identify the shortcomings and guide the integration of gender dimensions.

The East African Community Customs Union:

The EAC Customs Union (CU) was established in 2005 under the provisions of articles 2, 5 and 75 of the Treaty. The key aspects of the Customs Union include:

- i) A common external tariff where policies relating to trade between partner states and other countries such as external tariffs have to be harmonized.

- ii) Duty free trade between partner states where goods manufactured in each member partner states are allowed to move freely without imposing any tariff
- iii) Common customs procedures where trade policies, rules and regulations are harmonized. In addition, partner states are required to exchange information on matters relating to customs and trade in particular the operation of a harmonized information system to facilitate the sharing of customs and trade information.

Another aspect of the CU is the removal or elimination of non-tariff barriers to trade in the community. It also provided for the application of the principle of asymmetry, rules of origin, duty draw-backs, refund and remission of duties & taxes, customs co-operation as well as exemption regimes among others.

The main objective and purpose is to facilitate formation of one single large market and investment area. This has been achieved through a transitional period of 5 years (Jan 1st –Dec 31st) where partner states categorized commodities traded among each other with different tariff rates until they reached zero in 2009 and a fully fledged customs union came into force.

Since its establishment in 2005, the main focus and activities have involved putting in place mechanisms to operationalize the two pillars until Jan 2010 when the principles set in CU protocol became operational to allow goods manufactured in one partner state to move freely without imposing any import tariff. Similarly, policies relating to trade between partner states and other countries such as external tariffs have to be harmonized.

The Gender and Trade Dimension of the CU

The protocol establishing the CU mentions the special role of women in trade in its preamble and objectives. This provides the mandate which would (and can) be used as the legal basis for guiding the mainstreaming of gender in its programmes and activities. The weakness lies in the fact it is not gender specific or responsive to the participation of cross borders-majority of who are women.

East African economies have large informal sectors which are not integrated with the formal economy and large businesses. Studies indicate that the CU is highly skewed to the formal sector and large businesses with policies and legal frameworks not showing any deliberate support to cross border trade.

Other sections in the Customs Union that should have been exploited further for inclusion of informal cross-border and women's participation include:

- Articles 2 and 10 – which envisage the elimination of both tariff and non-tariff barriers, customs duties and other charges to create the most favorable environment for regional trade. This allows goods and services to move freely without any duties and harassment so long as they satisfy rules of origin.
- Article 3 envisages intra-trade liberalization, promote efficiency in production, enhancement of domestic, cross border trade and promotion of foreign investment including promotion of economic development
- Articles 4 & 6 addresses the need for trade facilitation through reducing the number of and volume of documentation in respect of trade and the adoption of common standards of trade documentation and procedures, training facilities and programmes on customs trade among others

- Article 7 obliges partner states to simplify, standardize and harmonize trade policies and documentation
- Articles 10 & 13 commits partner states to a transitional elimination any tariffs on goods produced within their territories and to formulate a mechanism for identifying and monitoring the removal of non-tariff barriers
- Article 15 recognizes the national treatment principle on non-discrimination

What clearly emerges from the articles cited above and all other articles in the customs union protocol is the commitment to create a supportive environment for trade to flourish, grow and expand without any hindrances. Tangible gains from the integration processes are directly or indirectly related to the velocity of movement of goods across partner states- the freer and faster the movement the more the gains. Studies indicate that the Customs Union has not leveled the ground for informal cross-border traders to take advantage of the market opportunities created by its establishment.

The reasons for this kind of situation include the following key factors:

- **Dissemination of information:** According to the UNECA study 43% of active women in cross border trade were not aware of the customs union and those who showed awareness had gotten the information from friends, fellow traders and the media. The study further indicated that women traders did not have the knowledge of what the CU entails. Comparing these findings with the Gallup study carried out by the Ministry of East African Community Affairs (MEACA) Uganda in 2010 over 60% of the corporations and big businesses interviewed were aware of the CU and common market

- **Simplification and interpretation of the CU legal instruments:** No simplified versions of the customs union to understand what it entails. The majority of women engaged in cross border trade are illiterate and semi-illiterate. Even women who can read, the jargons used like “rules of origin, tariff and non-tariff barriers etc cannot be easily interpreted for their own benefit.
- **Lack of strategic interventions** – specific to women in cross-border trade. The study carried out by the African Centre for Gender and Social Development indicated that 60.1 % of women traders had not experienced any difference/change to the conditions of trade with the establishment of the customs union.

Since there is evidence at regional and Partner States levels that policies and programs have not integrated cross border trade and its gender dimensions, women in this sector still face the same challenges as before. Because of the ignorance of the opportunities that have been created by the Customs Union many small women traders still prefer to use illegal channels, are still harassed by both customs and immigration officials, and still pay bribes to allow movement of their goods and services across the borders, and or still suffer from confiscation of their goods.

The Common Market Protocol

Established in July 2010, the binding factor between the Common Market (CM) and the Customs Union is the fundamental objective of creating one single market to promote trade and investment. Both share the same goal of creating one single market territory to enable partner states to enjoy economies of scale, with a view to supporting the process of economic development. By creating one economic region

through the Customs Union and the Common Market, EAC created a single market of 130 million people (2010) and a combined GDP of around US\$ 75 billion.

While there is this major shared objective, the Common market however has a specific objective which is to widen and deepen cooperation among the Partner States in the economic and social fields for the benefit of the Partner States. This is to be achieved through the attainment of freedoms and rights to the communities of East Africa which include the following:

- Free movement of goods
- Free movement of persons
- Free movement of labour
- The right of establishment
- The right of residence
- Free movement of services and
- Free movement of capital

The Common Market is guided the following principles

- Observe the principle of non-discrimination of nationals of other partner states on grounds of nationality
- Accord treatment to nationals of other Partner States, not less favorable than treatment accorded to third parties
- Ensure transparency in matters concerning other partner states and
- Share information for the implementation of this protocol.

In addition the Common Market is also guided by 12 regulations particularly to guide implementation 14- Right of Residence.

Analysis of the Common Market

Articles 3,5,6,7 clearly state the kind of free and fair environment East African are expected to enjoy by the fact that they are true nationals of any of the five partner states.

Cross-border trade

With regard to cross-border trade Article 5a-e emphasize ease of movement, protection and removal of restrictions, while 3b provides protection of cross border investments.

Article 6 provides the freedom of movement of goods while Article 7 free movement of persons and labour

Article 9 points out the requirements in form of valid travel documents nationals of the five partner states must have in order to enjoy the freedoms while moving in the region

Article 29 reiterates protection of cross-border investments

The observation to be made here is what was earlier mentioned in the introduction and background of this study that while the legal, policy and regulatory framework of the EAC integration has clear principles that guide the process, their interpretation, practical application or translation into action to create the desired impact is yet to be realized.

Cross-border is the genesis of regional integration and has stood the taste of time because even during wars this trade always finds ways of surviving and sustaining border communities. We have also noted that it has a key role of boosting economic growth and a major channel for creating and expanding employment.

Yet when it comes to trade agreements it is a very vulnerable trade that requires specific interventions to support and protect it.

Gender analysis of the Common Market Protocol

Gender issues in the common market protocol are kind of mentioned in article 39- harmonization of social policies- where in (c) the protocol mentions “promotion of equal opportunities and gender equality.”

It should be emphasized that gender mainstreaming is a key development strategy that cannot be ignored in all integration processes. Its consideration requires a sound legal and policy framework including formulation of specific interventions. The Common Market protocol does not provide the legal and policy guidance for integration of gender into the implementation programs including cross border trade.

Key Articles of the Common Market Protocol

Preamble

The preamble does not mention gender at all. It is important to consider gender in the opening texts to set the pace in the right direction in the ensuing chapters and articles.

Article 3- the principles of the common market- do not consider gender. Gender equity is a key tool and strategy as well as a principle upon which the common market should revolve to create a balanced development process.

Article 4 – Objectives of the Common Market- gender and economic empowerment of women should be a critical objective of the common market but they are not mentioned in this article

Article 5- scope of cooperation-consideration of protection of marginalized groups needs to be mentioned in this article to amplify the importance of protecting women, the youth, disabled, elderly and all other marginalized groups. And in article 5 3(b) protection of cross border investments- **cross border trade** needs to be given special consideration as well since we have noted it is a key economic sector in the integration process.

Article 29 – Protection of Cross-border Investments – as mentioned earlier, cross-border trade is an investment in its own right which needs special consideration in this article, support and protection along with women who are the majority in this sector.

Other Articles in the common market protocol:

Article 6 free movements of goods, article 7 free movement of persons and labour, article 8 standard identification system and article 9 travel documents are crucial articles which impact on women and cross-border trade directly or indirectly.

We noted earlier that cross-border traders have always moved with or without the customs union and the common market but with a lot of constraints and challenges especially with customs and immigrations procedures on all border points. Literature shows that most these traders are still very ignorant of the freedoms and rights provided for in the common market. This is because this information has not yet been widely distributed and even in circumstances where it was made available the interpretation and understanding of the concepts is still a challenge. This has created situations where some women traders have indicated preference of the status quo anticipating more problems with the Common Market and Customs Union (**study by African Centre for gender and Social Development 2009**).

The Ministry of East African Community Affairs (MEACA) developed popular versions of the common market in 5 main local languages² but distribution of these copies has not been very effective so this information has not yet been received by the majority of the cross-border trader's women especially. Women and men traders need to be made aware of the opportunities being created and supported to advantage of them. Most importantly they need to make informed choices. Awareness and sensitization programs including educative campaigns, easy to read/understand booklets are needed on the objectives, goals, benefits/opportunities of the integration processes. This should be supported by strategic interventions that can translate the articles into action. For example what is meant by free movement of goods, how does it impact on cross-border traders, the implications for women and men, what kind of reorganization is required for these businesses to benefit, the different roles and responsibilities including policy frameworks to ensure that East African take advantage particularly women in cross-border trade .

The Monetary Union

The process to negotiate the EAC Monetary Union Protocol started in January 2011. A high level task force of about 25 technical officials was formed from the five partner states with key membership from Ministries of Finance, Central banks, Capital Markets Authorities, Statistics Bureaus, Social Security, Insurance Commissions, Ministries of Justice and Ministries of EAC Affairs.

² The translated versions are available in the MEACA

The main purpose and objective of negotiating the East African Monetary Union (EAMU) protocol expected to be in place in 2012 is to establish a single currency in the EAC. One of the main benefits of a monetary union is to reduce the costs and risks of doing business across the national boundaries most of which are transaction related. With a single currency, the costs of having to transact in different currencies and the risk of adverse exchange rate movements that could impede intra-regional trade within the EAC Community will be removed. A monetary Union is also expected to create more efficiency in the financial services for traders as all legal and regulatory frameworks will be carried out on a common standardized platform.

This process is being negotiated through a roadmap which was approved by the Council of EAC Ministers and involves consideration of the necessary legal, institutional and regulatory frameworks, as well as operational issues and policy directions for establishment of the East African Central Bank (EACB). The EACB will have the responsibility of monitoring the monetary and fiscal policies and bring on board the financial institutions and financial markets. And once the EACB is in place Partner States through a gradual process will finally relinquish their national currencies which will be replaced with a single regional currency.

Implications of a Monetary Union to Cross- Border Trade

The main advantage of a monetary union as stated above lies in the fact that it facilitates increased trade amongst its members. This occurs through the decrease in transaction costs which occur through the usage of a common currency, the elimination exchange rate risk and the region wide price harmonization occurring

through the elimination of price discrimination. All these factors should enhance cross-border trade and investment.

Since cross-border trade is still regarded as an informal trade even obtaining different currencies to transact trade and business is usually done informally using non-formal black market channels. This impacts negatively on the small profits of the businesses and since the majority of women involved are illiterate and semi-literate there is fear of utilizing the available banking facilities. A single currency would help reduce some of these challenges.

However while the benefits from the MU could be apparent, the major drawbacks lie in the fact that EAC Partner States though have established a free trade area and may enjoy the benefits of a common currency but businesses unless otherwise will still have to comply with different systems of laws governing trade, including all other regulatory measures like immigration laws.

Unless there is recognition of informal border trade at national and regional levels, and gender responsive policies among others are put in place as well as harmony and uniformity in standards, trade rules and regulations cross border traders especially women will not be able to tap into opportunities arising out of the monetary union, the customs union and common market.

A well functioning customs union and common market complemented by the monetary union is expected to stimulate competition and help domestic firms realize economies of scale thereby raise productivity which will strengthen competitiveness on regional and world markets. This is supposed to impact positively on cross-border trade including domestic firms which are forced to extend their horizons into the regional markets. A deliberate focused policy strategy is therefore required including other supportive measures like training,

awareness and sensitization programs to support growth and expansion of this trade.

The Political Federation

Whereas article 5 of the treaty clearly provides for the establishment of a political federation, there is no subsequent article that elaborates on the provisions for the establishment of a political federation. Therefore there are no answers to several key questions related to the establishment of an East African Federation. For example a concrete definition and understanding, what it entails in the EAC context and the mechanisms essential for forging a political federation.

The progress made with this stage involves a number of studies and consultations with the citizenry of the region. For example the Wako report, the report on national consultations in all the five Partner States, report of the committee on fast tracking the East African Federation and the most recent the experts report on fears and concerns on the political federation.

Gender dimensions:

The studies and consultations mentioned above are building blocks to the establishment of the Political Federation including other programs and activities like protocol on preventing & combating corruption, framework of EAC plan of Action on protection of human rights in the EAC, and protocol of good governance. As noted throughout the preceding chapters of this study gender is mentioned but there are no specific clauses to show that women need special consideration and support in all these frameworks, programs and activities.

Taking for example the EAC plan of action on promotion & protection of human rights. There are no specific action plans and activities for women including protection of women in their various engagements like cross border trade. Studies

have indicated harassment and high levels of corruption at all border points impacting negatively on women most particularly women cross border traders. The protocols and programs mentioned need to incorporate gender dimensions and provide guidance to formation of gender responsive policies and action plans.

Conclusion:

Gender Equality, equity and gender mainstreaming are no longer myths but practical realities that cannot be ignored by development practitioners at all levels of development. We have noted throughout this study that men and women alike are involved in cross border trade as producers, traders and consumers. However women's participation is much higher, and because of the critical differences in their positions in the economies and society and in trade in particular the benefits they derive from cross border trade and the challenges they face are based on gender.

We have also noted that women's involvement in cross border trade though not recorded is highly substantial with potential to contribute significantly to household earnings and resources and empowering women by giving them financial independence and control of their own resources.

We hope that these benefits will inspire regional and national policy makers to make cross-border trade a priority and institute the required policy and legal frameworks that will make it competitively grow and expand, including addressing the specific challenges and constraints faced by women.

Recommendations:

The matrix below indicates recommendations at various levels. The last column of the matrix provides a scenario where if there are no gender responsive policies, programs and activities the opportunities and benefits are lost to the both men and women. Since women are still highly marginalized this kind of situation affects them much more compared to men. Across the board however, priority should be increasing women's literacy, numeracy, capacity, skills and understanding of trade policies and procedures and providing them with common market, customs regulatory information and opportunities in the EAC Integration process.

Policy frameworks regional and national:

- I. Gender responsive policies focusing on informal cross border trade need to be established at both levels. These policies should aim at guiding the recognition in formal structures at national and regional of informal cross border trade including measures for keeping formal records and documentation. The policies should in addition aim at helping women build trust in formal cross border trading structures rather than continue with old practice of conducting what is regarded as costly illegal trade.**

- II. Regional protocols- the customs union and the common market protocols need to be reviewed to establish amended clauses within that provide policy, legal and regulatory frameworks for cross-border trade. These clauses should be able to support the movement, growth and expansion of this trade. Alongside these reviews, the implementation plans and strategies currently being established should have focused interventions for supporting and promoting cross border trade and the participation of women**

- III. The Monetary Union since is still being negotiated needs to take into consideration cross border trade and the impact of establishing a single common currency. The negotiation team should therefore incorporate experts in informal cross border trade and experts on gender issues and gender equality**

- IV. Improvement in communication on all EAC Integration processes is very critical at both the national and regional levels particularly on the already established customs union and common market but also sensitization on the on the monetary union. This kind of awareness will help women cross border traders know their freedoms and rights and also help them make informed choices. More popular versions of the protocols need to be established in local languages and trainings organized to understand the implications of the protocols and the articles.**
- V. The regional programs and activities for harmonizing trade policies, laws and regulations need to be enhanced and expedited to allow harmony, common laws and standards which are at the moment causing a lot of constraints and challenges on cross border trade. Further the process for establishing one stop border posts needs to expedited to ease movement especially the customs and immigration.**
- VI. The Private Sector and Civil Societies: A number of civil societies are working on gender equality and economic empowerment of women. However very few are specific on cross-border trade and the involvement of women. Since this sector has been recognized as key in creating employment and income to the majority of women focused interventions need to be developed that will support women and promote their engagement s in this trade.**
- VII. Civil Societies should also form strong mutual partnerships with national and regional machineries to specifically work on developing**

regional policy and regulatory frameworks that support informal cross border trade and women's participation

- VIII. Joint research should be part of the partnership to bring out the key challenging issues including mobilization of statistical data which is key in planning, policy, program development and support to decision making**
- IX. Joint awareness, sensitization and training is also key to harness efforts and create a more effective regional program for promoting women and cross border trade**
- x. Women's role: Women individually or collectively need to be pro-active and avoid being reactive. Information is available at different levels both electronically and physically. They need to devise practical ways and means of accessing this information including identifying and taking advantage of the existing opportunities in the integration process.**
- XI. Women groups especially at borders need to go beyond welfare goals and include issues of promoting trade especially cross border trade and how they can grow and expand in this trade by jointly working towards elimination of obstacles. The vision be among others growing from informal to formal and measures to register their businesses.**
- XII. Women engaged in cross border trade need to actively promote their capacity and skills in trade by consulting and participating in training seminars and workshops.**

MATRIX INDICATING RECOMMENDATIONS AT VARIOUS LEVELS

Policy/Legal framework	The Private Sector	Civil Society	Women's role	Situation of unresponsiveness
<ul style="list-style-type: none"> • National & regional policy frameworks need to incorporate gender responsive policies that specifically look at cross border trade and guide its incorporation in formal structures of government and the private sector and other relevant sectoral policies and plans • Regional protocols currently under implementation like the common market protocol and the customs union need to be reviewed to establish clauses that take into consideration cross border trade and its socio-economic dimensions 	<ul style="list-style-type: none"> • The private sector has a critical role to play in terms of lobbying and advocacy for policy and legal recognition of informal engagements like cross-border trade and the various levels of participation • Umbrella private sector organizations that promote business and trade need to continuously consider gender issues particularly the challenges women face in cross border trade and other trade and business engagements • The private sector needs to build strong relationships with national government machineries and regional bodies to jointly work out strategies and programs for trade 	<ul style="list-style-type: none"> • A number of civil societies are working on gender equality and economic empowerment of women. However very few are specific on cross-border trade and the involvement of women. Since this sector has been recognized as key in creating employment and income to the majority of women focused interventions need to be developed that will support women and promote their engagements in this trade. • Civil Societies should also form strong mutual partnerships with national and regional machineries to specifically work on developing regional policy and regulatory frameworks that support informal cross border trade and women's 	<ul style="list-style-type: none"> • Women individually or collectively need to be pro-active and avoid being reactive. • Information is available at different levels both electronically and physically. • Women cross border traders need to devise practical ways and means of accessing this information including identifying and taking advantage of the existing opportunities in the integration process • Women groups especially at borders need to go beyond welfare goals and include issues of promoting trade especially cross border 	<p>Policy level: gender responsive policies create equality and equity and result in stability, security and a empowerment and sense of belonging including balanced or all inclusive development.</p> <p>Legal/regulatory basis – gender responsive policies also result in legal and regulatory frameworks and are often reference points in most of the development programs and activities.</p> <p>Program development: gender responsive policies result in focused programs and interventions, which take into consideration the aspirations and particular interests of both men and women. In case of cross border women have different challenges and aspirations compared to men.</p> <p>Data generation and analysis – disaggregated data is key in socio-economic and political development of countries and the EAC region in particular. It provides the empirical basis for informed decision making and focused interventions including</p>

<ul style="list-style-type: none"> Regional protocols that are currently under negotiation or under formation stage like the customs union need to have a deliberate focus on cross border trade, women's participation and the specific policy requirements that are needed to address the different interests Policy and regulatory frameworks at national and regional levels that guide sensitization and awareness strategies and programs need to have specific targeting to marginalized groups like women and their engagements 	<p>and business development in the EAC</p> <ul style="list-style-type: none"> Training, awareness and sensitization on EAC issues should be a private sector priority to uplift business standards, growth and expansion including Specific programs for women in the informal sector trade Joint strategies and programs are urgently needed that will promote and improve the EAC business environment especially movement of people, goods and services 	<p>participation</p> <ul style="list-style-type: none"> Joint research should be part of the partnership to bring out the key challenging issues including mobilization of statistical data which is key in planning, policy, program development and support to decision making Joint awareness, sensitization and training is key to harness efforts and create a more effective regional program for promoting women and cross border trade CSO's have lobbying and advocacy skills and experience in creating desired change. EASSI should lead the campaigns to advocate for the desired policy, legal and program changes in the EAC including at national levels 	<p>trade and how they can grow and expand in this trade by jointly working towards elimination of obstacles. The vision should be among others growing from informal to formal and measures to register their businesses.</p> <ul style="list-style-type: none"> Women engaged in cross border trade need to actively promote their capacity and skills in trade by consulting and participating in training seminars and workshops. 	<p>monitoring, evaluation and impact analysis. It is important to know the numerical levels of women and men participation in cross border trade to be able to react meaningfully on the challenges.</p> <p>The private sector and CSO's- both at partner states and EAC level's development is private sector driven. However decisions taken at both levels as well as policy, legal and program development affect women and men differently. It is therefore important that the private sector and CSO's take a leading role in ensuring that trade policies, programs and the business environment is gender responsive and takes into consideration the gender dimensions.</p> <p>Women's role: the women themselves hold their destiny in their own hands. It is in their interest that they are active movers and not receivers. Sustainable survival in regional trade particularly cross border trade can only happen if they take keen interest in issues that impact directly on their lives and become key partners in national and regional trade issues including all other socio-economic issues at national, regional and international levels.</p>
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