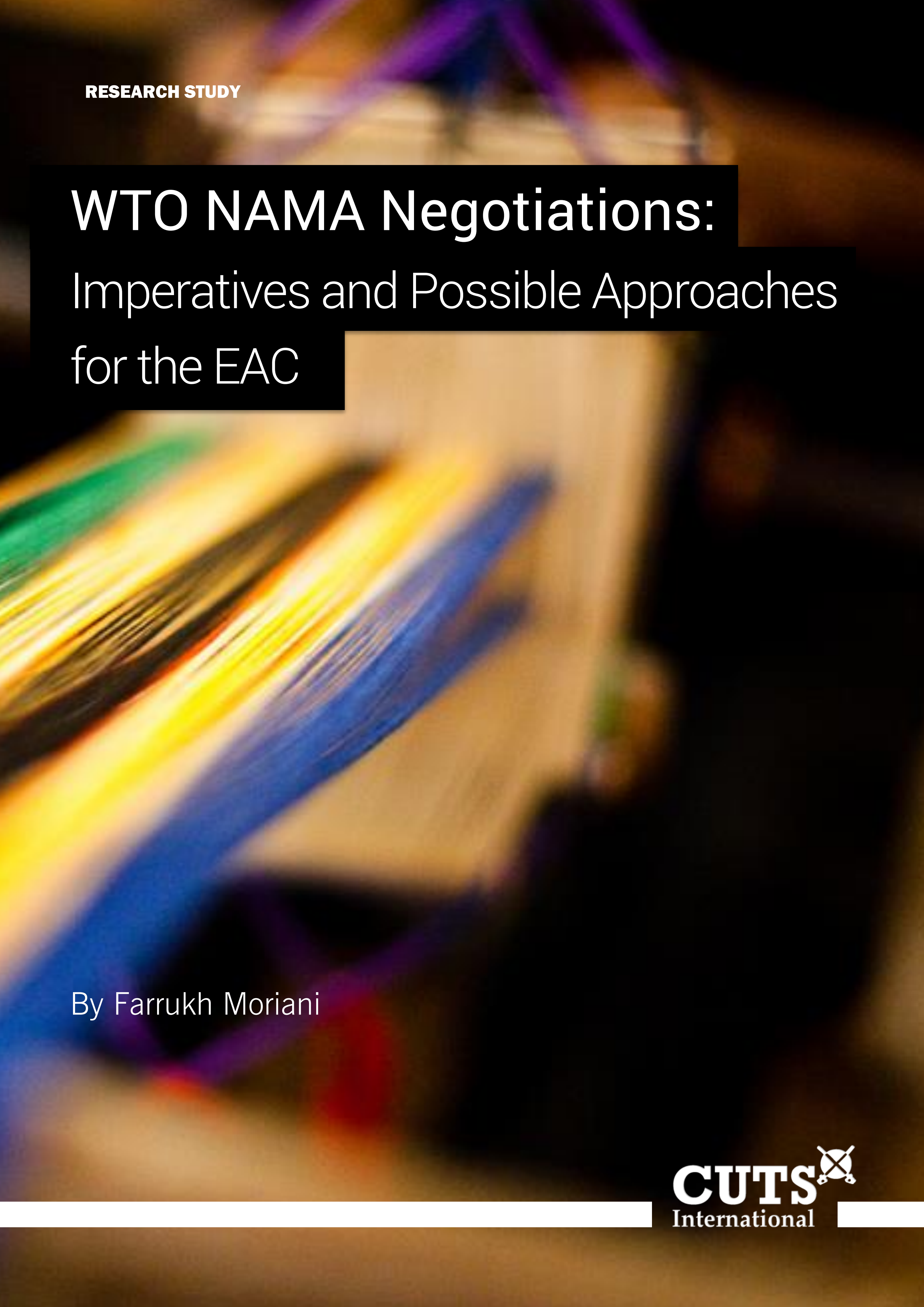

RESEARCH STUDY

WTO NAMA Negotiations: Imperatives and Possible Approaches for the EAC

By Farrukh Moriani

CUTS International

WTO NAMA Negotiations:

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Acronyms

ACP	African Caribbean and Pacific
AGOA	African Growth and Opportunity Act
APSEA	Association of Professional Services in East Africa
ASEAN	Association of Southeast Asian Nations
AWEPA	Association of European Parliaments for Africa
CB	Central Bank
CBO	Community Based Organisation
CET	Common External Tariff
CM	Common Markets
COMESA	Common Market for Eastern and Southern Africa
CPMR	Conflict Prevention, Management and Resolution
CSOs	Civil Society Organizations
CTC	Counsel to the Community
CU	Custom's Union
DDA	Doha Development Agenda
DFID	Department for International Development
DFQFA	Duty Free Quota Free Access
EAA ACA	East African Association of Anti-Corruption Authorities
EABC	East African Business Council
EAC	East African Community
EACB	East African Central Bank
EACDF	East African Community Development Fund
EACF	East African Cooperation Forum
EACJ	East African Court of Justice
EADB	East African Development Bank
EBA	Everything But Arms
ECOWAS	Economic Community for Western African States
EPA	Economic Partnership Agreement
EPZ	Export Promotion Zones
EU	European Union
FEPA	Framework for Economic Partnership Agreement
FMIS	Financial and Management Information System
FPI	Foreign Portfolio Investment
GDP	Gross Domestic Product
HDI	Human Development Index
LDC	Least Developed Country
MDG's	Millennium Development Goals
MEAC	Ministry of East African Community
MFN	Most Favored Nation
MTEF	Medium Term Expenditure Framework
NAMA	Non-Agricultural Market Access
NTBs	Non-Tariff Barriers

ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
PPP	Public-Private Partnership
PRSP	Poverty Reduction Strategy Paper
REC's	Regional Economic Communities
SEZ	Special Economic Zone
SMEs	Small and Medium Enterprises
TIFA	Trade Investment Framework Agreement
USAID	United States Agency for International Development
WTO	World Trade Organization

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Executive Summary

The East African Community (EAC) has experienced a dynamic period of economic growth. Not only has the region been among the top performing ones globally, experiencing growth at 6.2% from 2004-2013, but all of the member countries experienced real growth. The region now sits on the cusp of a future that could either see it consolidate the significant gains achieved over the past decades, or one that leads to an erosion of these hard-earned gains. In the context of declining trends in agriculture in the region and the members' ambitions for manufacturing–driven growth, enhanced market access in the goods sector assumes significance. Since tariffs are one of the instruments for achieving trade integration and for enhanced market access, the ongoing Non-Agricultural Market Access (NAMA) negotiations in the World Trade Organisation (WTO) offer a potential avenue to the EAC for furthering its growth agenda.

This paper explores the interests of EAC members in the ongoing WTO negotiations on Non-Agricultural Market Access (NAMA) with a view to embedding them in the final NAMA work program. The paper aims to present a fish-lens consideration of issues, covering inter alia: an examination of the relevance of the NAMA modalities; highlighting the implications of Kenya's position in the NAMA negotiations as a Para 6 country, for the EAC as a whole; and identifying measures that can help address policy-level and institutional challenges

Negotiations on NAMA are more or less frozen in 2008. While a spate of discussions and deliberations have taken place since, there has been little progress on the development of a NAMA work program, despite a clear decision at the Bali Ministerial in 2013 in this regard. A number of issues remain unresolved and arriving at an agreement on the work program will not be easy. Unpacking the framework and the specific modalities reveals that it is a mixed bag in terms of their relevance and value. There is a general agreement on tariff liberalization but issues over product coverage remain unresolved and contentious. Evidence points toward some misconceptions over the extent of risks of preference erosion, while sectoral negotiations are far less straightforward and challenging than tariff reductions. In seeking to harmonise or eliminate tariffs in specific industries or particular areas of that industry, sectoral negotiations call into play a range of political economy influences and interests that enmesh with rational economic analysis and concerns over implications for welfare, market access and competitiveness. With the intent of allowing themselves enough policy space for determining the pace, quality and composition of industrialisation, the stance of EAC and other LDCs and developing countries over sectoral negotiations is understandably cautious.

Despite the vast shadow they cast on market access, firm competitiveness and economic growth, the actual footprint of Non-Tariff Barriers (NTBs) in the NAMA negotiations is very light. With many developing countries focused on tariff reduction and LDCs focused on securing preferential arrangements, NTBs continue to sit on the margins of the NAMA negotiations. This is allowing developed countries to constrain commercially meaningful trade deals. The deleterious effects of high transportation costs; high costs and uncertain supply of electricity; navigating a maze of rules, regulations and procedures; and poor, ponderous border management all add to production costs and weigh down competitiveness. And then there are the costs of complying with international standards and regulations—both public and private—as well as struggling to meet very complex Rules of Origin and eligibility criteria for preferential trade agreements.

Determining the best response to these framework conditions is challenging. At its most simplistic level, since four of the five EAC members being LDCs are exempted from any commitments under the NAMA framework, negotiations under it may be construed to have little relevance for the EAC. Kenya's inclusion as a Para 6 country means however, that the EAC is involved via proxy. There are other reasons too why the NAMA framework is of significance: the share of agriculture in GDP and exports is on the decline; there is the potential for graduation of the LDCs to developing member countries; and it is important for the EAC to be engaged, even if through a smart, coordinated and targeted form of trade advocacy rather than formal trade diplomacy.

Having analyzed the conditions, constraints and capacities under which the NAMA negotiations are being carried out, at the core of what has been proposed in this paper lies the belief that to make headway in the NAMA negotiations and to fully explore the potential for trade expansion, the EAC needs to adopt a different strategy to what it has been following. With that as the basis, the proposals follow a fairly linear and co-related path:

EAC has been growing fast and has achieved much in terms of convergence of approaches and harmonization of systems. However, if growth is to be sustained and if EAC is not to slip back into a low-growth mode, trade needs to expand and competitiveness of EAC firms needs to improve. Negotiations on NAMA should therefore be viewed not through the narrow lens of tariff reductions but as part of a broader agenda for change that must place NTBs at the centre of negotiations. Moreover, it is not sufficient for developed countries to offer preferential treatment that is difficult to realize due to trade restrictions and 'compliance taxes' that constantly raise the bar in terms of new public and private standards that add to costs and result in denied opportunities for growth to EAC members.

However, to do this, the EAC needs to turn the tables in negotiations, calling for an end to normative and one-sided preference programs that are discretionary. Half-hearted measures such as stalling or outright denial of Duty Free Quota Free access need to be discarded. A partnership based on reciprocity and mutual benefit needs to be instituted. This is a desirable objective but to achieve this, there is need of both financial and capacity capital within the EAC. For both, innovative solutions are needed, using approaches that push the EAC's negotiation capabilities in new, exciting and productive areas. Since the notion of trade as primarily an exchange between sovereign nations represents a lingering anachronism of the old trade narrative, the EAC needs to understand and engage with the private sector, not just the WTO.

As far as Kenya is concerned, its position as a Para 6 country in the NAMA framework does not detract from the need for it to adhere to and promote the principles, strategic approaches and innovations proposed for the EAC as a group. On the specific issue of committing to expansion of the binding tariff base to 70% and the lowering of tariff to 30%, this paper argues that since the process of fulfilling this commitment is gradual and the requirement of expanding the binding coverage to 30% does not specify which tariff lines to cover or leave unbound, there is sufficient policy space available to Kenya. However, the difficulties and sensitivities in identifying industries, sectors and products to protect with regard to the unbound component are duly acknowledged. In this respect, as discussed earlier, the identification process may be based on a multi-factor assessment paradigm which can help Kenya arrive at the right choices.

One very positive aspect of the Kenyan economy and one in which it leads other EAC members is in the services sector and in particular in information technology. As home to some of the more innovative—indeed game changing—initiatives that have championed the cause of digital democracy on the one hand and providing business solutions to developmental challenges, Kenya can leverage the entrepreneurial spirit, creativity and business savvy of its young innovators to benefit the EAC and also to view this sector from an export angle. Digital platforms such as Ushahidi and mPesa are global frontrunners and offer great hope for Kenya as a hub for using the power of innovation and design thinking. To underscore the point, only 4 million Kenyans have bank accounts, but 10 million people in the country now use the M-PESA money transfer service. TradeMark East Africa using software developed by Kenya's Ushahidi has initiated an SMS-based system that allows businesses to report nontariff barriers via mobile phones.

It is examples such as these, of private sector solutions to public sector problems that need to be replicated to facilitate trade in Kenya and in the EAC.

Section 1

Introduction

The East African Community (EAC) sits on the cusp of a future that could either see it consolidate the significant gains achieved over the past decades in terms of improved economic growth, institutional capacity and social development, or one that leads to an erosion of these hard-earned gains. The imperative for securing the momentum generated for economic growth and more equitable development is heightened by the need to keep pace with an increasingly competitive global economy, calling upon the EAC to make informed policy choices.

In the backdrop of this dynamic, the EAC's drive to identity policy levers for triggering and sustaining regional and global economic integration is critical to charting a course that turns potential into results, aspirations into opportunities. Indeed, the extent, pace and quality of regional economic integration that the EAC achieves will be a key determinant of the direction the region takes. This is no mean task, requiring the EAC members to balance political and economic agendas, domestic pressures for protectionism against international commitments to openness and seek to achieve convergence of approach amid the diversity of issues faced by its members

In the wake of declining trends in agriculture in the region and the members' ambitions for manufacturing–driven growth, enhanced market access in the goods sector assumes great significance. Since tariffs are one of the instruments for achieving trade integration and for enhanced market access, the ongoing Non-Agricultural Market Access (NAMA) negotiations in the World Trade Organisation (WTO) offer a potential avenue to the EAC for furthering its agenda. Entering into and benefiting from the NAMA negotiations, however, do not come without their peculiar challenges: first, since Kenya — as a non-LDC, Para 6 country[1]—is the only member required to deliver on its tariff reduction commitment under NAMA, whatever position Kenya takes has implications for the other members—hence the need for a coordinated approach that benefits the EAC as a whole while protecting Kenya's interests; second, while the NAMA negotiations are still very much a work-in-progress and the contours of its work program continue to be blurred, EAC needs to find ways for its perspectives to form part of the dialogue, without any formal commitments on its part—a sort of an issues-based trade *advocacy* as opposed to the archetypal trade *diplomacy*; and third, EAC's quasi-formal participation—partly through Kenya's formal position and in part through the trade advocacy mentioned earlier—in the structuring of the NAMA work program needs smart management, employing focused mechanisms for intra-EAC coordination to present a unified, constructive voice, targeted networking with partners and stakeholders, and regular monitoring of proposals put forth by other countries and groups—this would require strong institutional arrangements both in the EAC Secretariat and in member countries.

This paper explores the interests of EAC members in the ongoing WTO negotiations on Non-Agricultural Market Access (NAMA) with a view to embedding them in the final NAMA work program. The paper aims to present a fish-lens consideration of issues, covering *inter alia*: an examination of the relevance of the NAMA modalities; highlighting the implications of Kenya's position in the NAMA negotiations as a Para 6 country, for the EAC as a whole; and identifying measures that can help address policy-level and institutional challenges.

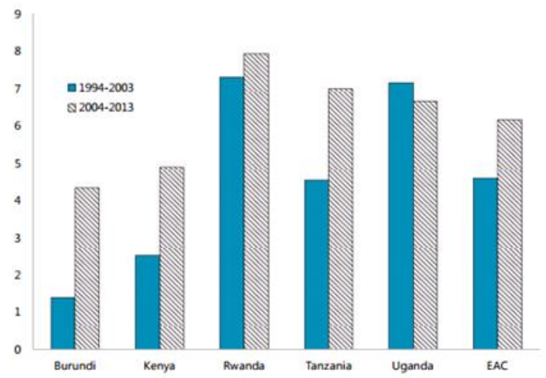
1 This is a group of 13 countries with less than 35% of non-agricultural products covered by legally bound tariff ceilings, who would have to increase their binding coverage substantially, subject to some exclusions.

Section 2

Understanding the Context

On most counts, economic growth in the EAC has been nothing short of impressive. Not only has the region been among the top performing ones globally, experiencing growth at 6.2% from 2004-2013, but all of the member countries experienced real growth (Figure 1).

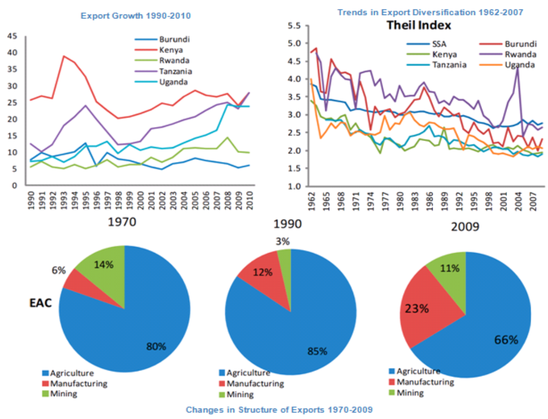
Figure 1: EAC Average Real Growth Rate (%)



Source: World Economic Outlook, International Monetary Fund.
Notes: For Burundi the growth series starts in 1997 to exclude the period of rapid contraction in the first years of the civil war. For Rwanda, the series starts in 1998 to exclude the genocide-related contraction in 1994 and the subsequent sharp rebound in 1995-97.

It is worth pointing out that historically speaking, this high level of sustained growth ranks among the top 20% of the worldwide distribution of all decade-long growth episodes since 1950, the mean being 3.8 percent[2]. On its own, this is cause for celebration, but there is more good news: exports from the EAC have risen consistently, going from 12% as a share of GDP in 1990 to 19% in 2010, and importantly, there has been reasonable geographical and product diversification as measured by the Thiel Index[3] (Figure 2).

Figure 2: Overview of EAC Exports



Source: How Solid is Economic Growth in the East African Community. Nikoloz Gigineishvili, Paolo Mauro, Ke Wang. Washington D.C.: International Monetary Fund, 2014

Moreover, this phase of sustained high growth has coincided with periods of general macroeconomic stability, characterized by falling fiscal deficits, a surge in Foreign Direct Investment (FDI) and an increase in productivity[4]. There are variations in these outcomes among members — Kenya's productivity gains for example have been more modest than those of other members while Tanzania's fiscal deficits have deteriorated since its growth upturn—but the overall trend for the EAC has been quite encouraging. The fact that these positives were sustained even in the face of a global recession during the last decade is a tribute to the EAC's resilience. Furthermore, improvements in social indicators such as primary enrolment and maternal mortality rates across the region are complemented by improving trends in relation to governance has been one characterized by gradual yet meaningful changes (Table 1).

2 How Solid is Economic Growth in the East African Community. Nikoloz Gigineishvili, Paolo Mauro, Ke Wang. Washington D.C.: International Monetary Fund, 2014

3 The Theil Index is a widely used measure of diversification — the lower the index, the higher the diversification

4 The East African Community: Quest for Regional Integration. Paulo Drummod, Kal Wajid and Oral Williams—Washington D.C.: International Monetary Fund, 2014

Table 1: EAC Performance Ibrahim Index of African Governance

	OVERALL SCORE AND RANK	CHANGES IN SCORE SINCE 2009	SAFETY & RULE OF LAW	PARTICIPATION & HUMAN RIGHTS	SUSTAINABLE ECONOMIC OPPORTUNITY	HUMAN DEVELOPMENT
Africa Overall	**51.5**		**51.7**	**49.9**	**45.6**	**58.7**
East Africa	**48.5**	**+1.0**	**47.8**	**46.4**	**43.2**	**56.6**
Rwanda	60.4 (11)	+4.6	58.2	47.7	63.4	72.1
Tanzania	58.2 (15)	-1.7	57.4	65.5	50.5	59.6
Kenya	57.4 (17)	+4.1	51.3	59.3	54.4	64.6
Uganda	56.1 (19)	+1.0	53.3	58.4	50.1	62.8
Burundi	45.3 (38)	-0.1	40.4	49.6	38.5	52.7

Source: IIAG Data Portal

These positive trends and outcomes, however, do not mask some gritty realities: issues relating to infrastructure, trade logistics and a range of institutional challenges related to regulatory effectiveness, enforcement of standards and allegations of crony capitalism have constrained efforts to enhance industrialization, trade and competitiveness.

TradeMark East Africa estimates EAC to have the second highest transportation costs in the world [5], while persistence of non-tariff barriers have prevented the full potential for intra-EAC trade as well as trade generally. Although the volume of intra-EAC trade has risen substantially from $0.6b in 2000 to $5.8b in 2013, its share of total exports rose by only 2% between 2005 and 2012 and was higher in 2000 than it is today (Drummond 2014). A number of regulatory barriers exist and negatively impact growth in trade and ease of doing business (Box 1).

Box 1: Regulatory Barriers to Intra-EAC Trade

- Customs Clearance: Importing or exporting within the EAC, requires an import declaration form (IDF) issued by an appointed government agency in the partner states. The issuance of IDFs involves numerous agencies and certification of compliance.
- Licenses and Permits: Licenses required include a business license, an import/export license, a road transportation license and a municipal council license. The procedures for obtaining these various licenses vary across countries and no preferential treatment to EAC-originating businesses.
- Immigration Procedures: For citizens of EAC member countries, visas are not required for travel within the community. However, movement of people across the region is restricted to passport holders or those with temporary travel documents, which majority of EAC residents do not hold.
- Police Checks and Roadblocks: For every 100 kilometers, traders encounter about two, five and seven roadblocks in Tanzania, Uganda and Kenya, respectively (Karugia et al. 2009). These stops are costly in terms of time and money.
- Truck Scales and Inspections: Mandatory weighing of goods along the transit route adds time and cost of upkeep for transporters. These costs are particularly significant on the Kenyan and Tanzanian sides of the transportation corridors. Weights and number of axles are not harmonized in EAC.
- Language Barriers: English is the official language across the EAC for purposes of administration, public trade facilitation and private transactions. However, for francophone Burundi, customs officials still insist on documents being translated into French. Traders must incur extra costs and time.

Source: Adapted from Kenya's Trade within the East African Community: Institutional and Regulatory Barriers, KiPPRA, 2012

5 Nina Paustian, Coordinated Efforts are Key to Develop the EAC, Private Sector Development Blog, Washington D.C., World Bank, 2013

Recognizing the need for taking collective steps for reducing the non-tariff barriers (NTBs), the EAC established a Time-bound Program for the Elimination of Identified Non-Tariff Barriers in 2009. By classifying NTBs according to their level of political and economic complexity, the Program sought to build consensus on tough reforms by targeting the easier NTBs first. On the surface, progress seems impressive (Box 2) but a deeper reading into the composition of the NTBs reveals that of the unresolved NTBs, 72% relate to complex, procedural simplification issues, for which the requisite political will may be missing. Without discounting the efforts made by the EAC members to reduce the impact of the NTBs and acknowledging some positive developments such as Burundi's One Stop Shop for start-ups; reduction in transit times from Mombasa to Kigali from 21 days to 6 which produce cost savings of $1,700 per container; the strengthening of investor protection in Burundi, Rwanda and Tanzania; and the introduction of a collateral registry in Rwanda, it is also true that the prevalence of NTBs is partly responsible for EAC's inability to leverage fully, the potential benefits of the Interim Economic Partnership Agreement (EPA) with the EU and under the US Government's African Growth and Opportunity Act (AGOA). However, exports of goods from the EAC to the EU have stagnated at just over $2b in the last three years, while exports to the US amounted to just $748m in 2014.

Box 2: Status of NTBs in EAC (2014)

78 RESOLVED 18 UNRESOLVED 4 NEW

The table below shows NTBs imposed by each member.

Partner State	Number of NTBs Imposed
Burundi	0
Kenya	6
Uganda	5
Rwanda	1
Tanzania	9

Source: EAC, 2014

Section 3

The NAMA Negotiations: How Relevant are they to the EAC?

The previous section was used to set the context within which the EAC members operate and the opportunities on offer for achieving greater regional integration and enhanced competitiveness. In this process of identifying the appropriate policy levers for influencing the shape and direction of economic growth and poverty reduction, in the wake of the preferential arrangements in place under AGOA and the EU-EAC EPA and given that four of the EAC members are LDCs and thus exempted from any binding commitments for further tariff reduction, are the NAMA negotiations relevant for the EAC?

The answer would be in the affirmative, although the approach to and the content of these negotiations need to be reshaped by the EAC, as is explained in the rest of this paper.

The Basis for Relevance

There are three clear reasons why the NAMA negotiations are relevant for the EAC:

Relevance by Affiliation

Although Kenya is the only formal part of the negotiations as a developing country that has to commit to tariff reductions, the position it takes will impact the rest of the EAC members, the EAC customs union and the CET under it, as well as the regional integration process.

Relevance by Implication

The decisions taken in terms of tariff binding and tariff reduction will have implications for EAC members in terms of preference erosion. Hence, the interests and perspectives of the EAC — the EAC voice — need to be embedded in the discussions. In addition, tariff binding and reduction is just one of the modalities and the EAC LDC members can and should participate in other modalities to ensure their views are considered and addressed.

Relevance by Opportunities

The EAC is part of a region that is expected to experience sustained high levels and pace of economic growth. Despite their current status as some of the poorest countries in the world, the EAC members have demonstrated the aptitude, ambition and political will for attempting to seize opportunities in trade and industrialisation. The NAMA negotiations thus become an important platform for the EAC to harvest economic opportunities in line with the strategies designed to this end. Moreover, in the expectation of their graduating to a developing country level, the NAMA framework will assume great significance for LDCs in the future.

Members' Perspectives

Although there is considerable variation in the structure of the economies of member countries, their perspectives on the content and direction the NAMA negotiations need to take are fairly similar and tend to converge on common themes (Table 2). Although a range of issues have emerged from deliberations among the members (see Annexure 1 for a more detailed stocktaking), it is interesting to note that all members attach great significance to enhancements in the trade facilitation mechanisms and processes and nearly all desire a focus on Non-Trade barriers; unsurprisingly, protection of industry and improvements in trade and logistics infrastructure also feature prominently. What is also interesting is to note a strong thread in the deliberations that calls for involving the industry and traders' community in discussions on the NAMA. This is an important perspective to bear in mind, for too often, negotiators from LDCs and developing countries tend to lose sight of their responsibility and accountability to their constituents in the private sector and the negotiations are conducted not in pursuit of commercial interests but of narrower, less productive, political ones.

State of Play

Negotiations on NAMA are more or less frozen in 2008. While a spate of discussions and deliberations have taken place since, there has been little progress on the development of a NAMA work program, despite a clear decision at the Bali Ministerial in 2013 in this regard. A number of issues remain unresolved and

Table 2: EAC Members' Perspectives on NAMA Negotiations

	Kenya	Rwanda	Burundi	Uganda	Tanzania
Focus on Reduction or Elimination of NTBs					
Improve Trade and Logistics Infrastructure					
Increased Trade Facilitation, Capacity Building, Technical Assistance					
Negotiate Tariff Reductions Linked to S&DT, Development Level					
Improve Trade Governance Systems					
Protect Industry, Push for Exemptions in Tariff Reductions					
Involve and Consult Industry in Negotiations					

Source: Authors' compilation based on discussions at the EAC Geneva Forum March 2015 arriving at an agreement on the work program will not be easy. However, the negotiations have stalled primarily on three counts:

Disagreements on Coefficients in the Swiss Formula

On the coefficients in the Swiss Formula With WTO Members having agreed to use the Swiss Formula (Box 3) at the Hong Kong Ministerial and with further and gradual refinements in this formula having culminated in the form of a proposal to use a 'sliding scale' mechanism to provide flexibility, the main hindrance in this respect is which coefficients to apply. Under the sliding scale approach, developing countries can choose from a menu of coefficients and flexibilities, providing for a mechanism whereby the lower the coefficient, the higher the number of tariff lines that can benefit from flexibility and vice versa. Not all developing members are convinced that the sliding scale offers the best options, arguing that they need greater latitude to shield specific tariff lines.

Resistance to Sectoral Negotiations

To Sectoral Negotiations Sectoral negotiations remain highly divisive and constitute a controversial element of the NAMA negotiations. These differences mainly relate to the product coverage and the levels at which participants bind their duties. Since sectoral negotiations are Member-driven and thus non-mandatory, the NAMA framework does not identify specific sectors. Proposals on 14 sectors have been submitted by Members so far, ranging from automotive and related parts to toys but this list is not exhaustive and Members can suggest additional sectors. In addition, the implementation period for tariff reduction and the kind of sectoral negotiations also await an agreement on the implementation period for tariff reduction and for the level and nature of Special and Differential Treatment (S&DT) on offer.

Box 3: What Is The Swiss Formula?

The Swiss Formula is a tariff reduction modality agreed upon by Members at the Hong Kong Ministerial. Since its agreement, the formula has undergone several revisions, mainly to accommodate demand by the developing countries, LDCs and small and vulnerable countries, to build in flexibilities and consideration for the varying level of development in Member countries.

Members had agreed to apply the "Swiss formula" on a line-by-line (product-by-product) basis, which means that the formula is applicable to each product unless otherwise provided through the flexibility provisions. The final result would be that approximately 45 Members, accounting for almost 90 per cent of world non-agricultural trade, will apply the "Swiss formula". The December 2008 text includes some country-specific provisions which are still being negotiated.

The most recent version of the draft NAMA modalities envisages that the "Swiss formula" shall be:

$$t1 = \frac{\{a \text{ or } (x \text{ or } y \text{ or } z)\} \times t0}{\{a \text{ or } (x \text{ or } y \text{ or } z)\} + t0}$$

where,
t1 = Final bound rate of duty
t0 = Base rate of duty
a = [8] = Proposed coefficient for developed Members
x = 20, y = 22, z = 25 to be determined as provided in paragraph 7 = Proposed coefficients for developing country Members

Source: WTO

Flexibilities for Developing Countries

For developing countries Although the Swiss Formula with its coefficients presents a more nuanced framework for tariff reduction, the demand for Special and Differentiated Treatment and for Duty Free Quota Free (DFQF) market access resonates across, respectively, the developing Member countries and LDCs. However, as noted in Box 3 earlier, there is little progress on S&DT and developed countries are wary of providing full DFQF to the LDCs or to reduce their tariffs on products such as textiles and apparel.

Section 4

Unpacking the Modalities

With the range of modalities available under the NAMA negotiations, which ones are best suited to the EAC?

Tariff Reduction: Is it good or bad?

At present, tariff reduction or elimination is the principle instrument under the NAMA framework. While there appears to be an aversion among developing countries in general against tariff reduction and increases in binding coverage, is this justified? We begin answering this question by first reviewing the current tariff regime in EAC.

Table 3 presents the bound, MFN applied tariffs and the binding coverage in all the member countries as of 2013. Three things are immediately noticeable: one, except for Rwanda which has a 100% binding coverage for all product groups, the binding coverage for all product groups is very low across the EAC members; two, the average bound tariffs for all members for all product groups are very high; and three, the maximum applied tariff exceeds the maximum CET level of 25% in 5 of the 12 product groups.

From a strategic viewpoint, the implications of this present tariff structure in the EAC are mild: Kenya, which is the only EAC member under obligation as a Para 6 country, to cut tariffs and increase binding coverage, has applied tariffs in all product categories that are lower than the CET level of 25% and thus also below the threshold of 30% set for Para 6 countries under the NAMA framework. In other words, as far as tariff cuts are concerned, there is currently no implication for either the EAC's Customs Union or for Kenya under the NAMA negotiations. However, since Kenya's binding coverage is extremely low or non-existent across the product groups, except for Fish and Fish Products, substantial work needs to be done to identify the product coverage for binding as per the NAMA framework. This would entail a careful consideration of market potential, competitive advantages and infant industries that need protection, before the coverage is determined. Moreover, since Rwanda has already covered the entire product groups, Kenya's intra-EAC negotiations in terms of product coverage will focus on Burundi, Tanzania and Uganda.

Table 3: Snapshot of EAC Tariff in Non-Agricultural Products (2013)

PRODUCT GROUP	Tariff														
	FINAL BOUND					MFN APPLIED					BINDING COVERAGE %				
	Average / Max in %					Average / Max in %									
	Kenya	Rwanda	Uganda	Tanzania	Burundi	Kenya	Rwanda	Uganda	Tanzania	Burundi	Kenya	Rwanda	Uganda	Tanzania	Burundi
Fish, Fish Products	63.3	89.1	53.0	120.0	32.9	24.7	24.7	24.7	24.7	24.7	46.0	100	9.5	1.6	5.6
	100	100	80.0	120.0	100	25.0	25.0	25.0	25.0	25.0					
Minerals and Metals	62.0	98.2	-	-	8.0	10.5	10.5	10.4	10.5	10.5	0.9	100	0	0	2.2
	62.0	100	-	-	18.0	40.0	40.0	40.0	40.0	40.0					
Chemicals	35.2	92.8	50.7	120.0	8.2	3.9	3.9	3.8	3.9	3.9	2.2	100	3.4	0.2	8.4
	100	100	80.0	120.0	100	25.0	25.0	25.0	25.0	25.0					
Transport Equipment	62.0	96.8	42.1	120.0	74.7	6.2	6.0	6.0	6.2	6.0	0.8	100	11.7	0.8	12.5
	62.0	100	50.0	120.0	100	25.0	25.0	25.0	25.0	25.0					
Petroleum	-	100	-	-	-	4.3	4.3	4.3	4.3	4.3	0	100	0	0	0
	-	100	-	-	-	25.0	25.0	25.0	25.0	25.0					
Wood, Paper etc.	-	95.0	50.0	-	19.4	14.7	16.0	16.0	16.0	16.0	0	100	2.4	0	9.4
	-	100	50.0	-	20.0	25.0	25.0	25.0	25.0	25.0					
Textiles	-	64.1	-	120.0	25.1	19.5	19.5	19.5	19.5	19.5	0	100	0	0.3	38.4
	-	100	-	120.0	100	61.0	61.0	61.0	61.0	61.0					
Clothing	-	97.4	-	-	19.7	25.2	25.2	25.2	25.2	25.2	0	100	0	0	7.8
	-	100	-	-	20	50.0	50.0	50.0	50.0	50					
Leather, footwear	-	96.0	50.0	-	74.5	12.7	12.7	12.7	12.7	12.7	0	100	3.8	0	19.5
	-	100	50.0	-	100	25.0	25.0	25.0	25.0	25.0					
Non-Electrical Machinery	-	96.9	44.2	120.0	6.0	3.2	3.2	3.2	3.2	3.2	0	100	6.0	0.2	2.9
	-	100	50.0	120.0	6.0	25.0	25.0	25.0	25.0	25.0					
Electrical Machinery	-	98.0	51.4	-	2.5	10.8	10.8	10.8	10.8	10.8	0	100	8.5	0	0.8
	-	100	80.0	-	10.0	35.0	35.0	35.0	35.0	35.0					
Manufactures n.e.s	-	96.8	75.4	120.0	47.7	14.8	14.8	14.8	14.8	14.8	0	100	3.4	0.5	4.7
	-	100	80.0	120.0	100	50.0	50.0	50.0	50.0	50.0					

Source: Author's own compilation based on Trade Profiles in the WTO

Among the several concerns voiced by the developing countries regarding acceptance of liberalisation under the Swiss Formula, the principals ones are twofold: first, it is argued that reduction in tariff and expansion in binding coverage will prove detrimental to the growth of local industry and have adverse impact on employment; and second, they are wary of extending binding coverage to products that they believe to be of export interest and are hence categorised under the Sensitive Items (SI) list and also because it is thought that extending product coverage will reduce policy space for members.

Although tariff reduction is not applicable to the EAC, a couple of points may not be out of place: the first relates to the conception and use of tariffs as a policy tool. Does the EAC want to use tariff as a policy tool for regional and global integration or as a tool for protection? There may not be any linear answers to this and perhaps the use of tariffs may be seen as a flexible tool to be used within an evolving context of economic development. The example of the East Asian countries suggests that tariffs can be used to protect domestic industries and sectors of strategic importance from foreign competition, switching to a tool for global integration once domestic industries attain sufficient levels of technological and productive sophistication. In this line of thinking, the concept of extended staging, i.e. allowing sufficient policy and temporal space for implementing tariff reforms gains significance. Second, the issue of tariff lines for binding, to which Kenya is committed as a Para 6 member country, requires strategic thinking. Attendant sensitivities in this regard are dwelled upon in the discussion that follows, but it would appear that the decision is best not made only on existing market conditions and market shares, but on the potential for growth and poverty reduction.

Flexibilities and the Fear of Preference Erosion

Separating Perception from Reality

With the EAC members benefiting from preferential treatment from two of the biggest markets in the world — US and EU — there is a legitimate concern over the potential impact of the tariff reduction introduced under the NAMA framework.

Evidence would suggest however, that the risks may not be as high as perceived. For one thing, tariffs are on the decline globally and have been so for some time now and as such governments have accepted this as *fait accompli* and adjusted their positions accordingly; Secondly, the issues of tariff reduction and adoption of any protectionist measures would represent a short-term mindset, whereas the need is for taking a long term perspective and focusing on issues such as enhancing competitiveness. And thirdly, because of the first two reasons mentioned, preference erosion is rather inevitable in the long run and hence requires a forward-looking policy approach that seeks to focus on increasing market access based on enhanced innovation and competitiveness.

The issue of preference erosion is applicable to both reciprocal preferences that form part of regional trade agreements, as well as to non-reciprocal preference erosion. Although the latter are important, from an EAC perspective, they do not appear to be as important as the former. A WTO Secretariat study[6] undertaken to assess the impact of trade liberalisation on preferences indicates that the threat of erosion is real only for a few product lines of a few member countries.

In addition to the preferential trade arrangements with the two big market players (i.e. AGOA with the US and EPA with the EU), the EAC also has a number of other PTAs (Table 4).

Table 4: PTAs in the EAC

Country	Number of PTAs	Type		
		GSP	LDC-Specific	Other PTA
Burundi	18	10	7	1
Kenya	10	9	-	1
Rwanda	18	10	7	1
Tanzania	19	11	7	1
Uganda	19	11	7	1
Total	84	51	28	5

Source: Authors' compilation

Besides creating the 'noodle bowl' effect with overlapping arrangements that tend to test the institutional capacities of governments and in spite of the existence of these PTAs for several years, EAC's global trade was in the value of only €36.86b, of which exports were only €7.68b (please refer Annexure 2 for details). A number of countries with whom these PTAs have been signed, such as Australia, New Zealand, Chile, Japan, Kyrgyzstan do not figure in the top 10 trading partners. What these facts indicate is that while preferential trading arrangements are actively pursued by developing countries and offer important, potential advantages, on their own and by themselves they are no guarantee of any tangible benefits for EAC members in terms of actual market access. There are several factors impinging on the ability of the EAC to transform the potential for market access under these preferential arrangements into reality, including compliance with Rules of Origin--which in the case of US actually prevent EAC members to gain market access--as well as the competitiveness of the EAC firms and the enabling, facilitating trade government environment in the EAC. The ramifications of these factors are discussed in the next section but without belabouring the point too much at this juncture, it is clear that fears over preference erosion appear to be somewhat unfounded in the case of the EAC.

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Tackling the Sensitivities on Sectoral Negotiations

The issue of sectoral negotiations is far less straightforward than reducing or eliminating tariffs in general, using mathematical formulas. In seeking to harmonise or eliminate tariffs in specific industries or particular areas of that industry, sectoral negotiations call into play a range of political economy influences and interests that enmesh with rational economic analysis and concerns—both genuine and the disingenuous—over implications for welfare, market access and competitiveness. With the intent of allowing themselves enough policy space for determining the pace, quality and composition of industrialisation, the stance of developing countries over sectoral negotiations is understandably cautious.

The economic rationale for protecting sectors with a competitive advantage appears to be clear: high levels of growth in the EAC since 2000—which have outpaced the rest of Sub-Saharan Africa by 0.6% per year from 2005-2011 [7] --are partly driven by enhancement in productivity of firms in most EAC member countries; however, growth from here on needs to follow an even steeper trajectory, a full two percentage points over the growth rate in the past five years, if the EAC is to come closer to its objective of graduating to a middle income level region[8]. For this to happen, it is important to support domestic firms vying to compete against foreign firms and to continue the structural transformation of the economy, from one relying on low-skill low-profit agriculture to a high-skill high-margin industrial powerhouse that lifts people out of poverty and puts EAC on the developing countries' map. However, the linearity of this economic argument masks a complex process of political settlement between the State, private sector and bureaucracy. In most developing countries, as indeed within the EAC, conditions of what Douglas North (2013) calls 'limited access order' exist, characterised by a coterminous of political and economic interests and in which public policy is the outcome of a negotiated competition for power. In itself and as long as the convergence of political and commercial interests help promote industry and growth, such power-settlements are powerful mechanisms for promoting industry. This is after all, evident in the way the President of the United States actively promotes and advocates on behalf of the American companies and helps create opportunities for trade and investment for them as part of high-level commercial diplomacy. The problem arises when the interplay of political-commercial elements result in collusion rather than convergence, private gain rather than public good.

In the context of the NAMA negotiations, the implications of this intermingling of political and economic interests cuts across the divide, as both the developed countries and the developing ones manifest the convergence in different ways. The developed countries do it through imposing restrictions on import of products where LDCs have a comparative advantage—in the textile sector for example, this is based on strong lobbying by the textile industry, based on the fear that LDCs such as Bangladesh and Cambodia will gain greater market share, leading to loss of output and jobs in the developed country; the developing countries do it through decisions on product coverage and on sectors or sub-sectors to protect under the Sensitive Items (SI) List or any other instrument of exclusion. In case of LDCs such as the EAC members, sifting through genuine demands for protection of sectors from rent-seeking opportunities is at best difficult and can often mean one and the same thing. In selecting products, sectors and industries which the EAC wants to protect by placing them under any exemption regime or by subjecting them to higher tariff however, a balance needs to be struck between allowing consumers and producers to benefit from lower prices of imported goods and inputs, and protecting the industry.

Earlier studies (Odipo 2009) have provided guidelines on the identification of sensitive or priority products and sectors, proposing the use of the Participatory Appraisal of Competitive Advantage (PACA) model (Table 5) or Porters Diamond Model.

7 The East African Community: Quest for Regional Integration. Paulo Drummond, Kal Wajid and Oral Williams—Washington D.C.: International Monetary Fund, 2014

8 Ibid

Table 5: PACA Model Criteria for Sensitive Sector Selection

	Sector is doing well	Sector doing not so well
Sector wants support to improve competitiveness	Strategic Sectors (1)	Desperate Sectors (2)
Sector does not want joint action	Busy Sectors (3)	Hopeless Sectors (4)

Source: Meyer-Stamer, 2002

(1) Strategic Sectors: Sector that for whatever historical reasons have developed competitive advantages but may want to keep ahead of the lot

(2) Desperate Sectors: Is in crisis but is forward looking

(3) Busy Sectors: Very busy and have no time for discussions (meetings)

(4) Hopeless Sectors: Is suffering, in crisis, external observer can easily see the solution but are unwilling to cooperate. They have non-cooperative disposition.

While these models can certainly be of great use and provide an objective analysis for selection of either sensitive or priority products requiring flexibilities under NAMA or sectors which EAC members wish to protect, it may be even more useful to develop more nuanced criteria, including prioritisation of specific industries or sectors in the EAC Treaty and EAC industrialisation strategies, as well as competitive advantage and implications for pro-poor growth. It is important to recognize that developing a criteria-based approach cannot prevent an exchange of political and economic power and influence, but it can introduce a more structured basis for this engagement. In doing so, it can help minimise an incorrect assessments of risks that lead to adoption of policies yielding unwanted outcomes. In Rwanda for example, the inclusion of products consumed mainly by the poor in the Sensitive Items list and addition of very high rates on these, the average poor person's incomes were lowered by 3.8% or two full weeks of wages (Frazer 2012).The point being underscored is not that protection of specific sectors or industries is a flawed approach—it isn't—but that these choices need to be placed within the broader context of equitable development approach where consumer welfare and producer interest share space, rather than being jostled out through the lobbying power of particular industry members.

Non-Tariff Barriers: Protectionism 2.0

Despite the vast shadow they cast on market access, firm competitiveness and economic growth, the actual footprint of Non-Tariff Barriers (NTBs) in the NAMA negotiation is very light. With many developing countries focused on tariff reduction and LDCs focused on securing preferential arrangements, NTBs continue to sit on the margins of the NAMA negotiations. This is both surprising and unfortunate. Surprising because NTBs constitute a major hindrance to the ability of firms in EAC to take up the full quantum of preferential trade margins on offer; and unfortunate because the relative lack of engagement, analysis and negotiations on NTBs is allowing developed countries to constrain commercially meaningful trade deals, even though on the face of it, preferential treatments are on offer. The deleterious effects of high transportation costs; high costs and uncertain supply of electricity; navigating a maze of rules, regulations and procedures; and poor, ponderous border management all add to production costs and weigh down competitiveness. And then there are the costs of complying with international standards and regulations—both public and private—as well as struggling to meet very complex Rules of Origin and eligibility criteria for preferential trade agreements.

Box 4: AGOA Country Eligibility Requirements

Country Eligibility Criteria

Establishment of or continuing progress toward establishing:

1. Market-based economies
2. Rule of law and political pluralism
3. Elimination of barriers to US trade and investment
4. Protection of intellectual property
5. Efforts to combat corruption
6. Policies to reduce poverty and increase availability of healthcare and educational opportunities
7. Protection of human rights and worker rights
8. Elimination of child labor practices.

Revocation of Eligibility

Military coups, other unlawful seizures of power, or gross human rights violations have been the primary rationale for revoking AGOA eligibility. Historically, this has been applied to: the Central African Republic (2004), the Democratic Republic of Congo (2011), Côte d'Ivoire (2005), Eritrea (2004), Guinea (2009), Guinea-Bissau (2012), Madagascar (2009), Mali (2012), Mauritania (2006), and Niger (2009).

Source: Getting Serious about Underperformance of the African Growth and Opportunity Act: Policy Options for Supporting Trade Potential in Africa.

Consider this: AGOA employs a range of criteria for determining country eligibility (Box 4). However, revocations that have taken place have not been on the basis of market considerations, but on political ones. The ramifications of this revocation were felt strongly by affected countries in terms of loss of export earnings, relocation of industry and consequent loss of jobs. Similarly, the landscape of private standards continues to grow (Annexure 3) and is becoming increasingly complex for firms in LDCs to understand, let alone comply; and compliance doesn't come cheap, with some estimates placing the cost of meeting legislative requirements, testing, certification and labelling at nearly 10% of total cost while campaigns by consumer groups such as People for the Ethical Treatment of Animals (PETA) against leather products made of cow hides causing a 7% drop in leather exports from India (Oxfam, 2002). Perhaps most telling is the effect of Rules of Origin on LDCs gaining actual market access in key sectors where they have competitive advantage. There is sufficient evidence that Rules of Origin under preferential trade agreements with the major market players such as US and EU have been major impediments for LDCs in Africa in terms of integration in the global economy and realisation of potential gains under the PTAs (Cadot & de Melo 2008). Moreover, due to variations in Rules of Origin within Africa, the possible benefits of regional trade are also not being tapped (Economic Commission for Africa 2010).

Based on proposals by members, there are other solutions for resolving the NTBs, which are relevant for the EAC: one, the growing consensus on use of the Horizontal Mechanism, with its focus on speed and transparency, its voluntary nature in terms of participation, its proposed use of time-bound solutions and the fact that it strengthens and leverages WTO Committees and other forums, means that the EAC could possibly have a useful mechanism for addressing small, seemingly benign issues before they balloon into NTBs. There is also the possibility of using a Vertical Mechanism whereby sector, single industry or similar grouping of products that face similar barriers would form basis for addressing the NTB[9]; possible sectors suggested thus far include automotive, fish, forestry, and textiles & apparel sectors. There is also the more traditional 'request and offer' modality, and although this has been used in the past negotiations to address NTBs, its utility is circumscribed by the fact that it is individual member-driven, its outcomes are difficult to cover all members since the negotiation is limited to two members and where more than two members are involved, the negotiation becomes complicated and time consuming (Probst 2004).

9 See TN/MA/W/18/Rev.3

Section 5

Reshaping the Narrative

In order to obtain the best possible outcomes from the NAMA negotiation and for the work program under development to be truly beneficial for EAC members, there is a need to completely change the narrative on NAMA.

At its most simplistic level, since four of the five EAC members are exempted from any commitments under the NAMA framework, negotiations under it may be construed to have little relevance for the EAC. Kenya's inclusion as a Para 6 country means however, that the EAC is involved via proxy. There are other reasons too why the NAMA framework is of significance: the share of agriculture in GDP and exports is on the decline; there is the potential for graduation of the LDCs to developing member countries; and it is important for the EAC to be engaged, even if through a smart, coordinated and targeted form of trade advocacy rather than formal trade diplomacy.

Prior to sharing the proposed pathway to change, it is important to underscore that by and large, the EAC is on track to cross its structural and strategic milestones towards a political federation. There is thus a need to celebrate its successes and to draw confidence from its achievements in the face of difficult, often hostile political, economic and institutional contexts. Its convergence towards a shared vision has been fast, and its implementation of a Customs Union faster. The macroeconomic fundamentals are encouraging, the trends fairly robust in terms of volume and diversification of exports, employment and manufacturing and its prospects for growth highly promising. Several implementation challenges remain on a number of fronts including better policy coordination, but there is a shared political vision and commitment among members and that alone can form the basis for much of what is proposed below.

Moving on from Old School Trade Diplomacy

At present, the EAC discourse on NAMA—and indeed that of other LDCs and developing countries—is subsumed under the tariff reduction and Swiss Formula imbroglio. In a global environment in which tariffs have been on a declining trend for decades, focusing on tariff reductions and its attendant issues of flexibilities and exemptions is not enough. Without meaning to suggest that tariffs are no longer a useful policy instrument, their use as a frontline tool has been on the wane. Growth in trade, reduction in poverty and increase in transfer of technology are no longer a function of tariff changes alone — competitiveness is. The EAC thus needs to take a fresh look at its options. This new approach needs to be backed by a change in outlook too, discarding quick wins for gains to be had from the long game, resisting the temptation for political opportunism in favour of entrenching a secure economic future for citizens and businesses alike.

Targeting the Dismantling of Non-Tariff Barriers

As has been discussed earlier, the prevalence and pervasiveness of NTBs represent the principal threat to EAC's economic ambitions. Impediments to trade are not stacked 'at the border' but are piled up 'behind the border'. The evidence is so damning that it is puzzling to note the lack of attention given to dismantling the NTBs. Trade restrictions imposed by rich countries cost developing countries over $100b annually—more than twice the development aid they receive each year (Oxfam, 2002); as a region, Sub-Saharan Africa loses $2b per year. The true level of protection afforded to

European industry nearly doubles from 5.1 per cent if tariffs alone are included, to 9 per cent if both tariff and NTBs are taken into account (Messerlin 2001). And yet, it is tariffs and not NTBs that consume the LDCs and developing countries alike. This needs to change and NTBs brought in from the peripheries of NAMA negotiations to its core. In essence, NTBs constitute Protectionism 2.0.

The new protectionism does not emanate from the developing countries, but rather from the developed ones. This is manifest in the maze of public and private standards, testing and certification requirements and rules and regulations, which serve as a *'compliance tax'* on exports from EAC members and other LDCs; by one estimate (Oxfam 2002) they add 10% to total costs and hence that may be construed as the 'compliance tax' levy. The continued existence of the NTBs and indeed their mushrooming will likely prove counterproductive to the original intent of the unilateral trade preference programs such as AGOA, which is to stimulate exports and facilitate trade diversification. As a case in point, of the two thousand plus entries of NTBs in the WTO database, more than 35% related to Technical Barriers to Trade (TBT), trailed by import licensing, SPS and trade facilitation (Probst 2004), which underscores the need to focusing on their removal or reduction.

Resolving the Country to Country Trade and Other Such Anachronisms

The notion of trade as primarily an exchange between sovereign nations or groups of nations such as the EAC, represents a lingering anachronism of the old trade narrative. The fact is that exchanges within transnational corporations, in the form of intra-firm operations or trade with third parties, account for two third of the world's trade flows. Ahold, one of the world's largest retailers, had sales of €32.8b in 2014[10], more than the combined nominal GDP of Rwanda, Burundi and Uganda and has more than 227,000 commercial associates around the world. Although governments in LDCs and developing countries do play a role as traders themselves, in the form of public procurements or through State Owned Enterprises, in the context of trade in goods, their trade footprint is negligible. Trade in goods is a private enterprise.

Discarding the traditional conception of trade has several implications for the EAC in the context of gaining greater market access for goods. First, EAC must recognise that the path to integration into the global economy and for economic growth is not only via the WTO, but also requires engagement with the private sector. Second, since world trade is dependent on what happens within the private sector---which products they want to build, where they want to produce, where they source their inputs and where they market their brands—it is essential to develop an understanding of how they operate, what their risk management practices and systems are and what incentives they require to trade with EAC. Third, since the private sector is also the biggest source of development financing in the form of Foreign Direct Investment (FDI), an understanding of how trade and FDI are interlinked and how a package of incentives can be developed and marketed to prospective investors, is mission-critical for graduating out of LDC status. Fourth, industrial development is a function of commercial enterprise intertwined with technology and innovation—these are the bedrock of private sector-led models and to unleash the transformative powers of this model, the EAC needs to create adequate space for private-sector approaches. And lastly, engaging with and meeting expectations of the private sector while securing the optimal confluence of public policy goals and commercial gain requires completely different skills-sets and aptitude then those required in NAMA negotiations.

Adopting a more inclusive process of engagement with domestic private sector would be a good starting point, not least because of its signalling effect. As is clear from the perspectives of the private sector reflected in Figure 4, there is an engagement deficit. Making the private sector part of the positioning on NAMA and seeking their opinions to inform policy are fairly obvious conclusions. The use of harmonised Customs administration, simplification and reduction of procedures for trade regulation, compliance and

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dispute resolution can all add value to the process of engagement with the domestic private sector.

A key component of this renewed engagement should be support for Small and Medium Enterprises (SMEs) that form part of supply chains for trade. SMEs make up 87% of all enterprises in the EAC and account for 70% of non-agricultural employment. However, most operate in the informal domain and are riddled with the challenges of limited access to finance, low capacity to go to scale and inability to comply with exacting international standards. But these are precisely the kind of issues that constitute debilitating non-tariff barriers to expansion in trade and exactly the kind of areas the EAC member governments and the EALA can need to focus. Facilitating and helping the SME sector become embedded in the global value chains should be a priority for the EAC.

There are several examples of how the private sector leads on resolving trade governance issues, some of which have been recounted earlier. It is the private sector in the EAC too that leads on innovations using Information Communication Technology and the region is praised for the entrepreneurial talent on display. But the EAC needs to establish and expand the space for deeper, more meaningful public-private dialogue and partnership. This could be done by:

- Setting up a CEO Forum for Trade Policy and Promotion as a cross-industry advisory forum comprising the CEOs of the top 10 companies in the country, both domestic and international. This could be a platform for informing and guiding EAC policies and negotiations under NAMA.
- EAC-Private Sector Trade Facilitation Committee to serve as a mechanism for regular feedback on NTBs. Membership could be drawn from a selection of industries and from different tiers along the value chain to ensure that feedback is received from different operational tiers.
- EAC Innovation Fund for Trade Promotion This could take the form of a trade innovation lab, using a challenge fund similar to LIFT that calls on SMEs and entrepreneurs to develop and execute strategies for EAC trade promotion. In addition, the scope of existing funds like LIFT could be expanded through a partnership between EAC and existing fund sponsors like DFID.
- Partner with the Private Sector to Establish an EAC Trade Ombudsman as an alternative dispute resolution mechanism for quick resolution of disputes on administration of trade related procedures, processes etc. The Ombudsman would be a private sector professional, recruited through open competition and the operational expenses shared by the private sector and the EAC.
- Establish an Annual Trade Promotion Officers' Conference to create a platform for regular engagement with the EAC member countries' trade promotion officers posted in foreign countries. This will help leverage an existing institutional arrangement to deepen their links with the EAC Secretariat and also draw on their presence in different countries to target and secure commercial opportunities.

Turning the Tables on Preferential Trade

Concerns of the EAC over invoking the less-than-full-reciprocity principle in relation to flexibilities offered under preferential trade, are legitimate. Although there are several positive aspects of the existing preferential trade arrangements and the preferential treatment provided to EAC members, either in the form of exemptions (such as under NAMA) or duty free access (under PTAs), they remain preference-giver driven. Shaped and structured by developed countries, often with overt political content (e.g. the revocation criteria under AGOA), they provide the EAC with opportunities for trade expansion, but fall short of really being truly transformative in practice.

The WTO and its institutional platforms such as NAMA negotiations can help the EAC in meeting some of its objectives for trade expansion, though as discussed earlier, its effects may not be as transformative as thought. For all its fractured stances and institutional frailties, the NAMA negotiations can be used by the EAC to deliver some lasting benefits. For this to happen, the tables need to be turned on the approach towards preferential treatments. Here are some ways in which this can be done:

Turning Best Endeavour Promises into Legal Bindings

The NAMA negotiations -- or any other negotiations under the WTO for that matter — are couched in a legalistic framework. The process itself may be a mix of politics and commercial diplomacy, but its culmination is in the form of legal commitments. For example, if the negotiations are concluded as per the last NAMA Modalities Draft Text, as a Para 6 country, Kenya will be legally bound to expand binding coverage to 70% of tariff lines and to reduce tariff levels to 30%. It does seem strange therefore, that when it comes to offering preferential treatments for the EAC and other LDCs, the decisions and declarations consist of moral persuasion for developed countries, not legal bindings. By way of illustration, consider the language contained in the decision on DFQF, where the developed countries are encouraged ("shall seek to improve"), not legally required to expand the coverage of its LDC preference. The legal fragility of the preferential arrangements is underscored by the fact that conditions under the trade preference programs can be altered or rescinded unilaterally, leaving no legal recourse for preference receiving countries.

It is therefore proposed that the EAC lobbies for turning best endeavour promises and conditions of preference programs offered by developed countries into legally binding commitments, in much the same way as LDCs are expected to under NAMA, PTAs or any other trade preference programs,. This would provide contractual security to donor and recipient parties alike; lend predictability to trade preferences and thus act as an incentive for commercial and investment partnerships to be forged based on a long-term view; ensure that due process is followed in case of any amendment; and essentially change the nature of these programs from discretionary to rules-based.

Not only is this desirable, but also legally possible under Article II of the GATT. Article II:1 provides flexibility in terms of permitting a WTO Member to inscribe preferential tariffs in its schedule under Article II:1. Moreover, since preference programs are also structured around a priori or ex ante exclusions (of countries, products or industries), they can be accommodated in these legal bindings proposed as Article II1(b) deals with 'terms, conditions and qualifications' of concessions or preferences (Bartels and Haberli 2010). In line with the Sugar Headnote Principle11, the only qualification would be that these terms, conditions etc. under any preferential treatment program do not violate any of the other WTO obligations prescribed for Members. Secondly as has been forcefully argued by Bartels and Haberli (2010), the current contradictory, arbitrary rationale for country or product exclusions bear weak legal justification, particularly for non-trade conditionalities such as establishment of democratic systems and abolition of specific laws or ratification of international conventions on corruption. These need to be replaced by provisions arrived at through mutual agreement and then secured under a legal binding.

100% DFQF

The second element of this 'turning the tables' agenda relates to Duty Free Quota Free access to EAC LDC members. Evidence suggests that further trade gains for LDCs would be rather limited under a 97 percent DFQF scheme, since the 3 percent of excluded tariff lines could potentially cover between 90 percent and 98 percent of all LDC exports (Bouet et al 2010). The very high share of trade reflects the fact that the 3 percent of excluded tariff lines tend to exclude the bulk of textile and clothing exports from LDCs and thus denies them from being establishing the vertically integrated global value chains that can lead to high employment and high growth conditions that propelled Asian economies. Bouët et al in 2010 estimate that full implementation of a DFQF scheme by OECD countries would boost LDC exports by about US$2 billion (or 17 percent) without affecting preference-granting countries in any major way. Other studies (Sam Laird, 2012) confirm these results, wherein the impact of providing 100% duty-free treatment to LDCs' exports by a selected group of trade partners - including

11 GATT Panel Report, United States – Restrictions on the Importation of Sugar and Sugar- Containing Products Applied under the 1955 Waiver and under the Headnote to the Schedule of Tariff Concessions (US - Sugar Headnote), L/6631, adopted 7 November 1990, BISD 37S/228; WTO Appellate Body Report, EC – Bananas III, WT/DS27/AB/R, adopted 25 September 1997, para 154

4 major developed countries with long-standing trade preference schemes (Canada, EU, Japan and US), one with a fairly recent duty-free scheme (Korea), and two emerging economies (China and India), was shown to increase LDC exports by 2.9 percent.

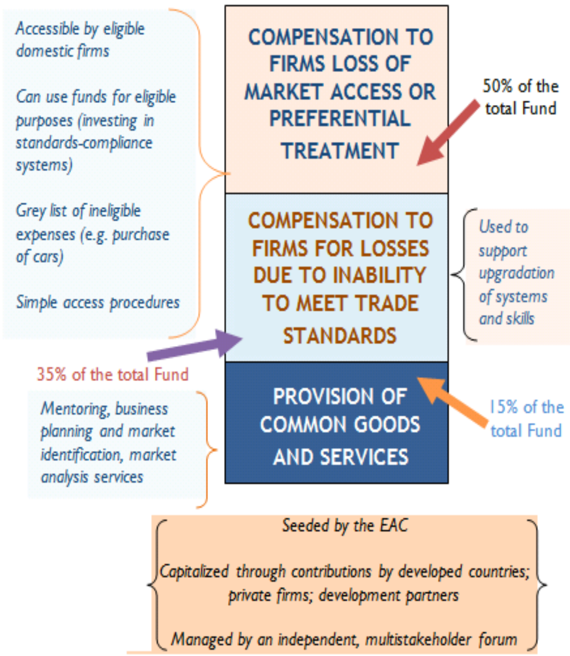
Based on this evidence, it is proposed that EAC should support LDCs in their push for 100% DFQF access.

Equalisation fund

Continuing consternation over preference erosion is not particularly justified in the context of the EAC, as has been argued earlier in this paper. This is because the preference take-up levels by firms in EAC are low, due to the toxic combination of restrictive Rules of Origin, an array of NTBs and inability to scale for lack of technological know-how or access to finance. While it has also been argued in this paper that the EAC has to look beyond preferential treatments alone (e.g. by expanding its range, depth and quality of partnerships with the private sector), as an interim stratagem, and till such time as the EAC is in a position where its industrial growth and allied trade growth attains desired levels of depth, it is important to put in place, some mechanism for compensating EAC firms that lose out in the face of tariff liberalisation under the NAMA framework.

The solution, it is proposed, could take the form of an Equalisation Fund, so named because it would aim to even out the playing field and equalize the variations in in capacities and competitiveness of its firms. The Fund would serve as an institutional mechanism for compensating firms in the EAC for losses incurred due to the tariff liberalisation and also for creating a level playing field for firms trying to comply with the various rules, regulations (whether governed by WTO or not), certifications etc. which constitute what this paper categorises as a 'compliance tax'. The Fund could be capitalised through contributions by developed Member countries, private sector firms and associations, development aid partners utilising the Aid for Trade finances, with seed funding from the EAC (Figure 3).

Figure 3: Contours of an Equalization Fund



Proceeds from the Fund could be allocated based on transparent criteria and administered through an independent, multi-stakeholder mechanism. A portion of this Fund could also be apportioned to offer a common good in the form of trainings, mentoring and guidance on business planning and marketing strategies for entry into new markets or consolidation of existing ones. By helping local firms to raise their institutional capacities to comply with international standards, the Fund could catalyze upgradation of the quality and pace of enterprise development within the context of trade in goods. It is also important to emphasise that the Equalization Fund is conceived of as not a replacement for any kind of existing unilateral, bilateral or multilateral arrangement of compensation or support for the EAC, but as an additional mechanism that tops-up whatever else is currently on offer or is planned to be offered.

Linking binding coverage with simplification of RoO

At present the drive for expansion in binding coverage and simplification of Rules of Origin are compartmentalised and led by two different constituencies. But what if these were linked? By proposing to link binding coverage with RoO, Kenya can play a critical role in recalibrating the balance of power between developed country Members and the rest of the membership. The guiding principle for this proposal is reciprocity and the argument behind this is simple: since developed countries want developing ones to commit to lowering tariffs (and thus protectionism) on a broader base of tariff lines, there needs to be a reciprocal action on part of developed countries in the form of making the RoO simpler to comply with or allowing flexibilities such as extended cumulation, enabling firms down the value chain from LDCs and developing countries to be able to access preferential treatments available under PTAs or other preference programs.

This arrangement, structured as a proportional adjustment---the simpler the RoO, the higher the binding coverage — not only would make business sense but also be politically saleable within LDCs and developing countries. Again, the process of this RoO simplification needs to be mutually agreed upon and not unilaterally determined or executed by the preference-donors and the monitoring of progress could be undertaken through the Committee on Trade and Development or any other component of the Monitoring Mechanism.

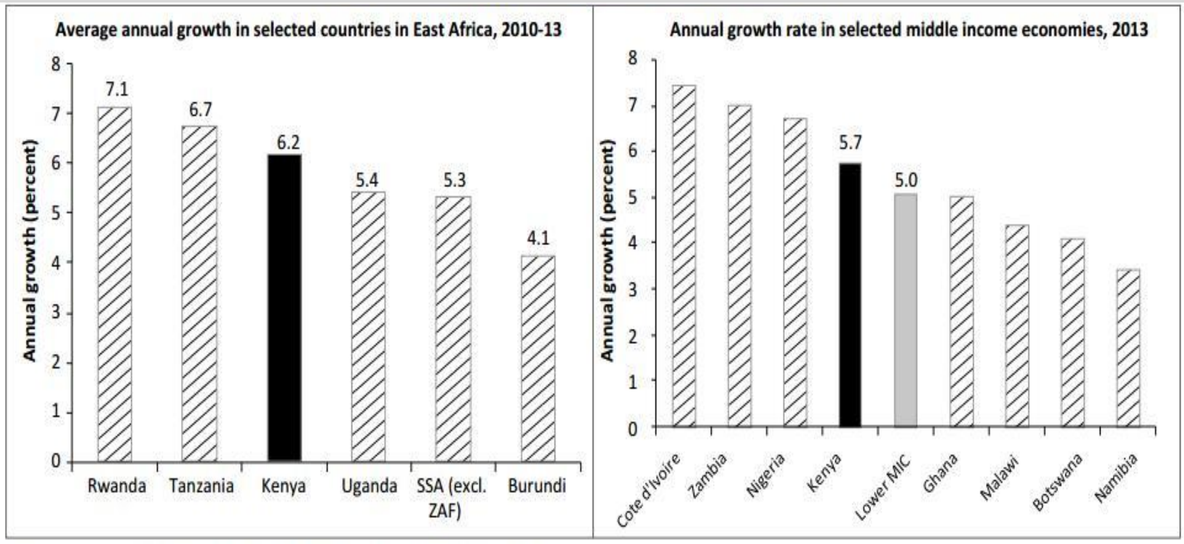
Section 6

The Options for Kenya

As the only non-LDC member of the EAC and thus the only one required to commit to expanding binding coverage to 70% of the tariff lines and to cap tariff levels at 30% at the end of the implementing period as a Para 6 country, Kenya's positioning in the NAMA negotiation bears relevance to both its own economy and those of the other EAC members.

Kenya's emergence as an economic powerhouse is well documented. With the rebasing of its economy revealing it as Africa's 9th largest economy, Kenya was reclassified as a middle-income country, with a per capita income of $1,160 in 2013. The Kenyan economy continued its impressive growth trends, attaining a 5.4% growth rate in 2014 and a forecast that sees it becoming one of the fastest growing economies in the region (Figure 4), comparing favourably with other middle income economies in Africa. Furthermore, this growth was broad based and is partly explained by a favourable macroeconomic environment, characterised by low inflation, a stable exchange rate and expanded private credit. Public investment, mainly in massive infrastructure investments in road and energy projects, aided growth (World Bank 2014). Moreover, although Kenya's public debt rose to just under 26% of the GDP, they remain sustainable and compare favourably with the rest of the EAC members.

Figure 4: Kenya's Growth Compares Favourably with its Peers



Source: Kenya National Bureau of Statistics and World Economic Outlook (IMF).

However, Kenya's export performance in recent years has fallen short of expectations. With a small manufacturing base—it accounted for only 11% of GDP and 12% of employment in 2013 — Kenya has seen exports decline and manufacturing now contributes just 26% to merchandise exports. Although Kenya is a leading exporter to EAC countries, even within the EAC it is losing market share to imports from China and India. Falling productivity and a weak business environment are adding to the fragility of the economy. As with other EAC members, infrastructure woes and high electricity costs, along with trade procedures and Customs administration emerge as critical impediments. To its credit, the Kenyan government has taken several steps to address these NTBs, including simplifying business registration, land registry, and property transactions and streamlined customs procedures at the Mombasa Port (World Bank 2014). However, these steps need to be built on if Kenya is to sustain its economic growth trends.

Of particular concern is the fact that the external sector remains weak and vulnerable, as import growth continue to outpace export growth and short-term flows finance the current account deficit. Sluggish external demand for exports, especially from the Euro area and emerging economies, has contributed to the widening of the current account deficit in the recent past. The large deficit points to underlying structural weaknesses in Kenya's economy, which need to be addressed. Kenya needs to increase the competitiveness of the manufacturing sector so that it can grow, export, and create much-needed jobs. The weak business environment is a key constraint for the manufacturing sector. Obstacles to doing business affect this sector more than many others because manufacturing needs access to capital for investments, infrastructure to import inputs and export and distribute finished products, affordable and reliable electricity to produce, labour to man operations, and fair and streamlined regulations and trade policies that allow firms to compete. Several policy actions could help anchor growth and galvanize the manufacturing sector:

In the wake of its largely positive economic scenario, given its own economic plans and aspirations, while taking into account the performance of its manufacturing sector, and its position as the only non-LDC EAC country in the NAMA negotiations, what role can Kenya play?

For one thing, all of what has been discussed and proposed in this paper obviously also applies to Kenya. The outlying factor of Kenya being a Para 6 country in the NAMA framework does not detract from the need for it to adhere to and promote the principles, strategic approaches and innovations proposed for the EAC as a group. Second, on the specific issue of committing to expansion of the binding tariff base to 70% and the lowering of tariff to 30%, this paper has argued that since the process of fulfilling this commitment is gradual and there requirement of expanding the binding coverage to 30% does not specify which tariff lines to cover or leave unbound, there is sufficient policy space available to Kenya.

However, the difficulties and sensitivities in identifying industries, sectors and products to protect with regard to the unbound component are duly acknowledged. In this respect, as discussed earlier, the identification process may be based on a multi-factor assessment paradigm (Table 6) which can help Kenya arrive at the right choices. It must also be stated here that the proposal to push for treating Kenya as part of the LDC bloc under the EAC is not supported, not only because it is defensive and perhaps even retrogressive, but also because it would only serve to distract Kenya from its carved out path of reviving industry, enhancing productivity and improving the business environment.

Table 6: Indicative Criteria for Identification of Sectors

Criteria	Indicators	Weight
Strategic Importance	- Identified as priority industry/sector in EAC Treaty, EAC or national strategies or vision documents	0.2
Economic Value	- Creates employment - Potential for FDI - Can spur value chain growth	0.15
Competitive Advantage	- Established competitive advantage of EAC firms - High/growing market share in global markets	0.2
Growth Potential	- Growing global and regional demand - Catering to high value markets	0.15
Impact on Poor	- Contribution to employment, especially for women and youth - Product consumed mainly by the poor	0.1
Private Sector Demand	- Identified by private sector as sector/industry as having high export potential - Part of global value chains and part of TNCs	0.2

One very positive aspect of the Kenyan economy and one in which it leads other EAC members is in the services sector and in particular in information technology. As home to some of the more innovative — indeed game changing — initiatives that have championed the cause of digital democracy on the one hand and providing business solutions to developmental challenges, Kenya can leverage the entrepreneurial spirit, creativity and business savvy of its young innovators to benefit the EAC and also to view this sector from an export angle. Digital platforms such as Ushahidi and mPesa are global frontrunners and offer great hope for Kenya as a hub for using the power of innovation and design thinking. To underscore the point, only 4 million Kenyans have bank accounts, but 10 million people in the country now use the M-PESA money transfer service. TradeMark East Africa, using software developed by Kenya's Ushahidi has initiated an SMS-based system that allows businesses to report nontariff barriers via mobile phones.

It is examples such as these, of private sector solutions to public sector problems that need to be replicated to facilitate trade in Kenya and in the EAC.

Section 7

Plugging the Capacity Deficits

For the EAC to achieve its ambitions and meet its goals and for it to be an important player in the NAMA negotiations, the capacity deficits that exist at multiple levels and manifest themselves in various forms, need to be plugged. Driving an agenda for change requires not just financial capital but capacity capital as well. Good ideas and sincerity of intent are necessary but insufficient conditions for enabling change.

From our analysis, a recurring theme that emerges is that there are several issues in the trade governance regime, both within the member States, the EAC and the trade and commercial diplomacy institutions at work. The preponderance of NTBs that exist because of some governance issue or the other and the fact that the EAC and the trade and commercial diplomats of member governments may perhaps be stretched in different directions to provide a focused, strategic direction for the NAMA negotiations, point to the need for some innovations. This assertion is made not as a criticism of the capabilities or effort quotient within the institutional mechanisms in place; rather it is made to highlight that perhaps some rearrangements are in order. It is not the purpose or within the scope of this paper to suggest big ticket changes in the capabilities value chain. However, in addition to some proposals already made (setting up an Equalisation Fund; establishing an EAC Trade Ombudsman office; organizing Trade Officers' Annual Conference; and setting up a CEO Forum), a few others are proffered, linked to the suggested path of action as described in the earlier sections. Some of these may appear simplistic, others innovative, some initiatives may already be underway or planned and others may not have been considered. What is important however is that these appear to be key for creating the kind of institutional arrangements that can reap dividends for the EAC under the NAMA framework and beyond.

Strengthening the Legal Capacity for Negotiations

The WTO provides an arena for the interplay of economic and political power, but the outcomes of this interplay are packaged in legal frameworks. As may be imagined, the legal documents are very complex, require expertise in jurisprudence and top-notch drafting capabilities. It is therefore essential that the understanding of, responses to and negotiation on issues is guided by and based on high quality legal advice. Whether this objective is achieved through outsourcing to legal firms, by building in-house capacity in both the EAC Secretariat and the members' WTO Missions in Geneva or a combination of the two, is a matter of available resources and approach. For example, a third of the EU WTO Mission senior staff deals specifically with legal issues. Whichever mode is adopted, the bottom line is that without recourse to regular, timely and quality legal advice, successful negotiations will be difficult. The same holds true in engaging with the private sector, which itself hires top law firms to draw up legal documents and defend the interests of firms in different legal jurisdictions.

Engaging trade advocacy and lobbying organisations

As had been hinted at the outset of this paper, the objectives of protecting and promoting EAC's trade and growth interests can be met with both trade advocacy and trade diplomacy. In suggesting trade advocacy as an instrument of engagement and influence, the proposal is to engage with influential think tanks and policy advocacy organisations on the one hand and with paid trade lobbyists on the other. The former allows for strategic advice and evidence based arguments to be presented in support of positions taken by the EAC and members at different fora; the latter is a form of direct engagement with decision makers. In both cases it is best to adopt a two-stage strategy: identifying a core partner for regular advice and advocacy exercises; and a horses-for-courses or modular approach which involves identifying institutions that can serve a particular interest best. For example, on the issue of simplifying the RoO, the EAC would do well to engage with the Brookings Institution and the Centre for Global Development, both of whom have been active advocates of introducing extended cumulation to benefit LDCs.

Instituting a Secondments and Exchange Program

Traditionally, capacity building is equated with training. This is a fallacy. Although training is an important component of an institutional capacity building program, it is only one of the instruments available. The complex working environments of global organisations such as the WTO require more than just training. Hands-on, on-the-job exposure provides a deeper understanding of the issues involved, solutions available and the process of communicating them internally to garner stakeholder support and externally to achieve public policy objectives. In this respect, an EAC Trade Secondments and Exchange Program could be introduced, under which members from different public institutions, private firms and civil society organisations could be sent to partner organisations in Geneva (e.g. WTO, UNCTAD, ACWL, ITC), US (USTR, Centre for Global Development, Brookings, Kennedy School of Government), Europe (OECD, EU), Asia (Singapore Alternative Dispute Resolution Centre, Lew Kwan Yew School of Public Policy, ASEAN) and private firms (e.g. Nestle, Unilever, UBS, P&G). The details of this program can be worked out once it is approved but essentially it will involve carefully selected individuals from EAC member countries to organisations as listed above, for short term assignments in targeted thematic areas (trade diplomacy, market analysis, branding) which will be identified in tandem with partner organisations. Under the Exchange component, experts from international and regional organisations will work in EAC members' organisations for short periods of time to mentor, guide and share specific practices of their parent organisations. This kind of close working engagement often leads to intensive, fast track transfer of knowledge and also helps create a network of experts and mentors. Financing of this Program can be designed in various ways including a beneficiary-pays model where the participants pay a portion of the costs, the rest being covered through EAC contributions, financing from development partners etc.

Following a more inclusive capacity building agenda
Another common fallacy regarding capacity building is that it is meant only for the public sector, and in particular, the bureaucracy. Without meaning to deny that public servants require regular upgradation of their skills and knowledge, it is equally important that other stakeholders such as elected representatives, private sector staff and civil society organisations be included in the capacity building agenda. This means for example, that under a Secondments and Exchange Program as described above, all stakeholders should be included so as to build different kinds of capacity, at different levels and create networks of peers and communities of practice in different thematic areas and seniority levels.

Partnering with private sector for institution building

In their feedback on the NAMA negotiations (see Table 2), the private sector from all member countries repeatedly raised the issue of lack of adequate knowledge regarding WTO rules, details of NAMA framework and stressed the necessity of involving the private sector in discussions and framing of negotiation positions. This is an extremely important area in which there isn't sufficient evidence to counter the thinking that although the very reason why we have Trade Mission abroad and WTO Missions in Geneva is because of the private sector, commercial and business interests, the level of engagement with them is inadequate to the point of being negligible. It is therefore critical that partnerships be forged with the private sector, either for cross-learning purposes or for collaborative solutions to remove irritants in trade expansion (e.g. the SMS based system developed by Ushahidi to enable complaint-filing on NTBs). In addition, engagement with the private sector can also allow the EAC and relevant public institutions in the member countries, to learn about how the private sector approaches negotiations (e.g. with supply chains), how it carries out trade advocacy (e.g., with the Commerce and Trade Ministries and how it develops and markets national brands and identifies investment and trade markets.

Section 8

Beyond NAMA

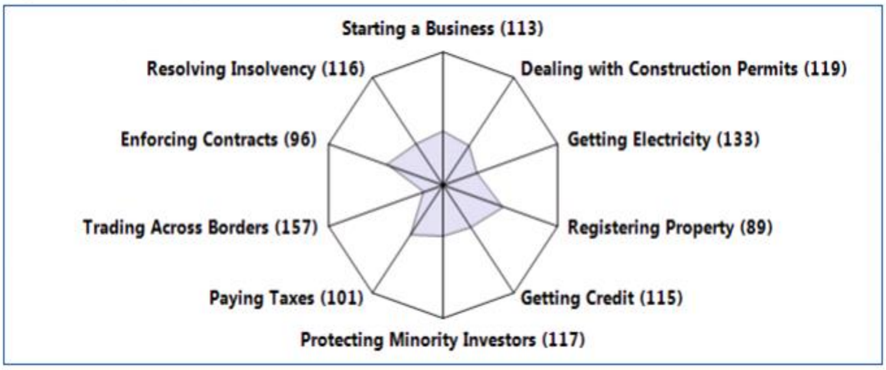
As the analysis in this paper has highlighted, there are a range of issues that impinge on the EAC's ability to deliver on its trade potential. Although a number of these issues are directly related to the NAMA negotiations, several imperatives also surface that have a strong impact and linkage with the NAMA framework, but do not form part of the formal mandate. While this in itself is a weakness in the NAMA framework—which is too tariff-focused—it is beyond the EAC's ambit to try and influence their inclusion at this stage. Nevertheless, it is extremely important to develop a strategic approach towards the factors that go beyond the NAMA negotiations and also to leverage the linkages that exist between for example higher preferential take up by EAC firms and the Rule of Origin.

With a view towards the long term, the intent to link critical elements of non-NAMA factors with NAMA framework and as a complementary part of the new overall approach proposed in this paper, the following is recommended:

Tackling Rule of Origin Head On

Although the RoO are not formal parts of the NAMA framework, their impact on trade is deep and wide and are interlinked to challenges in gaining or sustaining market access. Not only are they used by developed countries to restrict or prevent capture of market shares in key sectors where firms from EAC member countries and other LDCs are competitive, they are complex to understand and cumbersome to implement. There are examples of how simpler RoO can be designed and implemented but the real solution lies in altering their content to the advantage of EAC members, removing all rigidities and being enabling, rather than restrictive. There has been a strong push by some analysts for the introduction of 'extended cumulation' which provides for a more flexible way in which the RoO can be met, allowing exporters from the EAC to source inputs from or complete certain proportions of production in, a 'cumulation zone' or a defined group of countries and still have the final product be considered eligible for preferential treatment (Elliot 2010). Present trade preference programs permit this but within very narrow bands; under AGOA for example, under a de minimus rule, exports of textiles from EAC and other African countries can have no more than 10% of their yarn or fabric sourced from outside the beneficiary country or the US. In essence, this kind of a restrictive regime prevents the EAC members from benefiting from and being part of global supply chains. By comparison, only 4% of the value of an iPad is actually added in the country of manufacture (Pearson 2013).

Figure 5: Business Environment in the EAC (Ranking out of 189)



Source: *Doing Business* database.

Revamping Internal Trade and Economic Governance

There is a mismatch between EAC's aspirations and the institutional arrangements in place to realise those aspirations. As pointed out earlier (please refer Box 1), there is a long list of trade and economic governance issues internal to the EAC members. Procedures are cumbersome, rules and regulations abound, and doing business is difficult (Figure 5).

As an example, documentation associated with a single container of avocadoes en route from a Kenyan farm to consumers in Europe, involves more than 30 stakeholders and 300 different interactions, many of which are delayed further by lengthy queues (Castell 2015). Moreover, rules, regulations and procedures are still not fully harmonised, although that is understandable given that EAC members have moved fast on establishing the Customs Union and it is not easy to harmonise across five governments and multiple layers of bureaucracy.

However, with other milestones, such as the establishment of a Monetary Union also on the anvil and expectations of private sector and citizens rising, revamping the governance systems and upgrading the capacity of key institutions should be a priority. It is encouraging to note in this regard that the East African Legislative Assembly passed the 'Elimination of Non-Tariff Barrier Bill'. Although implementation is the real challenge, the passing of this legislation provides a starting point.

Transforming Chokepoints to Checkpoints

Poor, asphyxiating border management adds to the woes of a private sector already struggling to breathe under the weight of the world's second highest transportation costs (Paustian 2013). In a region that has several landlocked countries and whose landscape is littered with poor roads and border control points, it is not surprising that borders in the EAC are 'thick', i.e. they act as chokepoints and not mere checkpoints. Requirements for customs documentation and for payment of fees (mostly not at the border) saddle traders with high transaction and operational costs. The average cost of imports per container in the EAC is approximately $3,500, the cost to export approximately $2,500; the corresponding figures for OECD countries are just over $1,000. It takes 26 days on average to export from the EAC and nearly 31 to import (Doing Business Report 2015). These high costs not only are a drain on firm productivity and competitiveness, but also a major cause of informal cross border trade and loss in potential revenue. Informal exports from Uganda to its 5 neighbouring countries, for example, stood at $231.7m in 2006—that is 86% of total formal exports (OECD 2009).

Improvements in border management, transport and trade logistics are necessary and top priority. Even small changes can make a difference. To illustrate, reducing the number of documents required for exports by half substantially improves the ease of trading across borders (see simulation in Table 7).

Table 7: Simulating Improvement in Ease of Trading Across EAC Borders

Economy	Actual Documents for export (number)	Actual Ease of trading across borders (DTF)	Simulated Documents for export (number)	Simulated Ease of trading across borders (DTF)
Burundi	9	37.50	5	44.91
Kenya	8	54.49	4	61.90
Rwanda	7	44.67	4	50.22
anzania	7	62.96	4	68.52
Uganda	7	48.01	4	53.57

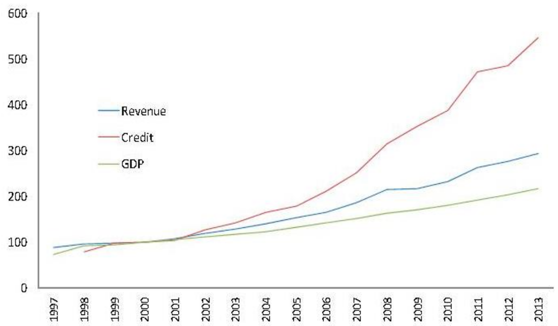
Source: Author's own compilation running the Doing Business Simulator
DTF=Distance to Frontier

It is most encouraging to note that the private and non-profit sectors are taking the lead and developing innovative partnerships to improve the business environment. TradeMark East Africa (TMEA) has helped reduce transit times from the port of Mombasa to Kampala and Kigali by an estimated 9 percent over the past 12 months alone, with commitments from Kenya's government to cut transit times by an additional 30 percent over the next three years. TMEA is also constructing 13 one-stop border posts at key border crossings along EAC trade corridors and to double container traffic capacity at the port of Mombasa by 2016. Similarly, the $16m DFID-backed Logistics Innovation for Trade (LIFT) Fund aims to provide challenge grants ranging from $250,000 to $750,000 to help companies develop new ways of cutting the cost and time involved when trading goods within East Africa. By partnering with the private sector on similar initiatives, the EAC can leverage innovation, resources and technology to achieve a common goal, in faster and smarter ways than it can on its own.

Financing the Change

Change doesn't come cheap. The scope of issues that require attention of the EAC members is vast and its resources insufficient. With pressures to maintain fiscal discipline and commitments made to improve services and enhance their coverage, all member governments are stretched financially. However, what is encouraging to note is that trends in fiscal revenues have been strong (Figure 6) and despite the challenges, the fiscal health of EAC members is far better than for other countries in Africa. This does not mean however that EAC members are awash in cash—they are not. Hence the need to identify sustainable financing solutions to fund the change.

Figure 6: Fiscal Revenues and Private Sector Credit (Year 200=100)



Sources: Country authorities and IMF staff calculations.

Notes: The chart reports fiscal revenues, credit to the private sector, and GDP, all in domestic currency in constant prices. Each variable is set to 100 in the year 2000.

The scale of the need is vast, as may be imagined in a region that is expanding fast, where public expectations--fuelled by rapid growth in the past decade-run high and where infrastructure lags far behind both need and expectations. As discussed earlier, high transportation costs, production delays caused by erratic and costly supply of electricity and other infrastructure related NTBs contribute to dulling the competitive edge of firms. To correct this, outlays on infrastructure would need to be huge--the African Development Bank's estimates for infrastructure funding required is $100b and while this figure is for the whole of Africa, it gives an indication of the funding gap.

The usual sources of financing are provisions in the budget and development aid. Both need to be enhanced if the EAC is to make headway. Support from DFID, EU, USAID and MCC has helped draw attention to and provide solutions for trade facilitation and improving the business environment, but these efforts need to be scaled up to keep pace with demand for better trade and business environments. In addition to these sources, the possibility of funding from the Asian Infrastructure Investment Bank (AIIB) is very much there, especially since there are several Chinese commercial interests in the EAC. Although the AIIB still has some way to go before it can be in a position to invest, it would be prudent for the EAC to prepare projects and try and gain early mover advantage, engaging with the AIIB as soon as it initiates operations.

The other innovative solution the EAC could explore is the launch of an EAC Economic Opportunity Bond. With sovereign credit ratings for EAC members reasonably good (Kenya and Uganda have a B+ and Rwanda a B rating on the Standard & Poor Sovereign Rating), an upbeat growth outlook for the EAC and the successful Eurobond launches in recent times, the potential for securing positive bids is high. Kenya's Eurobond launch has been a roaring success, receiving $8b in bids although eventually the Kenyan government decided to accept bids worth $2b. The attractiveness of floating Bonds on the international market for both government and investors, are fairly clear: given the positive economic outlook forecast for Africa and the EAC by the IMF, AfDB and World Bank, investors are keen to be part of a high growth, high yield environment. Chinese investments in the region add to this positive framework for investment and high returns. For governments, bonds provide relatively quick access to finance and minus the conditionalities attached to lending by development agencies, thus providing the degree of political autonomy that legislatures prefer.

By launching an EAC Economic Opportunity Bond, credit can be raised to finance investments in trade and logistics infrastructure and also to finance innovative ventures such as LIFT and the proposed Equalization Fund, all of which aim to reduce inefficiencies, remove NTBs, finance modernisation and improvements in production technology and trade promotion and create opportunities for a more vibrant, market-responsive domestic private sector. An added advantage of using an instrument such as the EAC Economic Opportunity Bond is that it reduces pressure on domestic markets, allowing private credit to grow, rather than the private sector being crowded out by government borrowing. Lack of access to finance is a persistent characteristic of developing economies and in particular, is cited as a major reason for lack of growth of the SME sector and tapping the international bond market offers one way of addressing the financing gaps. Moreover, the timing for such issuance is right. One of the reasons why there has been a spate of issues by African countries--$4.6b worth from 2010-2013 alone—is that the borrowing environment is very attractive, owing to low interest rates caused by the global recession and the subsequent slow recovery. In other words, it is cheap to borrow in the international market.

Critics point to the possibility of Africa over leveraging and of extending its indebtedness. However, there are two counterarguments: one, barring the occasional glitch—e.g. Seychelles defaulting on its $230m Eurobond in 2008—most African governments have used the credit purposefully. Kenya for example intends to use $600m of its $2b Eurobond proceeds to retire an earlier, expensive debt, thus restructuring its debt portfolio for the better. Secondly, given that the trade and logistics infrastructure needs and other investments in services and removal of NTBs cannot be financed through traditional budgetary instruments, what are the other options? Strategically, it appears to be better to raise necessary capital quickly and across a broad spectrum of sectors and to reap the benefits through better trade infrastructure and creating jobs, than to wait till the domestic market conditions improve to the extent where borrowing from international markets may not be necessary. There are risks in this approach, but none that smart risk management cannot cater for. Indeed, the opportunity cost of not investing in improvement of trade infrastructure and in upgrading skills level and technology, far outweighs the risks involved in borrowing through bonds.

Section 9:
Endnote

The NAMA negotiations present an opportunity to not only present and promote the EACs commercial and trade interests, but also to take a fresh look at what needs to change and how.

Having analyzed the conditions, constraints and capacities under which the NAMA negotiations are being carried out, at the core of what has been proposed in this paper lies the belief that to make headway in the NAMA negotiations and to fully explore the potential for trade expansion, the EAC needs to adopt a different strategy to what it has been following. With that as the basis, the proposals follow a fairly linear and co-related path:

EAC has been growing fast and has achieved much in terms of convergence of approaches and harmonization of systems. However, if growth is to be sustained and if EAC is not to slip back into a low-growth mode, trade needs to expand and competitiveness of EAC firms needs to improve. Negotiations on NAMA should therefore be viewed not through the narrow lens of tariff reductions but as part of a broader agenda for change that must place NTBs at the centre of negotiations. Moreover, it is not sufficient for developed countries to offer preferential treatment that is difficult to realize due to trade restrictions and 'compliance taxes' that constantly raise the bar in terms of new public and private standards that add to costs and result in denied opportunities for growth to EAC members. However, to do this, the EAC needs to turn the tables in negotiations, calling for an end to normative and one-sided preference programs that are discretionary and sans legal basis. Instead, preference programs need to be bound under legal instruments of the WTO and half-hearted measures such as stalling or outright denial of Duty Free Quota Free access need to be discarded. In its place, a partnership based on reciprocity and mutual benefit needs to be instituted. This is a desirable objective but to achieve this, there is need of both financial and capacity capital. For both, innovative solutions are needed, using approaches that push the EAC's negotiation capabilities in new, exciting and productive areas.

It is also necessary to keep an eye on emerging trends, to be able to move out of conceptual silos and to understand and create strategic, operational, commercial and economic linkages. For example, services and climate change are the new hotbeds for trade and it would be risky and naive to not be able to see the trajectory in which WTO negotiations will head in the near future.

Going forward, this 360 degree perspective is important for the EAC to grasp and imbibe into its strategies for growth.

References

World Bank. 2014. *Kenya economic update : anchoring high growth - can manufacturing contribute more?*. Kenya economic update ; Edition no. 11. Washington, DC ; World Bank Group.

The East African Community: Quest for Regional Integration. Paulo Drummond, Kal Wajid and Oral Williams—Washington D.C.: International Monetary Fund, 2014

John B. Kanyangoga, *The MFN clause in the EAC-EU EPA negotiations: State of play and related implications.* Bridges Africa, International Centre for Trade and Sustainable Development, Geneva, 2014

Rigged Rules and Double Standards, Oxfam, 2002

Liu Hongwu, *How to Solve African Governance and Development Issues: A Perspective from China*. Bridges Africa, International Centre for Trade and Sustainable Development, Geneva, 2013

David Booth, Brian Cooksey, Frederick Golooba-Mutebi and Karuti Kanyinga, *East African prospects An update on the political economy of Kenya, Rwanda, Tanzania and Uganda*. London, Overseas Development Institute, 2014

Assessing Regional Integration in Africa IV: Enhancing Intra- African Trade, Economic Commission for Africa, 2010

Denby Probst, *Information Session on NTBs*, Geneva, WTO, 2004

North, Douglass C., John J. Wallis, Steven B. Webb and Barry R. Weingast (eds.) (2013) *In the Shadow of Violence: Politics, Economics, and the Problems of Development*. Cambridge, UK: Cambridge University Press

Ndira George Odipo, *Tariff Binding Commitments under the Non-Agricultural Products Market Access (NAMA) Negotiations: Implications on the East Africa Community Customs Union*, Nairobi, Institute of Economic Affairs, 2009

Garth Frazer, *The EAC Common External Tariff (CET) and Rwanda*, Toronto, International Growth Centre, 2012

Antoine Bouët, David Laborde Debucquet, Elisa Dienesch, and Kimberly Elliott, *The Costs and Benefits of Duty-Free, Quota-Free Market Access for Poor Countries: Who and What Matters*, Washington D.C., Centre for Global Development, 2010

Andrews, Matt, Lant Pritchett and Michael Woolcock (2012) *Escaping Capability Traps through Problem Driven Iterative Adaptation (PDIA)*. Working Paper 299. Washington, DC: Center for Global Development.

Augustus Muluvi, Paul Kamau, Simon Githuku and Moses Ikiara, *Kenya's Trade within the East African Community: Institutional and Regulatory Barriers*, Addis Ababa, Kenya Institute for Public Policy Research and Analysis, 2012

*Making AGOA More Effective—Is Congress Getting All the Information It Needs?,*Ben Leo, Washington D.C: Centre for Global Development, February 2015

Javier Lopez Gonzalez and Xavier Cirera, *Trade Integration in the EAC*, Trademark East Africa, 2012

Study on Impact of the EAC Customs Union on Businesses, East African Business Council, 2008

Bchir H, FontagnéL. and Jean S. (2004). *Market access in non-agricultural goods: what is at stake in the development round?* CEPII.

Bijit B, Kuwahara A and Laird S. (2002). *Quantification of Non-Tariff Measures*, UNCTAD, Geneva, UNCTAD/ITCD/TAB/19

Booth, David and Frederick Golooba-Mutebi (2012a) *'Developmental Patrimonialism? The Case of Rwanda'*, African Affairs 111(444): 379-403.

Cooksey, Brian and Tim Kelsall (2011) *The Political Economy of the Investment Climate in Tanzania*. Research Report 01. London: Africa Power and Politics Programme.

Khan, Mushtaq H. (2010) *Political Settlements and the Governance of Growth-Enhancing Institutions*. London: Economics Department, School of Oriental and African Studies, University of London.

Nikoloz Gigineishvili, Paolo Mauro, Ke Wang, *How Solid is Economic Growth in the East African Community?,* Washington D.C.: International Monetary Fund, 2014

Hakim Ben Hammouda, Mustapha Sadni-Jallab,Stephen Karingi and Nassim Oulmane . *Non-Agricultural Market Access: Which Modalities for a Positive African Agenda?.,* Addis Ababa, Ethiopia, United Nations Economic Commission for Africa, 2006

World Bank, 2013. Africa's Pulse, Volume 7. Washington D.C.; World Bank Group.

Brenton, Paul, Mombert Hoppe and Richard Newfarmer. 2008. *Economic Partnership Agreements and the Export Competitiveness of Africa.* Policy Research Working Paper No. 4627. Washington DC: The World Bank.

Antoine Coste and Erik von Uexkull. *Benefits of the ECOWAS CET and EPA will outweigh costs in Nigeria, but competitiveness is the real issue*. Africa Trade Policy Notes. Washington D.C. World Bank Group, 2015

Benjamin Leo and Vijaya Ramachandran. *Getting Serious about Underperformance of the African Growth and Opportunity Act: Policy Options for Supporting Trade Potential in Africa*. Washington D.C, Centre for Global Development, 2014

Rachel Wilsha, editor. *Exploring the Links Between International Business and Poverty Reduction Bouquets and beans from Kenya*, Oxfam, 2013

Making Private Standards Work for You A guide to private standards in the garments, footwear and furniture sectors, Vienna, UNIDO, 2010

DFID (2001) *'Standards as Barriers to Trade: Issues for Development'*, DFID background briefing, London: Department for International Development

Santiago Fernandez de Cordoba David Vanzetti, *Searching for a Solution to the WTO Industrial Negotiations,* Geneva, UNCTAD

Isabelle Ramdoo, Aurelie Walker: *Implementing the Economic Partnership Agreement in the East African Community and the CARIFORUM regions: What's in it for the private sector?*, ECDPM, 2013

Lorenzo Rotunno, Pierre-Louis Vezina, and Zheng Wang (2012), *The rise and fall of (Chinese) African apparel exports*, CSAE Working Paper WPS/2012-12

James Emery (2003), *"Governance, Transparency, and Private Investment in Africa,"* Organization for Economic Cooperation and Development Global Forum on International Investment.

WTO's MC9: Summary of Issues, Informal Note. Geneva, South Centre, 2013

CUTS (2009) *Standards and Market Access: Opportunities and Challenges for East African Exports into European Union*

CUTS (2013) Pranav Kumar and Atul Kaushik, *Chair's Draft NAMA Modalities Against the Core Mandate of Less Than Full Reciprocity*

Hari Odari.. *Geneva Road to Bali – opportunities and challenges for LDCs: DDA negotiations, LDC issues, Road to Bali and Post Bali,* Permanent Mission of Nepal, 2013

Cadot, O. and J. de Melo (2008). "*Why OECD countries should reform rules of origin*." The World Bank Research Observer. 23(1):77–105

Patrick Messerlin *'Measuring the Costs of Protection in Europe: European Commercial Policy in the 2000s'*, Washington: Institute for International Economics, 2001

Paul Brenton, Nora Dihel, Mombert Hoppe, Carmine Soprano,Improving *Behaviour at Borders to Promote Trade Formalization: The Charter for Cross-Border Trader*. Washington D.C, World Bank, 2014

Lorand Bartels and Christian Ha¨berli, *Binding Tariff Preferences for Developing Countries Under Article II GATT*, Journal of International Economic Law 13(4), 969–995, 2010

Ahold Annual Report 2014

Patrick Low and Roy Santana*. Trade Liberalization in Manufactures: What Is Left After the Doha Round?,* Paper presented at the JTID Conference: "Beyond the Doha Round"
Istanbul

Caroline Lesser and Evdokia Moisé-Leeman, *Informal Cross-Border Trade and Trade Facilitation Reform in Sub-Saharan Africa*. Paris, OECD, 2009

Jagdish Bhagwati, David Greenaway and Arvind Panagariya, '*Trading Preferentially: Theory and Policy*', 108 Economic Journal, 1998

Caglar O zden and Eric Reinhardt, *The Perversity of Preferences: The Generalized System of Preferences and Developing Country Trade Policies*, 1976–2000, Policy Research Working Paper 2955 (Washington, DC: World Bank, 2003)

Kimberly Ann Elliott, *Changing Rules of Origin to Improve Market Access for Least Developed Countries*, Washington D.C., Centre for Global Development, 2010

Mark Pearson, *Preferential multilateral rules of origin for LDCs*, Bridges Africa, Geneva, ICTSD, 2013

Helen Castell, *Private sector joins push to raise African incomes through trade*, Devex Impact, 2015

Annexure 1:

INDUSTRY / PRIVATE SECTOR PERSPECTIVES ON NAMA NEGOTIATIONS[12]				
Country	Key Issues	Offensive Interest	Defensive Interest	Recommendations
Kenya	Over reliance on imported inputs High production costs Port inefficiency Illicit trade Disconnect between national and county governments Land issues Dumping and the associated costs for legal proceedings High import declaration fee at 2.25% of CIF leading to higher production costs Inability to comply with high standards of EU, US and private standards	Non-tariff barriers in export markets	Protection of policy space for industrialization Protection of domestic industry	Go slow on trade liberalization Sectoral negotiations should be in consultation with industry representatives Protect agro-based industry Treat EAC as an LDC bloc Push for implementation of Trade Facilitation Agreement Harmonize regulations at across government tiers Establish industrial parks with requisite incentives and infrastructure Reduce costs of port services, railways and tax administration and review tax structures
Rwanda	High level of NTBs including high transport costs, at-the-border costs High standards for exports Small manufacturing sector, small scale production	More substantive S&DT through longer implementation periods for commitments Secure and sustain Duty Free Quota Free Access in developed countries	Prevent or minimize erosion of non-reciprocal preferences in developed countries Some tariff lines to remain unbound or exempted from applying formula cuts	Extent of trade liberalization should be in line with state of development Allow for exemptions of certain sectors/sub-sectors Mobilize technical assistance and capacity building resources for negotiators and industry and trade representatives

[12] This table has been compiled by the author based on interviews/surveys conducted by PACT EAC country partners in each country to prepare Country Update Notes for the Geneva EAC Forum.

Tanzania	Lack of awareness of rules, standards and procedures among industry members and traders High degree of non-tariff protectionism Unfair competition from imported products	Push for reduction in tariff peaks, tariff escalation and NTBs in existing and potential export markets, especially for textile and apparel sectors Tanzania will prioritize any formula or approach for tariff reduction in line with S&DT and less-than-full-reciprocity Developing countries should also extend Duty Free Quota Free Access	Maintain high tariffs and low bindings to preserve policy space and flexibility to protect industrialization and reduce fiscal risks Resist sectoral negotiations If flexibilities under Para 8 of the July 2004 NAMA framework are not used, then 5 coefficient points should be added to the formula	Negotiate tariff reductions Push for increased support for trade facilitation and technology transfer Widen binding coverage, report to WTO and use it as a negotiation lever Include negotiation on NTBs
Burundi	Access to finance High levels of taxation and complicated tax regulations Bureaucratic red tape Poor infrastructure Inadequacy of training system Regulations governing access to foreign currency Insufficient capacity for innovation	Improvement in trade and logistics infrastructure Improving incentives and mechanisms for attracting investment in key sectors Instituting systems and institutions for trade negotiations	Over reliance on imported inputs High production costs	Reduction in NTBs Simplification of taxation procedures Put in place mechanisms for export diversification Control of corruption and reduction in red tape Improve infrastructure Assist SMEs and small traders through trainings and other forms of support Mobilize technical assistance to enhance capacities of government and industry
Uganda	Despite existence of multiple preferential market access initiatives such as Everything But Arms (EBA), African Growth Opportunity Act (AGOA) and EU-EAC Interim Economic Partnership Agreement (EPA), Ugandan exports are low due to low competitiveness Increased competition from cheap imports Limited capacity to comply with standards Issues of NTBs	Promote and enable export diversifications, to more value added exports Expansion of exports to existing markets	Protecting local industry and employment Maintain policy space to spur development	Use the 'Arusha Declaration' which calls for incorporating development factors in any tariff reduction formula or approach Promote and enable export diversifications, to more value added exports

Annexure 2

Total Goods: Trade flows and balance

Source Eurostat IMF

Period	Imports		Exports		Balance		Total trade	
	Value (Mio €)	Growth* (%)	Value (Mio €)	Growth* (%)	Value (Mio €)	Growth* (%)	Value (Mio €)	Growth* (%)
Annual data								
2003	6,452		2,820		-3,632		9,271	
2004	7,320	13.5	3,228	14.5	-4,092	12.7	10,548	13.8
2005	9,674	32.2	3,895	20.7	-5,779	41.2	13,569	28.6
2006	11,082	14.6	4,203	7.9	-6,878	19.0	15,285	12.7
2007	12,855	16.0	4,453	5.9	-8,402	22.2	17,307	13.2
2008	16,006	24.5	5,053	13.5	-10,953	30.4	21,060	21.7
2009	13,624	-14.9	4,450	-12.0	-9,174	-16.2	18,073	-14.2
2010	16,874	23.9	5,605	26.0	-11,269	22.8	22,479	24.4
2011	20,915	24.0	6,270	11.9	-14,645	30.0	27,185	20.9
2012	24,093	15.2	6,912	10.3	-17,181	17.3	31,005	14.1
2013	29,186	21.1	7,681	11.1	-21,505	25.2	36,867	18.9

Total Goods: Trade flows and balance

Source Eurostat IMF

Period	Imports		Exports		Balance		Total trade	
	Value (Mio €)	Growth* (%)	Value (Mio €)	Growth* (%)	Value (Mio €)	Growth* (%)	Value (Mio €)	Growth* (%)
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Annexure 3

		Social Accountability 8000 (SA8000)	Forest Stewardship Council (FSC)	OEKOTEX	Fairtrade Labelling Organisation (FLO)	Global Organic Textile Standard (GOTS)	Worldwide Responsible Accredited Production (WRAP)	Business Social Compliance Initiative (BSCI)	Fair Labor Association (FLA)	Nike	Adidas	Marks & Spencer (and ETI)	H&M	Deichman	Pier 1	IKEA	Wal-Mart	Gap Inc.
Sector	Textiles/Apparel			X		X			X	X	X		X					X
	Footwear								X	X	X			X	X			
	Furniture		X													X		
	Cross-sectoral	X	X		X		X	X				X			X		X	
Type	Certificate	X	X	X	X	X	X											
	Product label		X	X	X	X												
	Code of conduct							X	X	X	X	X	X	X	X	X	X	X
Focus	Environmental			X		X												
	Labor	X					X	X	X	X	X	X	X	X	X			X
	Cross-cutting		X		X											X	X	
Application	Product		X	X	X	X												
	Production site	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X
Conformity assessment	Buyer (owner of standard)									X	X	X	X	X	X	X	X	X
	Third party (accredited certification bodies, test labs)	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	

Source: Making Private Standards Work for You A guide to private standards in the garments, footwear and furniture sectors, Vienna, UNIDO, 2010

CUTS International, Geneva

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