4 Barriers to trade: the case of Kenya[1]

*Tabitha Kiriti Nganga**

4.1 Introduction

International trade is the exchange of capital, goods and services across international borders or territories. Even though the WTO advocates trade opening, many WTO members do not liberalize every sector of the economy and, instead, maintain certain barriers to trade. Many of these barriers take the form of non-tariff barriers (NTBs), i.e. discriminatory non-tariff measures (NTMs) imposed by governments to favour domestic over foreign suppliers (Nicita and Gourdon, 2013).[2] Barriers can also take the form of procedural obstacles, i.e. obstacles related to the process of application of an NTM rather than the measure itself.

The United Nations Conference on Trade and Development (UNCTAD) (2010) describes NTMs as policy measures other than ordinary customs tariffs that can potentially have an economic effect on international trade in goods, changing quantities traded, prices, or both. The classification of NTMs includes import measures such as sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBTs), and export-related measures.[3] The process of applying NTMs can also hamper trade among trading partners in different ways.[4]

This chapter investigates barriers to trade in the form of procedural obstacles in Kenya and examines how those obstacles affect traders who may be either Kenyans or other traders carrying goods in transit within the East African Community (EAC), which comprises Burundi, Kenya, Rwanda, Tanzania and Uganda.

Using the survey method, this study investigates the procedural obstacles that businesspeople in Kenya experience. Traders responding to surveys can identify not only formal policy itself but also whether the policy was arbitrary, inconsistent,

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discriminatory, inefficient, non-transparent, expensive, or involved outright obstruction or legal barriers. The specific objectives of this chapter are to:

- document the procedural obstacles in Kenya
- use the survey method to analyse how these obstacles impact on trade, and
- recommend policies that will lead to better informed policy and foster dialogue on harmonization, streamlining and reform, at both national and regional levels.

To achieve the first objective, the study relied on official documents and especially *Kenya Law Reports* (http://www.kenyalaw.org). Appendix Table 1 contains the relevant information: the rules and regulations that can be classified as NTMs, their sources and agencies that are supposed to enforce them.[5]

To achieve the second objective, data were collected from official documents and interviews with 18 public officials and 13 private agencies to indicate why these rules and regulations could be considered to be NTMs. This was conducted through a perception-based, firm-level survey of exporters/importers and truckers on the rules and regulations that they consider to be NTMs that could be hindering the free flow of trade in Kenya and in the EAC region generally.

4.2 Non-tariff barriers in the East African Community

Cooperation in trade opening and development is one of the fundamental pillars of the EAC.[6] For this purpose, by the Treaty for the Establishment of the East African Community of 1999, the partner states agreed to establish among themselves a customs union, a common market – subsequently a monetary union – and, ultimately, a political federation, the goal being to liberalize and promote cross-border trade among them.[7] According to Article 3 of the Protocol on the Establishment of the East African Community Customs Union (2004), its objectives are to:

- further liberalize intra-regional trade in goods, on the basis of mutually beneficial trade agreements among the partner states
- promote efficiency in production within the EAC
- enhance domestic, cross-border and foreign investment in the EAC
- promote economic development and diversification in industrialization in the EAC.

The main trade policy instruments of the EAC Customs Union are contained in that Protocol, the EAC Customs Management Act 2004 and the EAC Customs Management Regulations 2006. Together, these provide for the implementation of a number of measures including, but not limited to, transitional measures and the gradual elimination of internal tariffs, establishment of a common external tariff

(CET), introduction of EAC rules of origin (ROO) and other trade-related aspects and legal and institutional arrangements, a customs valuation system and harmonized customs laws, procedures and documentation.

According to the *Second East African Community Development Strategy (2001-2005)* (2006), major impediments to trade in the region are related to procedural obstacles in the application of NTMs leading to administrative and bureaucratic inefficiencies. Another category of barriers relates to NTMs in the form of import measures, mainly SPS and TBT. When these standards and requirements are imposed unilaterally to protect local industry they can have a severe restrictive impact on trade. Consequently, the partner states agreed to take measures, including introducing regulations that would ensure that products accepted in one partner state are also accepted in the markets of the others.

The regional bureaus of standards were urged to speed up the harmonization of the remaining standards as East African standards. Hence, Article 13 of the Protocol on the Establishment of the East African Community Customs Union provides for the removal of all the existing NTMs to the importation into their respective territories of goods originating in other partner states, and thereafter not to impose any new NTMs. The partner states also agreed to put in place a mechanism for monitoring the removal of NTMs (Article 13 [2]).

Nevertheless, trade in the EAC is hampered by procedural obstacles imposed by individual countries. Although the Customs Union has made some progress in its implementation, there are indications that, in spite of the commitments made by the partner states to remove NTBs, they remain a serious obstacle to trade within the region. They continue to increase the cost of doing business in the region and have negatively impacted on trade and cooperation.

4.3 Survey findings: private firms and agencies

For the purpose of this study, we first interviewed people in private agencies to get their views on what they considered to be non-tariff barriers to trade.[8]

Non-tariff barriers to trade

What private firms considered to be NTBs were a combination of import measures and procedural obstacles. These were:

- delays in clearance of goods at the port of Mombasa due to lengthy clearance processes
- non-recognition of certificates of origin

- a lack of harmonized import/export documentation procedures
- the requirement for transit fees and bonds
- verification and classification of goods
- varying procedures for issuance of certification marks, inspection and testing by the different bureaus of standards in the region
- restrictions/bans on imports/exports to and from certain countries in the EAC, even though trade is supposed to be free in the region
- the imposition of import quotas
- testing requirements on certain products from some countries and not others (discrimination)
- cumbersome testing procedures for certain imports
- administrative levies
- corrupt practices.

Respondents also said that many institutions were involved in approving imports, and varied certification and testing procedures and inspection of certificates of conformity to international standards.

Respondents repeatedly referred to problems related to the transport of trade goods. Notably, they referred to problems related to the varying application of axle load specifications for trucks transiting through Kenya and to costs incurred because of the presence of several weighbridges between the port of Mombasa and Malaba/Busia and Namanga.[9] They also complained of numerous police roadblocks, road toll charges, lengthy classification and valuation of import processes, different border opening times and lengthy procedures for issuing work permits.

Non-tariff barriers and their impact on business

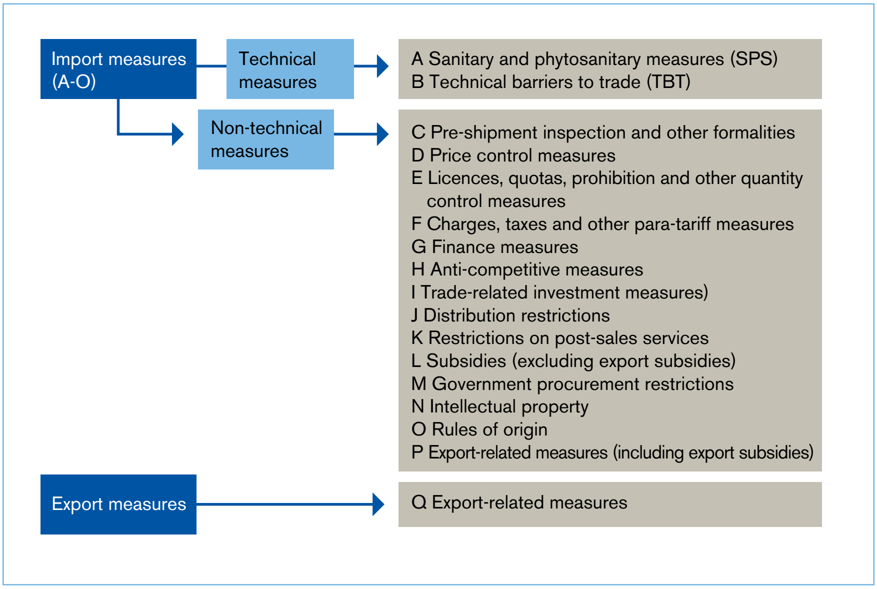
In evaluating the impact of NTBs on business we distinguished three categories among the NTMs and procedural barriers reported in Figures 1 and 2:

- restrictive application of NTMs
- procedural obstacles related to ROO, and
- procedural obstacles related to the clearance of export goods documentation.

As a fourth category, we distinguished obstacles related to transit traffic and trucking. These obstacles are typically not considered NTBs as they are not discriminatory; nevertheless, they can have significantly negative impacts on trade.

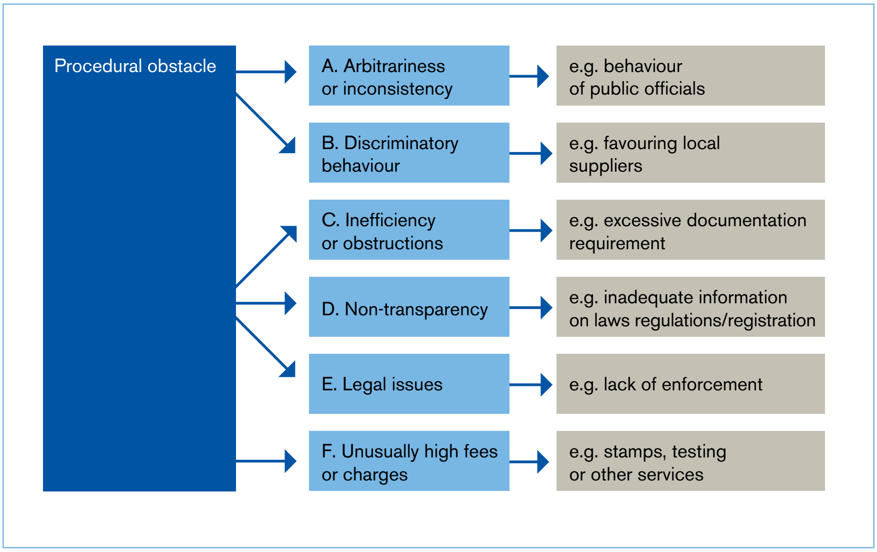
The impact of these four categories on business was categorized from very severe to no impact at all, as measured by percentage of respondents. However, respondents were not able to quantify the impact of the NTMs on their business.

Figure 1 Classification of NTMs



Source: UNCTAD (http://ntb.unctad.org).

Figure 2 Procedural obstacles classification



Source: UNCTAD (http://ntb.unctad.org).

Restrictive application of non-tariff measures

On the extent of severity of NTMs, the study found that product export/import bans, discriminatory sourcing and trade monopolies had a very severe impact on business in Kenya. All respondents reported that product export and import bans had a severe impact on their business. A large majority (83.3 per cent) considered discriminatory sourcing as having a very severe impact on their business; only 16 per cent reported this as having no impact. Two-thirds (66.7 per cent) of respondents said that trade monopolies had a very severe impact on their business, while 33.3 per cent said that they had no impact.

These categories were followed in terms of severity by distribution constraints and technical quality standards, and import and export permits and licences. Distributional constraints and technical quality standards were cited by 83.3 per cent of respondents as having a severe impact on their business. Two-thirds (66.7 per cent) of respondents regarded import and export permits and licences as having a severe impact on their business, with 33.3 per cent reporting these as having no impact.

Fifty per cent reported SPS measures as having a severe impact on their business.

Sixty-six per cent of respondents reported non-automatic licensing as having no impact on their business.

Procedural obstacles related to rules of origin

For the purposes of this study, procedural obstacles related to ROO were classified as non-acceptance of certificate of origin, arbitrary product classification and corrupt practices. Non-acceptance of certificates of origin was reported by 56 per cent of respondents as having a severe impact on their business, and by 43.8 per cent as having no impact. More than two-thirds (71.7 per cent) reported arbitrary product classification as having a severe impact on their business; only 28.3 per cent reported this as having no impact. As for corrupt practices, 85.7 per cent of respondents reported that these have a severe impact on their business.

Hence, in terms of ROO and their impact on business in Kenya, corrupt practices were considered to have a very severe impact on business, followed by arbitrary product classification.

Procedural obstacles related to the clearance of export of goods documentation

The documentation for the clearance of export of goods was comprised of administrative levies, arbitrary or multiple documentation, lengthy classification and valuation of the export processes, and corrupt practices. Fifty per cent of respondents reported administrative levies as having a severe impact on their business and an equal proportion reported this as having no impact. All respondents reported that arbitrary or multiple documentation procedures had a severe impact on their business. Furthermore, respondents reported that lengthy classification (83.3 per cent), lengthy clearance processes and valuation of export processes (83.3 per cent), and corrupt practices (83.3 per cent) had all severely impacted on their business.

Corruption, reported by 83.3 per cent of respondents as having a severe impact on their business, acts as a form of tax, hence reducing respondents' profits, increasing the cost of production or hindering the movement of their goods, mainly from the port of Mombasa, to the location where production or sale takes place.

Transit traffic and trucking

This category consists of:

- uncompetitive port entry taxes and charges
- inefficient operations
- variable weighbridges
- road toll charges
- variable border opening times
- variable documentation requirements
- police roadblocks
- corrupt practices related to roadblocks.

All respondents reported that uncompetitive port entry taxes and charges had severe impact on their business. Two-thirds (66.7 per cent) reported inefficient port operations as having severe impact on their business, while 33 per cent reported this to have no impact.

Weighbridges are a common feature in Kenya between the port of Mombasa and the border towns. They are supposed to ensure that vehicles carry only the weight recommended in their tare and gross weight specifications. Most respondents (83.3 per cent) said that variable weighbridges had severe impact on their business. All respondents reported road toll charges had severe impact on their business.

It is not uncommon to find long queues of transit trucks at the Malaba/Busia border stretching for more than a kilometre, waiting to be cleared to enter Uganda. This is mainly precipitated by different border opening times. Variable border opening times were reported by 83.3 per cent of respondents as having a severe impact on their business, while 16.7 per cent said that they had no impact.

All respondents said that variable documentation requirements, numerous police roadblocks and corrupt practices had severely impacted on their business.

Ranking of barriers to trade

When asked to rank which measures had the most negative impact on their business, the respondents ranked the restrictive application of NTMs first, followed by procedural obstacles related to ROO, procedural obstacles related to the clearance of export of goods documentation, and transit traffic and trucking issues.

Changes in the impact of non-tariff barriers on business over time

The average non-official payment per shipment was Ksh. 1 million, 100 per cent higher than in 2009 when the first version of this survey was conducted. Just as in 2009, it was found that 50 per cent of this amount was usually given to customs officials, 30 per cent to port officials and 20 per cent to police officers. The annual value of waste due to breakage or spoilage in transit had also more than doubled, from Ksh. 600,000 to Ksh. 1.3 million. Of this, 45 per cent was attributed to delays in customs/issuance of permits, 40 per cent to quarantine delays and 20 per cent to border transit delays.

The study also found that the average waiting time for a business licence for an export/import business was two weeks, down from three weeks in 2009. The waiting period for foreigners looking for a work permit had not changed; it took one week, on average, to get a work permit, just as in 2009.

The average number of ungazetted roadblocks between the port of Mombasa and the border towns of Malaba/Busia or Namanga remained at 12 and the truckers spent, on average, an hour at each of the roadblocks. They also paid Ksh. 5,000, on average, in non-official fees to the police officers at each roadblock. The truckers said that it takes three or four days, on average, to pass through customs at the Malaba/Busia border crossing, but it took two days to cross the Namanga border to Tanzania. The truckers also claimed to pass through three weighbridges between Mombasa and the border towns and spent five hours, on average, at each weighbridge, but this was worse at the Mlolongo (near Nairobi) and Mariakani (near Mombasa) weighbridges.

4.4 Survey findings: public agencies

The public agencies included in this study are those mainly involved in coordination of the various trade-related activities that fall under their mandate. These agencies are supposed to implement the rules and regulations that are considered to be NTMs (see Table 1 – Appendix). They are also the agencies supposed to ensure that NTMs are not discriminatory or not applied in a discriminatory way. In other words, they are supposed to ensure that NTMs do not represent NTBs.

Interviewees in these agencies did not consider justified the claim by respondents in the private agencies that documentation requirements were arbitrary. However, most of those interviewed in the public agencies agreed that the regulatory authorities had not harmonized test certificates and procedures because different regulatory authorities were responsible for different procedures. They contended that the documentation required for the various imported products is clarified on various websites and therefore the traders were expected to familiarize themselves with them. They also denied the claim from private sector respondents that there were non-official payments to police and customs officials.

Eighty per cent of the public agency respondents said that the aim of the rigorous regulations enforced by customs officials was mainly the generation of revenue. However, 90 per cent denied that the pre-shipment verification of conformity (PVOC) programme was a hindrance to trade. Instead, they argued that those measures were applied to protect domestic consumers and facilitate trade by ensuring that all products which meet the quality requirements are cleared first.

About 50 per cent of public agency respondents agreed that there were discriminatory applications of SPS measures such as bans issued on certain products from some countries and not others. Thirty per cent said that the SPS certificates accompanying goods from the exporter's country were, in most cases, not mutually recognized, resulting in arbitrary documentation requirements because the regulators involved had not signed the mutual recognition agreements.

Eighty per cent of these respondents said that high transit fees, roadblocks, axle load requirements, gross vehicle mass, weighbridges and so on are the result of both multiple overlapping laws and structures and the need to raise revenue. All the respondents also argued that the roadblocks, axle load rules and weighbridges were necessary because of security issues and to prevent vehicles from overloading and spoiling the roads, or even offloading and diverting some or all of the transit goods into the local market.

Respondents denied that delays in clearance of goods at customs and delays in exporting are the result of customs departments' staff having a poor understanding of the ROO. Instead, 80 per cent of respondents argued that such delays were due to a lack of institutional capacity, poor staffing levels, poor infrastructure and insufficient human resources.

All respondents agreed that multiple documentation requirements by different administrative structures was a consequence of lack of harmonization, but denied that the cumbersome inspection procedures and non-acceptance of certificates of origin were aimed at protecting local industry.

4.5 Conclusions and recommendations

It is clear that, although the EAC is committed to the removal of non-tariff barriers, the NTMs that still exist in Kenya are not transparent, are discriminative, are not scientifically based and generally act as barriers to trade. NTMs have led to an increase in the cost of doing business as attested by the findings, mainly from the private agencies. However, the public agencies do not consider what the private agencies call NTBs to be real barriers to trade because, in their view, they are more concerned with implementing government policy.

This study has shown that restrictive application of NTMs, followed by the application of ROO, procedural obstacles to the clearance of export of goods documentation, and transit traffic and trucking issues, in that order, have severe impacts on business in Kenya. Notably, delays at ports and weighbridges, and non-official payments to port officials and police officials have led to heavy losses for private businesses.

The experience in many countries is that, as tariffs are reduced, non-tariff barriers to trade increase since they are one way in which governments can collect revenue. If the implementation of the Protocol on the Establishment of the East African Community Customs Union is to progress, and if intra-trade in the EAC region is to be improved, however, it is important that NTBs be eliminated or reduced.

It is important to reduce transaction costs to trade. To reduce delays in clearance and to improve operations at the ports of Mombasa, Malaba/Busia and Namanga in handling both imports and exports, there is a need to increase port efficiency, and this responsibility falls under the Kenya Ports Authority. This would imply, for instance, the improvement of ICT and energy infrastructure. This would entail computerizing all operations and retraining staff at these ports and also improving energy infrastructure, since, with computerization, there is need for a constant flow of power as power failures can also lead to delays in clearance and inefficiency.

In order to facilitate the easy movement of goods from Mombasa to their destination, road infrastructure needs to be improved. The numerous weighbridges should be removed, since trucks can be weighed at the ports of entry and exit; hence, there is no need to weigh the sealed trucks between the ports. This would mean coming up with an innovative method of sealing the trucks and computerizing the information on the types and amount of goods that the trucks are carrying at the port of entry, and this could be verified at the point of exit. This would require the Ministries of Energy, Infrastructure and Internal Security to work together to achieve this.

The EAC partner states should also consider improving the railway network throughout the region to reduce the heavy reliance on the already dilapidated road network. Transit trucks have been found to contribute to the perennial and heavy traffic jams along the Mombasa road.

There is a need to seal the loopholes that allow for corrupt practices to thrive not only at the entry and exit points but also in the interior, which has led to Kenya's bad record in Transparency International's Corruption Perceptions Index.[10] This would entail the Kenya Ethics and Anti-Corruption Commission dismantling the corruption cartels at the ports.

As this study has shown, EAC partner states have different bureaus of standards. Engaging mutual recognition agreements and accreditation processes is important in order for different regulators to accept each other's conformity assessment procedures. This would require the Kenyan Ministry of Industrialization to liaise with the corresponding ministries in the partner states. Partner states, including Kenya, should consider harmonizing not only the documentation procedures with their trading partners, and reducing the lengthy clearance procedures that frustrate trade, but also road transport policy, and adopting a common regulatory regime for road transport aimed at raising quality standards and improving safety.

Finally, private business needs to familiarize itself with the rules and regulations set up for various products under the laws of Kenya and other partner states regarding conformity with required SPS standards and the various documents required by each country for entry and exit of different types of goods. Increased familiarity with these rules and regulations would contribute to a reduction in the waiting period for business permits.

Appendix

Table 1 Rules and regulations which can be classified as NTMs, their sources and agencies

Rules and regulations	NTM source	Ministry/department/agency
Certificate of origin	East African Customs Union Protocol 2007	Kenya Revenue Authority, Kenya Bureau of Standards, Ministry of Finance
Prohibition of trade practices to repress competition	Restrictive Trade Practices, Monopolies and Price Control Act (Cap. 504)	Ministry of Finance
Plant import permit (PIP) phytosanitary certificate requirements	Plant Protection Act (Cap. 324) Agricultural Produce Act (Export Import – (Cap. 319 and Cap. 320)	KEPHIS/KEBS Ministry of Agriculture
Fish movement permit	Fisheries Act (Cap. 378)	Petroleum oils (2709)
Ban on beef and beef products from Uganda and USA	Food Safety Department of Veterinary Services (DVS)	Department of Veterinary Services
Vehicle importation Age limit Left-hand-drive vehicles Roadworthiness	KS 1515:2000 quality standard Traffic Act (Cap. 403)	Kenya Bureau of Standards, Ministry of Transport
Intellectual property rights	The Industrial Property Act (Cap. 509)	Kenya Industrial Property Institute, Ministry of Trade
Anti-piracy security device	Copyright Act (Cap. 130)	State Law Office
Metrology	Trade Descriptions Act 2004	Department of Weights and Measures, Ministry of Trade
Trademark and brand registration	Trademarks Act (Cap. 506)	Ministry of Trade
Import permits on meat, dairy, poultry and their products	Dairy Industry Act (Cap. 336) Meat Control Act (Cap. 356) Animal Diseases Act (Cap. 364)	Kenya Dairy Board, KEBS, DVS, Kenya Port Authority Health officials
Import ban on Ugandan day-old chicks	Animal Diseases Act (Cap. 364)	DVS, Ministry of Livestock Development, Ministry of Agriculture
Varying inspection requirements and testing	Public Health Act (Cap. 242) Radiation Protection Act (Cap.243) (in the case of irradiated foods) Food, Drugs and Chemical Substances Act (Cap. 254)	Ministry of Health, Ministry of Health, KEBS
Pesticide contaminant regulations	Pest Control and Products Act (Cap. 346)	PCPB, Ministry of Agriculture, KEBS, KEPHIS
Seed certification	Seed and Plant Varieties Act (Cap. 326) Bio-safety Act 2009	KEPHIS, Ministry of Agriculture

Table 1 Rules and regulations which can be classified as NTMs, their sources and agencies (continued)

Rules and regulations	NTM source	Ministry/department/agency
Orange certificate of the International Seed Testing Association	Plant Protection Act (Cap. 324)	KEPHIS, Ministry of Agriculture
Food additives regulations	Food, Drugs and Chemical Substances Act (Cap. 254) KS 660 (Guidelines to the safe use of food additives)	Ministry of Health, KEBS
Import Standardization Mark (ISM)	Standards Act (Cap. 496), section 10, Certificate of Conformity	KEBS, Ministry of Industrialization
Best before date regulation	Food, Drugs and Chemical Substances Act (Cap. 254)	KEBS, Ministry of Industrialization
Medicine import permits and certificate of registration	Kenya National Drug Policy of 2006 Pharmacy and Poisons Act (Cap. 244) The Industrial Property Act (Cap. 509)	Ministry of Health, Ministry of Trade
Import permits, Certificate of Analysis of GMOs	Bio-safety Act 2009	KEPHIS, Ministry of Agriculture
Import licence	The Customs and Excise Act (Cap. 472)	Ministry of Trade, Kenya Revenue Authority
Axle load specifications	Legal Notice No. 118 of the Traffic Act (Cap. 403)	Ministry of Transport
Weighbridges	Traffic Act (Cap. 403)	Ministry of Transport, Ministry of Roads, Kenya Revenue Authority
Gross vehicle mass	Traffic Act (Cap. 403)	Ministry of Transport, Ministry of Roads, Kenya Revenue Authority
Transit licences/bonds/fees for goods	Traffic Act (Cap. 403)	Kenya Ports Authority, Kenya Revenue Authority, Ministry of Transport
Police roadblocks	Traffic Act (Cap. 403)	Ministry of Transport, Ministry of Internal Security
Truck entrance fees and short grace periods	Traffic Act (Cap. 403)	Kenya Ports Authority, Kenya Revenue Authority, Ministry of Transport
Permits for refuelling	Kenyan Citizenship and Immigration Act (Cap. 172)	Kenya Revenue Authority, Ministry of Finance
Multiple police roadblocks and mobile control along the transit routes	Traffic Act (Cap. 403)	Ministry of Transport, Ministry of Internal Security

Table 1 Rules and regulations which can be classified as NTMs, their sources and agencies (continued)

Rules and regulations	NTM source	Ministry/department/agency
Horticulture export permit	Horticulture Produce Export Act (Cap. 319)	Horticultural Crops Development Authority (HCDA)
Horticulture phytosanitary certificate for exports	Horticulture Produce Export Act (Cap. 319)	KEPHIS, HCDA
Horticulture certificate of conformity to traceability of produce, hygiene, maximum residual levels, good agricultural practices and proper post-harvest handling procedures	Pest Control and Products Act (Cap. 346) Food, Drugs and Chemical Substances Act (Cap. 254) KS 660 (Guidelines to the safe use of food additives)	Ministry of Agriculture, HCDA, PCPB, KEBS, KEPHIS, Ministry of Health
Export permit for mineral-based products	Mining Act (Cap. 306)	Commissioner of Mines and Geology
Administrative complexity of formalities in release and clearance of goods	The Customs and Excise Act (Cap. 472) Kenya Ports Authority Act (Cap. 391)	Kenya Ports Authority, Ministry of Roads, Ministry of Transport, Kenya Revenue Authority
Work permits	Kenya Citizenship and Immigration Act (Cap. 172)	Ministry of Immigration and Registration of Persons, Ministry of Labour
Port charges	The Customs and Excise Act (Cap. 472) Kenya Ports Authority Act (Cap. 391)	Kenya Revenue Authority, Kenya Port Authority
Labelling requirements	Food Drugs and Chemical Substances Act (Cap. 254) Pharmacy and Poisons Act (Cap. 244) Standards Act (Cap. 496)	KEBS, Ministry of Health
Translation of documents	The Registration of Documents Act (Cap. 285)	Ministry of Education (Commission for Higher Education), KRA, Ministry of Finance, Ministry of Trade
Preference given to Kenyans in the tendering process up to Ksh. 50 million in respect of goods or services and up to Ksh. 200 million for works	Public Procurements and Disposal Act 2005	Ministry of Finance

Source: Kenya Law Reports (http://www.kenyalaw.org).

Endnotes

1. This chapter is a revised version of Kiriti Nganga, T. W. (2012). The data for this chapter was collected in December 2012 while the data for the original paper was collected in 2009.

2. See also WTO (2012) on the distinction between non-tariff barriers and non-tariff measures.

3. See Appendix Figure 1.

4. As reflected in the classification of procedural obstacles in Appendix Figure 2.

5. This study was conducted in December 2012 before the number of ministries was reduced from 42 to 18 in April 2013.

6. Treaty for the Establishment of the East African Community (1999), Article 74.

7. Treaty for the Establishment of the East African Community (1999), Article 5.

8. We were not able to interview state firms that are involved in business to see whether they also face the same obstacles and how they impact on their business.

9. These are the border towns that connect Kenya and Uganda and facilitate transit of goods to Burundi, Congo and Rwanda.

10. Kenya was ranked 139/176 with a score of 27/100 in 2012.

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154 rue de Lausanne
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Fax: +41 (0)22 739 42 06
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