A SURVEY OF NON-TARIFF BARRIERS THAT AFFECT UGANDAN IMPORTS AND EXPORTS WITHIN EAC AND COMESA COUNTRIES

Final report

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EXEUTIVE SUMMARY

Analysis of Uganda's trade with EAC and COMESA countries over the period 2001 to 2005 shows that despite the country belonging to both EAC and COMESA regional trading blocs, she has not fully exploited the opportunities that have arisen from applicable preferential tariffs under the two regional trading blocs. Under the EAC Customs Union, Uganda can export to Tanzania and Kenya at zero import duty. She can also import from Tanzania at zero import duty and from Kenya at the same duty for majority of items. For COMESA, although Uganda does not yet belong to the Free Trade Area, she can also export to and import from the region at lower import tariffs than those applicable to non COMESA countries. While her low level of trade with the regional member countries may be due to the fact that the countries produce almost similar products which translate to minimal trade opportunities, non-tariff barriers may have played a part in discouraging exploitation of the country's export and regional import potential. The country exported an average of 21% of her total exports to the region. On the other hand, it imported an average of 28% from the region out of her total imports during the period 2001 to 2005. Her leading trade partner on both exports and imports was Kenya, which took an average 39.5% of exports to Uganda and supplied a whopping 90% of Uganda's imports from the region. Uganda's major export products during the period were coffee and tea which took an average of 29% of total exports to the region, while the major imports were petroleum products with an average of 48.5% of total imports from the region. It is notable that the bulk of petroleum products are sourced from Kenya, where Uganda faces serious constraints related to transport and other trade facilitation services like imports clearance at Mombasa Port.

During the 2005/06 EAC NTBs consultations, it was found out that a number of NTBs affect the ability of Ugandan businesses to export and import, which have been reaffirmed in the consultations leading to this report. Under WTO NTB codes the major export related NTBs are categorized under Government participation in trade and restrictive practices tolerated by governments (such as business registration and licensing); Customs and administrative entry procedures; and Technical Barriers to trade. Regarding import trade, the major NTBs fall under Customs documentation and administrative procedures, Transiting procedures, and Technical barriers to trade

The procedures for reporting existence, monitoring and elimination of the above NTBs involve the Governments of the region, agencies responsible for enforcing trade related regulations, and the business community. Consultations show that both the Uganda Government and private sector prefer a structured approach to dealing with these trade obstacles, which should also involve the EAC and COMESA Secretariats since most NTB are beyond Uganda's borders. Also, an effective approach to dealing with NTBs needs to be established at both the national and regional level, including an institutional structure to steer the process in each country of the region. During consultations in Uganda, both the Government and private sector have reaffirmed their preference for the Ministry of Trade and Industry to be the coordinating ministry for NTB issues as agreed during the 2005/06 EAC NTBS survey. This Ministry needs to be supported by the new Ministry for EAC.

For the coordinating Ministry to play an effective role in coordinating NTBs work, its capacity needs to be built up, so that proper focus is established without diversion to routine operational matters. The need for capacity building is also true for business associations which will be

responsible for reporting existence of NTBs. In order for this capacity building to be fulfilled, the EAC and COMESA Secretariats have been called upon to coordinate sourcing of required technical assistance, which support an effective NTB Monitoring Committee regarding monitoring and facilitating elimination of NTBs .

An issue of major concern to Uganda regarding elimination of NTBs is that the country faces significantly higher transport and trade facilitation costs than its neighbouring EAC countries, Kenya and Tanzania, due to its greater distances to seaports. Since this problem substantially reduces the competitiveness of the country's exports and make imports more expensive, it will keep recurring in discussions related to the process of reporting and eliminating NTBs.

The current consultations have also reaffirmed the suitability of the template that was proposed during the EAC 2005/06 NTBs survey, whose contents include identifying the NTB problem area, describing the NTB, its business impact, responsible institution, possible approach to elimination, performance benchmarks, means of verifying that rectification actions have been taken, possible constraints during the process of elimination, and the success factor for facilitating implementation of measures to counteract the constraints. The detailed action plan proposed during the EAC NTBs survey has been validated during the current consultations and forms part of this report.

Regarding harmonization of procedures for transit traffic between countries in the region, Uganda has implemented most of the COMESA schemes aimed at facilitating cross-border trade, which are also being used within the EAC region. These include the COMESA Carrier's License, COMESA Yellow Card, and the proposed COMESA Bond Guarantee scheme, and COMESA Customs Declaration Document (CD-COM)

The analysis of NTBs that affect Uganda's trade within EAC/COMESA countries shows that the major recommended actions revolve around four main areas:

- Need for Partner States within EAC and COMESA to consolidate and demonstrate their political and technical goodwill to implement aspirations of the EAC and COMESA Treaties, so that decisions passed at Council levels are respected and domesticated through timely amendments of national laws, regulations and practices;
- Need for Partner States to ensure that the legal and regulatory framework governing the integration process is properly enshrined in their national laws, clearly understood and complied with by all agencies responsible for enforcement of trade regulatory and administrative requirements.
- Need to build capacity at the coordinating ministry and business associations so as to enable the NTBs Monitoring Committee to play its role of facilitate reporting, monitoring and elimination of NTBs. An effective secretariat capacity will also help to kick-start application of NTBs monitoring and elimination mechanism without further delay.
- Need for harmonisation of regional transit traffic schemes aimed at reducing the country's transport and trade facilitation costs.

1.0 INTRODUCTION

1.1 Overview

This assignment was commissioned by the Regional Trade Facilitation Programme (RTFP) on behalf of the COMESA/EAC and SADC Secretariats with an objective of identifying and analysing the nature and scope of Non-tariff barriers (NTBs) that hamper intra-regional trade within the member countries. A total of twenty-five countries which are members of COMESA[1], SADC[2] and/or EAC[3] are being surveyed in this respect, Uganda included. All the three regional economic communities (RECs) are currently at various stages of developing formal/ structured mechanisms for identifying, monitoring and eliminating NTBs and are collaborating closely in this process. The result is expected to be the adoption of a single NTB monitoring and elimination mechanism for the region.

The entire COMESA NTBs survey is divided into two parts, one for SADC and/or EAC[4] countries that were surveyed in 2004 and 2005/06 respectively, and one for COMESA[5] countries that have not been surveyed before. The survey for EAC and SADC countries is updating and validating the 2004 and 2005/06 NTB inventories while the survey for COMESA is compiling complete inventories for 11 COMESA countries that have not been surveyed before. This report should therefore be read as an update for the Uganda 2005/06 NTBs survey, categorisation of these NTBs under WTO NTB codes, and review of the COMESA harmonised transit documentation and other related trade facilitation instruments.

1.2 Background to the EAC and COMESA NTBs survey

The 2005/06 survey for EAC countries (Tanzania, Kenya and Uganda) identified a number of NTBs which were categorised under the following clusters:

(a) Customs documentation and administrative procedures, which include un-standardised systems for imports declaration and payment of applicable duty rates, limited customs working hours, different interpretation of the COMESA Rules of Origin[6], application of discriminatory taxes and other charges on imports originating from amongst the three countries, cumbersome procedures for verifying containerized imports, problems in blocking the marketing of counterfeit products, and diversion of transit goods into the region
(b) Immigration procedures, which include un-standardised visa fees and procedures for application of work permits, cumbersome and duplicated immigration procedures.
(c) Quality inspection procedures, which include delays in inspection of commercial vehicles, cumbersome and costly quality inspection procedures, unnecessary quality

[1] Common Market for Eastern and Southern African countries
[2] Southern African Development Community
[3] Eastern African Community
[4] Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe, Kenya and Uganda
[5] Burundi, Comoros, DR Congo, Djibouti, Egypt, Eritrea, Ethiopia, Madagascar, Rwanda, Seychelles and Sudan
[63] Where products are not wholly produced in the EAC and an EAC rule of origin has not yet been agreed, COMESA rules of origin are used in the interim.

inspections (including of products certified by accredited laboratories and of imports originating from the EAC bearing certification marks issued by the three East African Standards Bureaus), un-standardised quality inspection and testing procedures and varying procedures for issuing certification marks.

(d) Transiting procedures, including cumbersome, un-standardised and costly transport and other procedures for transit traffic.

Regarding COMESA, the existence of NTBs that hinder intra-COMESA trade is an issue that was taken up as far back as 1984 in Article 49 of the COMESA Treaty, which provides for the elimination of existing and non-imposition of new NTBs. The member States have recognised the importance of reducing trade related obstacles that hinder intra-COMESA trade and market access for products. They have also agreed to implement a common operational strategy for dealing with NTBs, which however should not compromise legitimate demands for better protection of health, safety and the environment, and that should not jeopardise efforts of national market regulatory agencies in enforcing trade related requirements. In this respect, the members have already reached consensus on the need for developing and implementing an NTBs monitoring and elimination instrument, to be administered at the national level. The application of this instrument, however, has been constrained by the lack of consensus over the national trade laws, regulations, practices and procedures that are to be categorised as NTBs.

1.3 Scope of Work and tasks for the survey

The objective of the study for EAC countries aims at updating the inventory of NTBs that hinder intra-EAC trade identified in the 2005/06 survey. The specific tasks of the survey for Uganda and Kenya are to:

1. Prepare patterns of intra-COMESA and intra-EAC trade using the most recent trade data, identify each country's exports and imports and the main traded commodities for the last 5 years for which data is available at HS[7] 2 digit level (either 2002-2006 or 2001-2005 if 2006 data is not yet available).
2. Identify the scope and nature of NTBs that affect intra-EAC and COMESA trade utilising a standardised inventory approach under the WTO categorisation of NTBs.
3. Undertake consultations on the template form for reporting NTBs as proposed during the 2005/06 EAC NTBs survey consultations.
4. Undertake consultations with the private sector representative organisations and the public sector on the proposal that they designate a National NTBs Committee as the focal point for reporting, monitoring and facilitating elimination of NTBs, which will also liaise closely with EAC and COMESA Secretariats.
5. Highlight those NTBs in the inventory which have been introduced since the 2005 EAC NTBs study.
6. Assess the importance of each NTB in terms of its impact on intra- EAC and intra-COMESA trade, and on traders, such as the cost of the additional time incurred to ensure compliance, lost market opportunities, and prevalence of specific NTBs at EAC and COMESA country exit and entry points

[7] Harmonised System data

7. Assess NTBs that are identified with particular transport and transit modes, including air freight, sea freight, road freight, and other cross-border traffic services.
8. Review the status of implementation of the COMESA harmonised transit documentation and other related trade facilitation instruments, including the Harmonised Road Transit Charges, COMESA Carrier's License, Harmonised Axle Load and Maximum Vehicle Weight specifications, and the COMESA Yellow Card.
9. Identify EAC and COMESA enforcement agencies and laws, regulations, practices, and requirements in each country of study and in the importing/ exporting countries with which traders must comply.

1.4 Methodology used to undertake the survey

In Uganda, the survey included a detailed analysis of export and import data between 2001 and 2005, including EAC/COMESA destination countries, export and trends, and major products traded during the period. It also reviewed available literature on existence and impact of NTBs, including a review and update of the 2005/06 NTBs survey report, the 2004 EAC Business Climate Index survey report and the 2006 Uganda Transport and Trade Facilitation report. Consultations were also held with relevant representatives of the private and public sector, including the Uganda Manufacturers Association, Uganda National Chamber of Commerce and Industry, Uganda Clearing and Forwarding Association, Ministry of Tourism, Trade and Industry Customs and Excise Department. These consultations entered around validation and update of NTBs identified during the 2005/06 survey, identification of new NTBs since this earlier survey, the template for reporting NTBs, Focal point for coordinating reporting, monitoring and facilitating NTBs elimination, membership to the National NTBs Monitoring Committee and its capacity to coordinate work on NTBs. The report also used the WTO NTB codes to categorise identified NTBs into a standardised inventory.

This report has tried as much as possible to answer all the terms of reference as highlighted above under the scope of work and tasks to be performed under the survey.

2.0 OVERVIEW OF UGANDA TRADE WITH EAC AND COMESA COUNTRIES

2.1 EXPORT TRADE

2.1.1 Uganda's Export Trends to EAC/COMESA Region

Uganda's exports to the EAC/COMESA region showed mixed trends during the periods 2001 to 2005, initially declining from USD 121.8 million in 2001 to USD 107.5 million in 2002 and further to USD 43.7 million in 2003. Thereafter the value increased to USD 190 million in 2004 and further to USD 264.8 million in 2005. The region therefore was not a stable market for Uganda's exports, and its share of total exports actually fell from 27% in 2001 to 15% in 2005, therefore taking an average of 21% of Uganda's exports during the period 2001 to 2005. These mixed trends are notable because Uganda is both a member of COMESA and EAC where preferential import tariffs apply on goods traded among member countries. Although Uganda is not yet a member of the Free Trade Area, import tariffs on her exports to the region are at a lower rate than on imports from third countries. On the other hand, Uganda exports to Kenya and Tanzania at zero tariff rates under the EAC Customs Union.

The major destination markets for Uganda's exports within EAC/OMESA were Kenya which took an average of 39.5%, Democratic Republic of Congo which took 15.4%, Rwanda which took 13% and Sudan which took 12.8%. The trends of exports to the EAC/COMESA region during the period 2001 to 2005 are shown in Table 1 below.

Table 1: Exports to EAC/COMESA countries between 2001 and 2005 (USD 000)

Destination Country	2001	2002	2003	2004	2005	Total 2001-05	Market share
Kenya	59,036	61,489	17,659	76,723	72,437	287,344	39.5%
DRC	8,743	7,541	6,296	28,896	60,404	111,880	15.4%
Rwanda	16,614	12,869	5,174	24,659	36,088	95,404	13.1%
Sudan	9,149	5,761	4,918	22,628	50,487	92,943	12.8%
Burundi	4,778	6,266	4,093	18,111	20,801	54,049	7.4%
Tanzania	6,662	5,771	2,676	12,147	15,444	42,700	5.9%
Egypt	5,277	1,947	211	2,531	3,334	13,300	1.8%
Zambia	8,609	2,153	11	117	287	11,177	1.5%
Ethiopia	2,396	218	212	588	222	3,636	0.5%
Mauritius	62	0	1,111	1,264	1,036	3,473	0.5%
Zimbabwe	138	53	8	34	2,693	2,926	0.4%
Eritrea	0	1,960	103	445	239	2,747	0.4%
Swaziland	275	48	1,212	684	433	2,652	0.4%
Angola	0	189	0	340	795	1,324	0.2%
Seychelles	1	1,059	0	246	1	1,307	0.2%
Malawi	19	86	16	443	73	637	0.1%
Somalia	0	50	0	227	15	292	0.0%
Djibouti	0	20	2	10	2	34	0.0%
Libya	0	0	0	20	7	27	0.0%
Total to EAC/COMESA	121,759	107,480	43,702	190,113	264,798	727,852	100.00%
Uganda Global exports (USD 000)	450,526	467,377	164,585	639,473	1,721,961	3,443,922	21.10%

Destination Country	2001	2002	2003	2004	2005	Total 2001-05	Market share
Share of exports to EAC/COMESA	27%	23%	27%	30%	15%	21%	

Source: ITC calculations based on COMTRADE statistics

2.1.1 Major export products to EAC/COMESA region

The ten leading exports to the EAC/COMESA region during the period 2001 to 2005 were Coffee and Tea; Mineral fuels; Cereals; Iron and steel products; Products of the milling industry; Tobacco manufactures; Vehicles; Machinery; Vegetables; and Animal and Vegetable fats and oils. Coffee and Tea were significant exports taking an average of 29% during the period of analysis. Table 2 below shows the market shares of the ten leading exports to the region between 2001 and 2005.

Table 2: Uganda's leading exports to EAC/COMESA between 2001 and 2005 (USD 000)

HS Heading	Chapter Description	2001	2002	2003	2004	2005	Total 2001-05	Product export share
09	Coffee, tea, mate and spices	45,575	39,504	12,525	57,015	64,671	219,290	29.1%
27	Mineral fuels, oils, distillation products, etc	16,318	16,094	170	12,428	16,565	61,575	8.2%
10	Cereals	14,230	6,420	4,956	12,599	16,293	54,498	7.2%
72	Iron and steel	2,159	2,955	1,738	13,398	24,685	44,935	6.0%
11	Milling products, malt, starches, insulin, wheat gluten	4,634	4,346	3,209	10,196	9,903	32,288	4.3%
24	Tobacco and manufactured tobacco substitutes	3,913	5,061	2,235	7,106	10,283	28,598	3.8%
87	Vehicles other than railway, tramway	2,058	2,835	1,610	7,607	12,942	27,052	3.6%
84	Nuclear reactors, boilers, machinery, etc	1,894	3,606	1,354	8,072	8,570	23,496	3.1%
07	Edible vegetables and certain roots and tubers	1,815	2,563	1,807	8,135	8,398	22,718	3.0%
15	Animal, vegetable fats and oils, cleavage products, etc	3,179	2,214	1,116	6,002	9,928	22,439	3.0%
Total for 10 leading exports		95,775	85,598	30,720	142,558	182,238	536,889	71.3%
All other products		27815	25103	13121	54549	90,833	215868	28.7%
Total exports to EAC/OMESA		123,590	110,701	43,841	197,107	273,071	752,757	100%

2.2 IMPORT TRADE

2.2.1 Imports from EAC/COMESA region

Uganda's imports from EAC/COMESA increased from USD 302.7 million in 2001 to USD 337.4 million in 2002, USD 389.2 million in 2003, USD 394.2 million in 2004 and to USD 595.14 million in 2005. The region however did not increase its importance as a source of Uganda's imports, since its share of imports fell slightly from 30% in 2001 to 29% in 2005, therefore managing to capture an average of 28% of Uganda's total imports during the period 2001 to 2005 as shown in Table 3 below.

Table 3: Uganda's imports from EAC/COMESA between 2001 and 2005 (USD 000)

Country	2001	2002	2003	2004	2005	Total 2001-05	Market share
Kenya	281,323	312,727	357,194	344,190	520,686	1,816,120	90%
Tanzania	6,646	7,503	10,783	15,330	30,093	70,355	3%
Swaziland	5,228	8,204	9,999	16,841	17,882	58,154	3%
Egypt	5,112	4,515	6,413	8,666	14,962	39,668	2%
Seychelles	16	96	0	362	3,857	4,331	0%
DRC	37	181	299	2,300	3,027	5,844	0%
Mauritius	560	1,319	2,479	3,132	1,202	8,692	0%
Zimbabwe	1,288	689	849	897	921	4,644	0%
Zambia	1,595	575	210	478	839	3,697	0%
Rwanda	351	1,366	534	635	498	3,384	0%
Ethiopia	49	86	54	144	359	692	0%
Malawi	185	3	300	892	236	1,616	0%
Sudan	139	58	10	169	208	584	0%
Burundi	1	54	25	70	164	314	0%
Eritrea	137	38	85	75	153	488	0%
Libya	0	0	6	16	51	73	0%
Total imports from EAC/ COMESA	302,667	337,414	389,240	394,197	595,138	2,018,656	100%
Uganda Total Global Imports (USD 000)	1,005,647	1,073,716	1,375,091	1,656,585	2,054,137	7,165,176	28%
EA/COMESA share of Uganda imports	30%	31%	28%	24%	29%	28%	

Source: ITC calculations based on COMTRADE statistics

2.2.2 Uganda's Leading Imports

Uganda's ten leading imports from EAC/COMESA countries during the period 2001 to 2005 were dominated by Petroleum products which took the bulk of imports at an average of 48.5% during the period. Other products were Salt and cement; Iron and steel; Paper and paperboard; Pharmaceutical products; Plastics articles; Sugar and sugar confectionery; Machinery; and Soaps, lubricants, waxes and candles. The contributions of these ten leading products to Uganda's imports from the EAC/COMESA region averaged 78.3% during the five year period as shown in Table 4 below.

Table 4: Uganda's Imports from EAC/COMESA between 2001 and 2005 (USD 000)

HS Heading	Chapter Description	2001	2002	2003	2004	2005	Total 2001-05	Share of imports from EA/COMESA
27	Mineral fuels, oils, distillation products, etc	158,545	171,157	185,356	159,278	281,844	956,180	48.5%
25	Salt, sulphur, earth, stone, plaster, lime and cement	20,897	24,539	31,971	27,858	39,249	144,514	7.3%
72	Iron and steel	17,445	22,691	16,265	22,823	38,537	117,761	6.0%
48	Paper & paperboard, articles of pulp, paper and board	14,447	13,574	17,147	19,985	20,887	86,040	4.4%
30	Pharmaceutical products	8,344	10,787	10,446	12,431	12,219	54,227	2.8%
39	Plastics and articles thereof	5,024	5,608	8,883	10,396	14,354	44,265	2.2%
87	Vehicles other than railway, tramway	4,255	4,847	5,891	9,172	19,647	43,812	2.2%
17	Sugars and sugar confectionery	3,740	2,904	4,851	8,997	14,599	35,091	1.8%
84	Nuclear reactors, boilers, machinery, etc	6,228	5,583	5,998	7,383	9,117	34,309	1.7%
34	Soaps, lubricants, waxes, candles, modelling pastes	3,777	3,545	4,500	6,105	9,290	27,217	1.4%
Total for ten leading imports from EA/COMESA		242,702	265,235	291,308	284,428	459,743	1,543,416	78.3%
Total for all other imports from EAC/COMESA		54,605	64,458	90,238	97,230	121,873	428,404	21.7%

Source: ITC calculations based on COMTRADE statistics

3.0 NTB MEASURES DIRETLY AFFECTING EXPORTS

3.1 INVENTORY OF NTBS THAT AFFECT EXPORTS

During the 2005/06 EAC NTBs consultations, it was found out that a number of NTBs affect the ability of Ugandan businesses to export, which have been reaffirmed in the current consultations. These NTBs fall under the following clusters.

3.1.1 Customs documentation and administrative procedures

Problems experienced under this cluster include inability to share customs information online with Kenya due to incompatibility of systems used to clear exports/ imports, limited customs hours, and cumbersome and expensive customs procedures regarding exports to Tanzania.

3.1.2 Transiting procedures

Uganda being a landlocked country critically depends on its neighbours Kenya and Tanzania for to provide it access to the sea and Trade Facilitation services which include rail, road, sea freight, port, clearing and forwarding services. Also the numerous weighbridges along the main road transport routes like the Northern corridor makes it difficult to transport goods to destination markets on time. The time and costs involved in accessing these services are considered uncompetitive, which act as NTBs.

3.1.3 Sanitary and Phytosanitary Measures

Problems involved under this cluster include standards, time spent during inspection in export destination markets especially Kenya, and lack of harmonized procedures for issuance of certification marks within EAC.

3.1.4 Immigration procedures

Many Ugandans lack an EAC passport which makes it difficult to travel across borders in search of business opportunities. Also, work permits are a requirement in Tanzania and Kenya, making it difficult to open branches and therefore penetrate the markets of these two countries.

3.1.5 Police roadblocks

There are too many roadblocks along the major road transport routes, which greatly disrupts efficient movement of goods to the markets. Also, Ugandan exporters allege that Kenyan Police obstruct Ugandan transport trucks since they are not registered in Kenya, which acts as an obstacle in choosing the most competitive means of transport for Ugandan exports.

3.1.6 Government Participation in Trade and Restrictive Practices Tolerated by Governments

Problems experienced under this cluster include cumbersome business registration and licensing

3.2 EXPORT NTB INVENTORIES UNDER THE WTO CATEGORIZATIONS

The NTBs applicable on Ugandan exports to EAC COMESA markets can be categorized under the WTO NTB Categorisation given in Table 5 below.

TABLE 5: WTO CATEGORIZATION CODES ON NTBS APPLICABLE TO UGANDAN EXPORTS

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part 1	**Government Participation in Trade and Restrictive Practices Tolerated by Governments**				
	E	Restrictive practices tolerated by governments	Cross-border registration of a new business within EAC countries is cumbersome and time consuming due to lack of an agreement on harmonising business registration procedures, while the countries are at different stages of computerising such procedures	The lack of an agreement for harmonised business registration procedures and manual processes means one has to physically travel to the capital of the country of proposed new business to search for business name, apply for registration and pay the applicable fees. This results to enormous time spent in process, whereby for 21% of all Ugandan businesses, registration in another EA country takes between 6 days to over 2 weeks	Registrar of Companies in the three EA countries
PART II	**Customs and Administrative Entry Procedures**				
	G	Customs formalities	While Uganda and Tanzania have both introduced the ASYCUDA ++ system for imports declaration, Kenya has introduced Simba system, and it is not clear to Ugandan businesspeople whether the two systems are compatible.	Although Simba and ASYCUDA++ systems are both web based, Customs Tanzania/Uganda allege that they are not compatible and cannot share export/import information. This could affect ability to export since if online sharing of information between Kenya and Uganda customs is not possible, then this delays duty payment in Kenya, and cancellation of insurance bonds issued in Uganda – thus tying up of exporter's working capital	Uganda and Kenya customs departments
	G	Customs formalities	The limited customs open hours for verifying export documents and in clearing cargo is a hindrance to faster movement of goods across borders	1. Time lost to clear goods at borders 2. Cost of corruption at border crossings	Uganda Customs Department
	G	Customs formalities	Exporting to Tanzanian is extremely difficult and cumbersome. The process involves obtaining a tag number from the Tanzania Revenue authority regarding an import, getting an assessment of import classification[8] and dutiable value done by the local agent of Cotecna - TRISACN, which thereafter sends the report Cotecna Durban office (*South Africa)* for approval. Clearance by Customs Tanzania then follows as the last stage.	The cumbersome process of exporting to Tanzania takes an average of 21days, which makes Ugandan companies poor competitors for the Tanzanian market.	Tanzania Customs Department

[8] Asycuda ++ classifies imports either under Green channel, Yellow or Red channel for purpose of clearing and releasing imports. This case is relevant to exports to Kenya.

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part VI	E	Border tax adjustments	Tanzania charges US$ 200 per annum or US$ 20 per entry on sales vehicles and a US$ 5 fuel tax per vehicle originating from the other two EA countries. These charges are not applicable in Uganda and Kenya.	The charges applied by Tanzania makes penetration of Tanzanian market more difficult compared to penetrating the Uganda and Kenya markets.	Customs Department Tanzania
	E	Border tax adjustments	Kenya Customs charges an Import Declaration Fees (IDF) on any imports. Previously, Kenya used to carry out Pre-shipment Inspection under which a 2.75% IDF fee on value of goods was applicable. Pre-shipment on dutiable value and quantity was abolished in July 2005, but the fee was not removed.	The IDF fee should have been abolished after the phase out of the PSI. Retaining it increases the cost of goods imported into the Kenyan market which since the fee has to be passed on to the sales price.	Kenya Customs
Part II	G	Customs formalities	Transit trucks using the Kampala-Malaba route destined to Kenya, and those using Kampala-Katuna route en-route to Rwanda, DRC and Burundi have to park at Transit Yards licensed b Customs Department. While the transit yards have helped to reduce accidents on these routes especially at night, and have contributed to reduction of pilferage on un-customed goods into the Ugandan market, the related parking fee in such yards is considered exorbitant at an average of USD 10 per truck since the yards are privately owned.	The parking yards delay period of transit and increase the cost of exports.	Uganda Customs

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part III	**Technical Barriers to Trade**				
	B	Testing, certification and other conformity assessment	Kenya has standard requirements for some products, which are not yet harmonised with EACC standards. Some products like milk have been denied access to the Kenya on the reasons of not meeting the respective Kenyan standard unless KEBS carries out its own scientific analysis. This is a challenge to the integration since the EAC SQMT protocol requires mutual recognition of member states certification marks on products crossing the borders.	A recent example on the impact of this NTB is that a truckload of milk which had a UNBS mark was refused entry into the Kenyan market, and after spending 7days at the Malaba border and after paying the necessary fees, was sent back.	Kenya Bureau of Standard

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part III	C	Testing, certification & other conformity assessment	A lot of time is spent to carry out quality inspection, even on products that have certification marks from another EA Standards Bureaus.	Unnecessary time lost during inspection and issuance of import clearance certificate. Further even if the import consignment is certified as conforming to the relevant UNBS standard, the importer has to go through the same procedure in subsequent consignments, which is frustrating and time consuming. Even on sampled inspection at the borders, a lot of time is spent waiting for results of the laboratory analysis, since facilities for such analysis may not be available at border points.	UNBS
	C	Testing, certification & other conformity assessment	EAC Standards Bureaus have different procedures for issuance of certification marks, inspection and testing. This makes it difficult to carry out cross border trade.	Businesses have to face different inspection and testing procedures before getting a certification mark, which means even if one understands the procedures in one country, one has to spend extra time and money to understand and comply with procedures of the other two countries, yet EAC is supposed to be one Customs union where similar procedures should apply.	EAC Standards Bureaux
	C	Testing, certification & other conformity assessment	Delays at weighbridge stations for inspection of axle load and GVM specifications along the major road transport routes hinders free movement of exports to intended markets. The Kakuna route to Rwanda, and Malaba-Nairobi-Mombasa roads are notorious	A lot of time is spent at weighbridges to verify axle loads and GVM specifications. On average, about 7 days are spent on the Kenyan section of the Northern Corridor for Uganda exports/ imports, while this could be reduced to 2 days. Uganda has no choice but to use the Kenyan Northern Corridor route since it is the main route for Uganda's external trade flows,[9] carrying an average of 88 per cent of the traffic in the period 1998-2004. The route is used because Mombasa is Uganda's closest ocean port at a distance of 1,170 km Kampala-Mombasa, compared to 1,826 km Kampala-Dar es Salaam, due to historical transport links between Uganda and Kenya, and also because rail services have overtime performed poorly. Any transport related delays along this route therefore greatly disrupts the ability and efficiency of Uganda's external trade flows.	Kenya Weighbridge Department

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code		**WTO Inventory Code**		**WTO Inventory Code**
Part VII	**Other**				

[9] Reference is Uganda's Trade Facilitation report – 2006

	E	Enforcement of trade related legislations/ requirements	Delays experienced at Kenyan roadblocks are a great hindrance to free movement of Ugandan exports.	Police stop commercial vehicles although officially, such vehicles are not supposed to stop at road blocks. For vehicles suspected to be carrying dangerous products like drugs, unloading may be demanded in some few instances. Sometimes, customs requires that such vehicles have to be escorted by police in a convoy, which translates to an average of 2 days lost time waiting to have the required number of 100 vehicles to make a convoy.	Police Department, Customs Department
	E	Other *Vehicle registration and licensing*	Kenya police requires that all trucks carrying goods to Kenya and those on transit to be Kenyan registered trucks.	Business owners have to incur extra transport costs to hire Kenyan transport when they would have used their own trucks. These high costs impact on the costs of the goods. The consequence is that Ugandan registered transporters are running out of business on the Kenyan routes while exports become uncompetitive.	Kenya Police
	E	Other *Immigration procedures*	Many Ugandans lack an EAC passport which makes it difficult to travel across borders in search of business opportunities. Also, requirements to have a valid work permit in Tanzania and Kenya makes it difficult to open branches and therefore penetrate the markets of these two countries.	Lack of EAC passports for especially small business people and work permit requirements restricts ability to travel in search of business opportunities.	EAC Immigration departments

Table 6: Specific Official Regulations Affecting Exports

WTO Inventory category	Product Group	Government Controlling Agency	Regulatory Procedure
Part 1 E	All products	Registrar of Companies in the three EA countries	Business registration
Part II G	All products	EAC Customs Departments	Customs declaration
Part II	All products	Uganda Customs Department	Verification and clearance of imports
Part II G	All products	Tanzania Customs Department	Customs procedures
Part VI E	All products	Tanzania Customs Department	Import charges
Part VI E	All products	Kenya Customs Department	Import charges
Part II G	All products	Uganda Customs Department	Customs formalities
Part II B	Products without EAC harmonized standards	Kenya Bureau of Standards	Standards inspection and certification
Part II C	All products	Kenya Bureau of Standards	Standards inspection and certification
Part II C	All products	EAC Standards Bureaus	Procedures for issuance of certification marks, quality inspection and testing
Part II	All products	EAC Weighbridge Departments	Axle load and Gross Vehicle Mass specifications
Part VII E	All products	Kenya Police	Enforcement of trade related legislations/ requirements
Part VII E	All products	Kenya Police	Motor vehicle registration and licensing
Part VII E	All products	EAC Immigration Departments	Passport and work permit requirements

4.0 NTB MEASURES DIRETLY AFFECTING IMPORTS

4.1 INVENTORY OF NTBS THAT AFFECT IMPORTS

During the 2005/06 EAC NTBs consultations, it was found out that a number of NTBs affect the ability of Ugandan businesses to import, which have been reaffirmed in the current consultations. These NTBs fall under the following clusters.

4.1.1 Customs documentation and administrative procedures

Obstacles experienced under this cluster include slow clearance of imports due to manual processes in most border entry points, lack of harmonised imports declaration systems and procedures within EAC, interpretation of the rules of origin, consequent tariff lines to classify imports and import duty changeable, Import Declaration Fees charged by Kenya Customs, and limited customs and bank business hours.

4.1.2 Transiting procedures

Problems experienced under this cluster include slow and inefficient clearance of imports at Mombasa Port, lengthy time transiting through the Kenyan section of the Northern Corridor (Mombasa-Malaba) due to too man weighbridges, police roadblocks, and requirement by Kenya Police that all transit trucks must have Kenyan registration; and inefficient rail operations. All these obstacles result to lost business time and cost of accessing goods to Uganda.

4.1.3 Quality inspection and certification procedures

The major problems under this cluster include UNBS[10] requirements for inspection of conformity to the relevant Ugandan Standard, and lack of EAC harmonised procedures for issuance of certification marks

4.2 WTO CATEGORIZATION OF NTBS

Table 7 below enumerates obstacles on importation under the WTO categorizations of NTBs.

[10] UNBS – Uganda National Bureau of Standards

Table 7: WTO CATEGORIZATION CODES ON NTB APPLICABLE TO UGANDAN IMPORTS

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part II	**Customs and Administrative Entry Procedures**				
	C	Customs classification	The newly introduced ASYCUDA[11] ++ system is operational at Malaba, Busia, Mutukula, and Katuna although it is also planned to rolled out at other customs border stations. This means that delays are experienced in declaring and clearing imports at other major entry points[12] like Mpondwe, Oroba, and Lwakhakha, which use still ASYCUDA 2.7 system.	On average, 49% of all customs clearance at border crossings using ASYCUDA 2.7 system takes more than 10 days since the system has fewer modules than ASYCUDA++. Clearance which involves declaration of imports, assessment of classification of goods and import duty payable, physical verification of goods if applicable, payment of dutiable value, and release of goods from the customs area. Also, exports to Rwanda took more than 2 weeks to reach their destination, which meant tying exporter's working capital in insurance bonds.	Customs Department

[11] ASYCUDA – Automated System of Customs Data. The system has more modules than ASYCUDA 2.7 system, which include Green Channel - for automatic clearance and release, yellow - for scanning and thereafter proceed for release or physical verification, and red - for physical verification. The classification depends on the degree of risk of imports, which itself depends on country of origin and also whether the importer is known to have engaged in any past trade malpractices. Further, the system has a transit module, which means information can be transmitted electronically by customs Uganda to import originating country, and vice versa. This enables insurance bonds on an export to Uganda to be cancelled much faster than if the export documents were to be posted, which is the process used under ASYCUDA 2.7.

[12] Malaba customs border station handles an average of 300 trucks per day, Katuna station (Rwanda-Uganda border) handles 300 trucks per day Busia station (Uganda-Kenya) border 100 trucks, Mpondwe (Uganda-DRC border) 100 trucks per day, Oroba (Uganda-Sudan) border 100 trucks per day, and Lwakhakha (north of Malaba on Kenya-Uganda border) handles 10 trucks per day.

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part II	C D	Customs classification Customs formalities	While Uganda and Tanzania have both introduced the ASYCUDA ++ system for imports declaration, Kenya has introduced Simba system, and it is not clear yet whether the two systems are compatible. The three countries are working out a way in which the system can be compatible, infact they already have an information sharing mechanism. But complete harmonisation has not been concluded.	Uganda Customs suspects that Simba and ASYCUDA++ systems are not compatible although both are web based. This could affect the volume of imports, since incompatibility means online sharing of information between Kenya and Uganda customs would be difficult. Consequently this would delay duty payment in Kampala, clearance of imports at Malaba and cancellation of insurance bonds. The speed at which these procedures take place is important to calculation of the cost of the related insurance bond, which C&F companies maintain with customs, and whose value is related to their turnover. Huge amounts of the bond ends up tying an importer's working capital. When a consignment transits safely its bond is retired and the amount involved is available again for another transit operation. One Ugandan firm that handled about 2,500 TEU in 2004 posted a bond with KRA worth US$5 m. If one considers the opportunity cost of capital at 20 per cent for a 20 ft container, this would be equivalent to US$400 per box or about US$25/ tone. This is a huge sum which the importer cannot access to enable continued operations until the bond is retired.	Uganda and Kenya customs departments
	F	Rules of origin	After the EA Customs Union entered into force, many importers initially experienced problems with interpretation of the COMESA rules of origin, which are sometimes used when product transformation occurs[13]. The contention by Ugandan importers is that Uganda customs has sometimes insisted that rule 3 and 4 should be used together, while both are supposed to be used independently. This was as a result of an omission in the Rules when they were adopted by EAC. Although this has been corrected and Gazetted, some traders and customs officials are not aware. Businessmen also fear that such erroneous interpretations could occur in future, thus impeding intra-EAC trade.	Due to problems in interpretation of EAC Rules of Origin, the importer is forced to spend a lot of with customs officials at the borders. The problem is most serious during weekends, since the importer's goods have to be held for two days at the border until Monday when Customs HQs can make a satisfactory interpretation.	Uganda Customs Department

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
	G	Customs formalities	The limited customs open hours for verifying documents and clearing cargo is a hindrance to faster movement of goods across borders.	The opening of customs border offices only during day light hours and working week means loss of business time to clear goods at borders. Also, a lot of cost is incurred to bribe customs officials to clear goods especially on Fridays so that they don't stay at borders during weekends, in order to save on 2 days and avoid loss through theft.	Uganda Customs Department
	D	Consular formalities and documentation	Bank of Uganda limits the business hours for all banks including banks at the border posts to between 8 am and 4pm. Also the working week is limited to between Monday and Friday 9.00 am to 3.00 pm, and Saturday 9.00 to 11 am. Consequently importers are unable to conveniently pay the required so customs duties and taxes on time. In turn they cannot clear their goods unless they have made the necessary payments.		Bank of Uganda
	D	Consular formalities and documentation	Transit trucks have to wait at Mariakani Weighbridge Station for a minimum of 2 days until they have formed a convoy of 100 trucks, with such a convoy being formed three times a week. A convoy manifest is issued by the KRA, which also provides an officer to escort the convoy. The escort carries the transit manifest and all the individual declarations and brings the documents to check points and the border at the same time as the trucks arrive. In some cases, trucking companies end up providing	The customs requirement that transit convoy vehicles have to be escorted by police and customs escort translates to additional transport costs since in many instances, transporters have to provide vehicles for the escort. Also, the time lost while waiting to form a convoy translates to lost business time. In addition the many weighbridge stations are an additional cost, which could be avoided since the trucks have seals and the convoy has an escort to ensure pilferage of un-customed goods and breakage of seals does not occur.	Kenya customs

[13] EAC rules of origin currently apply only where an import originating from another EAC partner state is wholly produced in that country. Where such a product may have gone through a process of transformation, change of tariff heading or other value adding processes in the EAC originating country, the COMESA rules of origin are used, until the EAC reaches consensus on its rules of origin. COMESA **Rule 3** states that "local content of local raw materials should exceed 35% of the ex-factory cost of the finished product". **Rule 4** states that "the product should be classified in a separate tariff heading other than those of the non-originating raw materials used in production". The two rules are supposed to be used independently of each other, meaning an importer can either use 3 or 4, whichever applies to the import product. While the EAC Rules of Origin which were adopted from COMESA, there had been an omission in the printing of the Rules where by the word "or" was inadvertently omitted from the printed Text. This Problem of Error in Printing had implications on interpretation and therefore application.

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
			vehicles for the customs escort. The convoy, which travels through the Northern Corridor, is again checked at the Athi River weighbridge, where a new manifest is created. The transit though Kenya ends at Malaba (at Kenya-Uganda border)		
Part III	**Technical Barriers to Trade**				
	B C	Technical regulations and standards Testing and certification arrangements	UNBS requires that all imported products whose standard specifications are declared as compulsory under the UNBS Act should be inspected for conformity to the relevant Ugandan Standard before release into the Ugandan market. This includes even products that are certified by internationally accredited laboratories.	The requirement translates to unnecessary business time loss and extra costs for pre-shipment inspection and certification. Further, even if an evaluation certifies that the import consignment conforms to the relevant UNBS standard, the import clearance is for that consignment alone, and does not apply to subsequent consignments, which means regular importers get frustrated having to go through the same process over and over again, without any due recognition of their compliance.	UNBS
	B C	Technical regulations and standards Testing and certification arrangements	A lot of time is spent to inspect even products that have certification marks from another EA Standards Bureaux.	Unnecessary time lost during inspection and issuance of import clearance certificate Further, even if the import consignment is certified as conforming to the relevant UNBS standard, the importer has to go through the same procedure in subsequent consignments, which is frustrating. Where sampled inspection is undertaken a lot of time is spent waiting for results of the laboratory analysis, since facilities for such analysis may not be available at border points.	UNBS
	B C	Technical regulations and standards Testing and certification arrangements	EAC Standards Bureaux have different procedures for issuance of certification marks, which makes it difficult to undertake the same processes on imports inspection and testing.	Businesses have to face different inspection and testing procedures, which means even if one understands the procedures in one country, he has to spend extra time understanding procedures applied by the other two countries, yet EAC is supposed to be one Customs union where similar procedures should apply.	EAC Standards Bureaux

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part VII	**Other:** **Transiting difficulties**				
	D	Other *Inefficiency in operations of Mombasa Port and Kenya Railways and subsequent demurrage charges*	Offloading of cargo at the port of Mombasa is a nightmare for Ugandan importers, and one has to spend a minimum of two weeks and one month to clear goods from the port. This is due to clogging of the port as a result of insufficient and slow operating cranes to offload delivery vessels, and also because Kenya Railways performs poorly[14] in transporting goods out of the port to destinations like Uganda. As of mid September 2005, an estimated 6,000 Ugandan bound containers were held at the port.	Enormous time spent to clear imports at the port and to transport them to Kampala. In addition to 14-30 days clearance time and more when weekends are included, an extra 7 to 10 days are spent to transport goods from Mombasa to Kampala. Consequently, a lot of costs are incurred on demurrage charges for un-cleared cargo, while, ships cannot be offloaded fast enough, which has resulted into a large fleet of containers at the port, estimated at 11,000 as of mid September 2005. Shipping vessels in turn levy a surcharge estimated at USD 2,900 for a 40 foot container on imports to compensate for long turn-around time estimated at 5 days. .	KPA[15], Kenya Railways, Shipping lines

[14] Rail service along the Northern Corridor (Mombasa-Kampala) is a major problem, although problems are also experienced along the longer Central Corridor (Dar es Salaam-Kampala). There is enough truck and rail ferry capacity to carry all of Uganda's external trade by rail, but this mode's share of total traffic is only 27 per cent. Both Kenya Railways Corporation (KRC) and Uganda Railways Corporation (URC) infrastructure have a backlog of maintenance, and the problem is even worse for Tanzania Railway Corporation (TRC), where general condition and permitted axle loads are in poor condition. For container traffic there would be sufficient wagons on the Northern Corridor if these were utilised properly. All three railways suffer from poor financial conditions, over-staffing and lack of institutional incentive structures which prevent them from competing effectively for traffic with road transport. Operations are inefficient, and the availability and reliability of rolling stock and infrastructure are poor. Estimates of average wagon cycle time for Port-Kampala-Port on the two corridors in the period 2001-2005 are about 34 days for the Northern Corridor, which is one third of invested capacity and 43 days on the Central Corridor. Presently, the average wagon cycle time is about 40 days on both corridors. In contrast, imports to Kampala by road take about 7 days to travel from either port.

[15] KPA – Kenya Ports Authority

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part VI	B E	Other *Inefficiency in operations of Mombasa Port and Kenya Railways*	Imports through Mombasa port start attracting demurrage charges after a grace period of only 21 days from the time they are entered into a customs warehouse. However it takes more than 10 days for exporter's and import's bank to conclude correspondence on a letter of credit, 10 days to clear the goods at the docks, 10 days to complete process of declaring the cargo to customs, pay duty and applicable shipping surcharge before goods can be released. This means goods have to stay within the port area for a minimum of 30 days. The 15 days grace period is therefore unrealistic.	21 days grace period is grossly insufficient to clear goods from the customs area. Consequent demurrage charges are therefore unrealistic since inability to clear the goods is due to inefficient port operations and lack of sufficient wagons to transport goods to transport goods from the port. The minimum an import can spend at the port is 30 days due to factors beyond the importers control, including bank correspondence, slow clearance process leading to a build up of containers at the port, slow speed in removal of goods from the warehouse due to inefficient working cranes used to load containers onto trucks, and unavailability of railway wagons. Importers are therefore forced to incur demurrage charges for factors beyond their control.	Kenya Customs, Kenya Ports Authority, Kenya Railways
	E	Other *Inefficiency in operations of Mombasa Port and Kenya Railways*	After the warehousing period of 21 days at customs, goods can only be re-warehoused for an extra 7 days after which they risk being auctioned.	Failure to remove goods from port area after re-warehousing period means the goods risk being auctioned by customs. Many Ugandan bound vehicles have been auctioned due to this reason.	Customs Kenya

INVENTORY CATEGORY	DESCRIPTION				
	WTO Inventory Code	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses and trade**	**Responsibility /Source of NTB**
Part VII	D	Other *Vehicle registration and licensing*	Kenya police requires that trucks carrying goods through Kenyan roads must be Kenyan registered vehicles.	Business Owners incur extra transport costs to hire Kenyan transport so as to comply with Kenyan regulations while they would have used their own trucks. These costs translate to higher costs of imported goods, and loss of business for Ugandan registered transporters.	Kenya Police
Part III Part VII	Part III A Part VII E	Other *Weighbridges and police roadblocks*	Delays at roadblocks and weighbridges in Kenya are a great hindrance to free movement of imports into Uganda. The roadblocks and weighbridge stations are too many along the Northern Corridor and even when they have proper seals, they have to be weighed on axle load specifications at each station, which is time consuming.	Police stop commercial vehicles although officially, such vehicles are not supposed to stop at road blocks. For vehicles suspected to be carrying dangerous products like drugs, unloading may be demanded in some few instances. On the other hand, a lot of time is spent at weighbridges during verification of axle loads. On average, about 7 days are spent on Kenyan roads for Uganda bound commercial vehicles, while this time could be reduced to 2 days.	Police Department, Customs, Weighbridge Department

Table 8: Specific Official Regulations Affecting Imports

WTO Inventory Category	Government Controlling Agency	Regulatory Procedure
Part II C	Uganda Customs Department	Classification of imports depending on their degree of risk and compliance of importers into green, yellow and red for clearance purposes
Part II C	EAC Customs Departments	Imports declaration procedures
Part II F	Uganda Customs Department	Interpretation and application of rules of origin for purpose of tariff coding and charging of import duty
Part II G	Uganda Customs Department	Customs business hours
Part II D	Bank of Uganda	Banking hours
Part II D	Kenya Customs Department	Requirement for transiting trucks to travel in convoy
Part III B&C	Uganda National Bureau of Standards	Inspection on conformity to Uganda standard specifications
Part III B&C	EAC Standards Bureaus	Procedures for issuance of certification marks, imports inspection and testing.
Part VII B and E	Kenya Ports Authority Kenya Railways Corporation	Clearance of goods at Mombasa port, application of demurrage charges and surcharge, and transport to Uganda
Part VII E	Kenya Police	Requirement for Kenyan registration on transit trucks
Part VII E	Kenya Police Kenya Weighbridge Department	Enforcement of Kenyan laws related to trade, axle load and Gross Vehicle Weight specifications

5.0 KEY ISSUES FROM INTERVIEWS AND DESK RESEARCH

5.1 FOCAL POINT FOR NTBS REPORTING

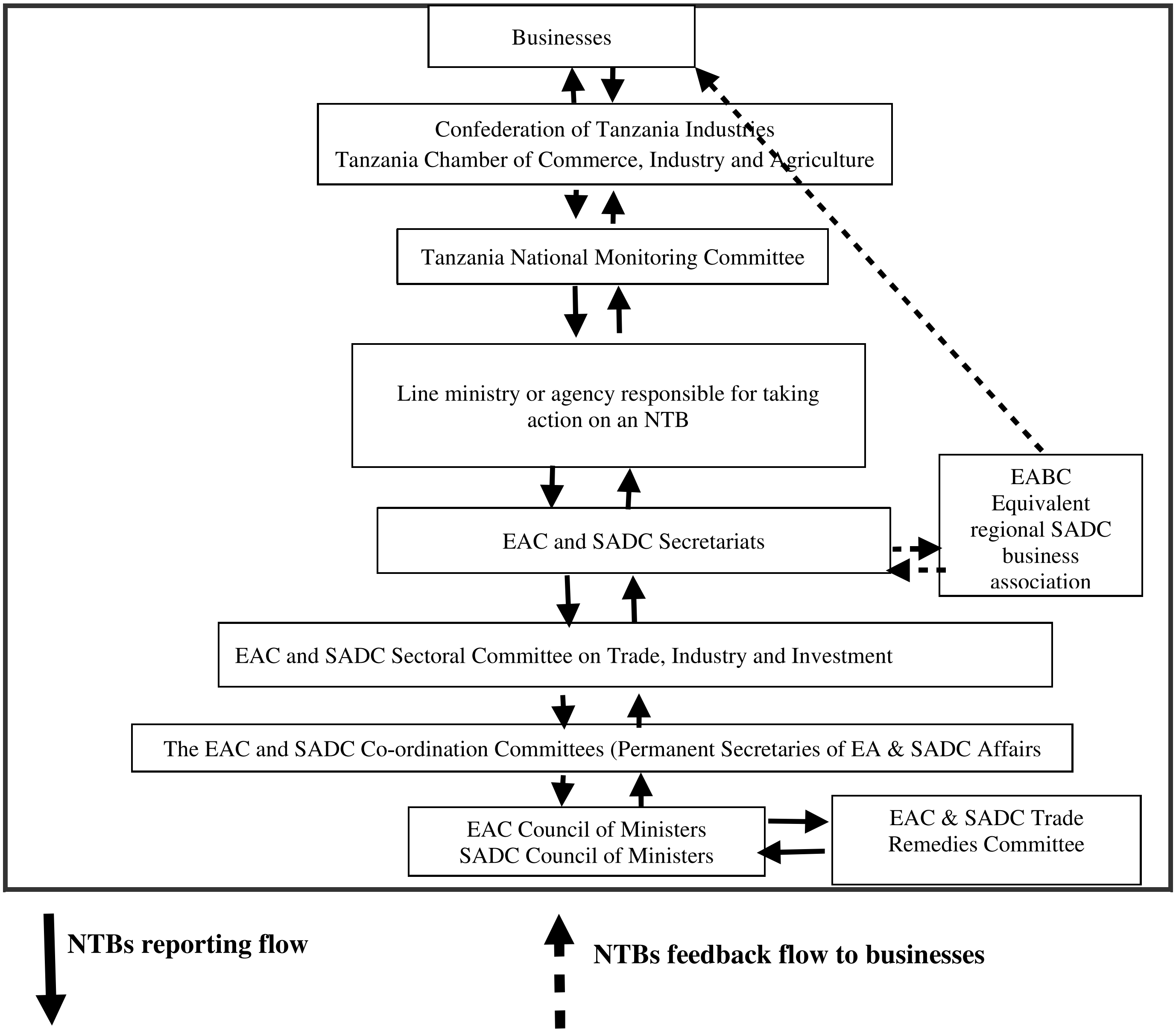
In the course of current NTB consultations, there was general agreement among representatives of the business community (UMA[16], UNCCI & UNCFA) that the success of the NTBs Reporting Mechanism cannot be determined until it is tested. There was also general concern that the set up of the National NTBs Monitoring Mechanism has been delayed. This is because the Committee is expected to play a key role in resolving NTBs at the national level, making decisions on NTBs that can only be resolved at the regional level and referring them to regional organs to initiate the elimination process. There was also consensus that after resolution on NTBs whether at the national or regional level, the business community should be given a feedback so that they are regularly updated on importation and exportation regulations and requirements within the region.

The business community also supports the institutional mechanism agreed during the 2005/06 EAC NTBs consultations for reporting and facilitating elimination of NTBs, which needs to be applied without further delay. At the time of endorsing the EAC mechanism in early 2006, it had been agreed that the EAC ministries responsible for EAC matters would coordinate its application. However, for Uganda, the Ministry of Trade and Industry was agreed as the coordinating Ministry although EAC matters at the time were under the Ministry of Foreign Affairs. Since a Ministry for EAC has now been established, the Committee may wish to consider the Chair of the Committee during its first meeting.

The NTBs Monitoring Committee Structure that should be used to report on existence of NTBs and facilitate their elimination is given under chart 1 below.

[16] UMA- Uganda Manufacturers Association; UNCCI – Uganda National Chamber of Commerce and Industry; UNCFA – Uganda National Clearing and Forwarding Association

Chart 1 Institutional framework for reporting, facilitating elimination and feedback on NTBs



5.2 INSTITUTIONAL RESPONSIBILITIES FOR REPORTING NTBS AND MONITORING THEIR ELIMINATION

5.2.1 Businesses

Responsibilities of businesses will be to identify existence of NTBs and report to their membership business associations, chambers of commerce, transporters associations, or clearing and forwarding associations. They will also monitor whether actions planned by line ministries and agencies responsible for enforcement are being implemented.

5.3.2 UMA, UNCCI, UNCFA

5.3.3 The responsibilities of UMA, UNCCI, UNCFA will be to:

a. Receive NTB complaints from their members.
b. Where possible verify the genuineness of cases reported (e.g. by drivers), and whether applied regulations, procedures and practices are backed by law.
c. Prepare reports on reported cases and forward them to the NMC members, line ministry in charge of EAC and COMESA matters, and the EAC and COMESA secretariat for action and elimination.
d. Built a database on reported NTBs.
e. Act as watchdogs on the progress of eliminating NTBs.
f. Follow-up on progress achieved in eliminating or minimizing NTBs at NMC meetings.
g. Inform their members on the progress made to resolve NTBs at national and regional level.

5.2.3 Line ministry or agency responsible for enforcing an NTB

The responsibilities of the line ministry or agency responsible for enforcing an NTB will be to:

a. **Receive NTBs complaints from UMA, UNCCI, UNCFA**
b. Verify the genuineness of reported cases, review the justification for the enforcing the applicable law, regulation or procedure, and whether such laws, regulation or procedure contravenes any EAC, COMESA or international requirements (for example WTO agreements).
c. Prepare quarterly reports on reported NTBs, actions taken, and table them to NMC meetings.

5.2.4 National Monitoring Committees on NTBs (NMCs)

The NMC will be the national Focal Point of the EAC/COMESA Trade Industry and Investment Committees (TICC). It will only focus on NTBs that hinder the free flow of trade in goods and services, and persons that accompany such goods within the EAC and COMESA Partner States. It will act as the watchdog in monitoring the progress of eliminating NTBs experienced at the national, EAC and COMESA levels. It will hold quarterly meetings to receive such reports and make necessary decisions, and will be hosted by the line ministry in charge of EAC and/or COMESA matters. Its functions will be coordinated b a secretariat, including quarterly meetings, verification of NTB cases, monitoring progress of rectifying NTBs and reporting to EAC/COMESA secretariats. The specific Terms of Reference for the NMC will be to:

a. Receive copies of NTB cases that have been sent by business associations, chambers of commerce, transporters associations, clearing and forwarding associations and individual business people to the line ministry or agency responsible for enforcing a Non-Tariff-Measure (NTM) that ends up as an NTB.
b. Receive a plan for rectifying such an NTM including the proposed timeframe.
c. Monitor progress of implementing proposed NTB actions.
d. Discuss whether actions taken by the line ministry or agency responsible for enforcement are sufficient.
e. Initiate bilateral discussions with counterpart NMCs in the other two EA and COMESA Partner States regarding NTB cases that are of a cross-border nature, and initiate an elimination process. Where necessary, equivalent agencies (*such as Bureaus of Standards, Customs, etc*) responsible for enforcing trade regulations will be brought together to negotiate a harmonization process, if the NTB in question is in form of varying trade requirements between EAC and COMESA states. Bilateral dispute resolution will always be used before any NTB cases are referred to the EAC and COMESA Secretariats for policy action.
f. Forward reports to the EAC and COMESA Secretariats on national actions taken by line ministry or agency responsible for taking an NTB action for information and onward dissemination to other relevant NMCs.
g. Disseminate information to UMA, UNCCI, and UNCFA for feedback to the business community on actions taken on reported NTBs.
h. Refer cases to EAC and COMESA Secretariats, where no satisfactory solution in form of a planned review, amendment or withdrawal has been proposed by the agency responsible for enforcing an NTB within one calendar month from the date of reporting. The Secretariats will thereafter initiate a dispute resolution process through the respective Trade, Industry and Investment Committees (TIIC). NTB cases that cannot be resolved by the TIICs will be forwarded to the Trade Remedies Committees for dispute resolution.
i. Hold an annual regional forum where members can share experiences on the NTBs elimination process, review achievements made, challenges faced and necessary initiatives for improving the efficiency of the Monitoring Mechanism.

5.2.5 **EAC and COMESA Secretariats**

The EAC and COMESA Secretariats will:

a. Receive quarterly progress reports from NMCs on resolved and unresolved cases.
b. Prepare progress reports for the TIICs and Co-ordination Committees for information on resolved cases.
c. Monitor actual practices at major exit/ entry points.
d. Initiate dispute resolution by the respective TIICs and Trade Remedies Committee on cases that have not been resolved at the national level or through bilateral discussions at the regional level.
e. Facilitate an annual verification of actual practices by TIICs.

5.2.6 The Trade, Industry and Investment Committee

This is a key Committee in the cross-border NTBs elimination process. Its responsibilities will be to:

a. Prepare a comprehensive implementation program and priorities relevant to cross-border NTBs elimination.
b. Monitor and constantly review implementation of planned NTBs elimination process.
c. Submit reports and recommendations to the Co-ordination Committee on implementation of NTBs.
d. Undertake annual verification of actual practices at border points where NTBs are practiced.

5.2.7 The Co-ordination Committee

The Co-ordination Committees (Permanent Secretaries level) will be involved in monitoring progress of NTBs elimination as part of its mandate on trade promotion under the EAC and SADC Treaties. Its specific responsibilities will include:

a. Submitting reports and recommendations to the Council of Ministers regarding implementation NTBs elimination.
b. Coordinating implementation of NTB decisions made by the Council.
c. Directing investigations on specific NTB cases that remain unresolved.
d. Referring any cases that cannot be resolved by the respective TIIC to the Council of Ministers for policy guidance. If resolutions cannot be agreed at the council's level, the cases will be forwarded to the EAC and/or COMESA Trade Remedies Committee (EACTR), whose decisions on trade disputes will be final.

5.2.8 East African Business Council and COMESA Chamber of Commerce and Industry

The responsibilities of EABC and COMESA Chamber of Commerce and Industry will be to:

a. Disseminate information on NTBs elimination progress to business people through their websites.
b. Undertake an annual Business Climate Index (BCI) Survey for the region. The results will indicate whether the business climate is improving and whether new initiatives are required to deal with NTBs.
c. Convene a regional NMC forum annually so as to share experiences on NTBs elimination process.

5.3 MEMBERSHIP OF THE NTB NATIONAL MONITORING COMMITTEE - THE NTBS FOCAL POINT

Under the EAC NTBs Monitoring Mechanism, it had been agreed that heads of key institutions involved in trade matters would constitute membership of the National Monitoring Committees. In the case of Uganda, membership is constituted of persons listed under Table 10 below. This membership is still valid and should also be adopted to facilitate NTBs reporting and elimination for intra-COMESA trade.

Table 10: Membership of Uganda NTBs Monitoring Committee

No	Member and institution	No	Member and institution
1	Permanent Secretary Ministry of Tourism, Trade and Industry	11	Commissioner of Police
2	Permanent Secretary Ministry Foreign Affairs (*in charge of EAC matters*)	12	Chief Executive Food Inspection Agency
3	Commissioner General Uganda Revenue Authority	13	Chief Executive Officer Enterprise Uganda; or Permanent Secretary Ministry of Agriculture
4	Commissioner of Customs and Excise	14	Executive Director Uganda Manufacturers Association
5	Commissioners of VAT	15	Chief Executive Uganda Freight Forwarders Association
6	Head of Weighbridges Department	16	Chief Executive Uganda Chamber of Chamber of Commerce and Industry
7	Executive Director Uganda National Bureau of Standards	17	Chief Executive Uganda Export Promotion Board
8	Uganda Representative Kenya Ports Authority	18	Managing Director of a manufacturing company with substantial exports to the other 2 EAC countries
9	Chief Executive Uganda Railways	19	Town Clerk of relevant local authority
10	Permanent Secretary Ministry of Finance		

5.4 CHALLENGES ON HANDLING NTB ISSUES

While a kick-start meeting for the Uganda National NTBs Monitoring Committee is planned to take place under the umbrella of the Ministry of Trade and Industry, there are still challenges to be overcome, including:

5.4.1 Building capacity of the NTBs secretariat at the coordinating ministry. The NTB reporting, monitoring and elimination mechanism will only work effectively if it is coordinated at the national level. In this respect, self-reporting by businesses to EAC or COMESA secretariats should be discouraged so that there is prior verification on the validity of all reported cases at the national level before they are referred to the regional levels. An EAC annual verification as recommended in 2005/06 is also recommended, while the capacity of the coordinating Ministry needs to be built up so that a proper focus on NTB issues is established.

5.4.2 Inclusiveness of the Committee so that key trade stakeholders are well represented. In this respect, the Chamber of Commerce should play a very active role due to its wide coverage of the business sector.

5.4.3 Setting benchmarks of the Committee including clear terms of reference. This should be a key focus of the Committee during its initial meetings to ensure that clear actions are identified and timeframes for taking action are set.

5.4.4 Categorization of 'core' and 'non-core' NTBs, in order to design a prioritized elimination mechanism. Core NTBs for Uganda are those related to transport and trade facilitation, while non-core NTBs include non-automatic licensing, quotas, tariff quotas, and price control measures. The 2005 NTBs survey for EAC countries reported on a number of core and non-core NTBs and proposed solutions for the various agencies to work towards their elimination. The elimination and monitoring mechanism which was adopted for East African Community has to some extent been applied by some agencies like customs to improve their processes and to eliminate some of the identified NTBs under their jurisdiction. Using the WTO inventory approach will make the monitoring mechanism even easier to report on NTBs at the wider COMESA level. The success of this Mechanism is tested by the findings of this study.

5.4.5 Integrating application of the mechanism within the secretariats of associations whose members trade in goods and services. Most associations have weak secretariat capacity which is already overstretched with operational and membership issues, and which cannot therefore be relied upon to fully focus on NTBs issues and report effectively to the National NTB Committee. This means the capacity of such associations need to be built up by injecting the necessary technical assistance, since the associations are key to effective reporting and monitoring NTBs being faced on intra-regional trade. Close liaison also needs to be established with the East African Business Council which was mandated to disseminate the progress achieved in the elimination process to the business community and to undertake an annual business climate index survey.

5.4.6 One of the major challenge is that with every eliminated NTB there seems to evolve a new one.

5.5 MAJOR TRADE FACILITATION ISSUES FOR UGANDA

The fact that Uganda is a land-locked country means that it has some peculiar problems that are more critical for its businesses than they are for its neighbouring EAC countries. These include its critical dependence on the other two states Kenya and Tanzania to provide it with access to the sea and trade and transport services such as road, rail, clearing and forwarding services. Also, previous studies[17] also show that trade and transport issues outside of Uganda's control by far outweigh those within its control, which highlights the importance for Uganda to work with its EAC partners to address such issues that affect Uganda but which are outside of its control. A landlocked country such as Uganda has significantly higher transport costs because of greater distances to a seaport and the need to cross national borders. Transaction costs of crossing borders are generally high, which also imposes further infrastructure costs if transport corridors (both rail and road) are not well coordinated, as is the case with the Northern Corridor (Mombasa-Malaba-Kampala) and the Central Corridor (Dar es Salaam-Kampala). The result is a lower volume of trade flows for landlocked countries compared to those that do not have such a handicap, and consequent negative effects on economic growth.

Being landlocked, Uganda has low trade integration[18] as well as high transport and trade facilitation costs in external trade. Such costs include charges for transport in Uganda along the Northern and Central corridors, international road freight, rail transportation, airfreight, sea freight, customs operations, Clearing and Forwarding (C&F), insurance, port services and telecommunications. Consultations also indicate that since Uganda does not have any access to the sea, it has to incur additional distribution costs, estimated at 80% of any locally manufactured price.

Railway transport provides a key challenge to Uganda's ability to undertake efficient export and import business, particularly along the Northern Corridor. This is because Uganda containers using rail transport are not given priority over Kenyan owned containers at the Mombasa port on account of the long distance to Kampala. This bottleneck is compounded by the fact that the port is overcrowded, which leaves little room for faster access to imports and required speed in delivery of exports to overseas customers. While it was expected that the concession of Uganda and Kenya Railway would increase speed and efficiency, and reduce cost of transportation from the current average USD 2,500 for a 40ft container from Mombasa to Kampala (*which is very high considering that it costs the same cost to transport the same container from Europe to Mombasa*), this has not yet been realized, since there was no private sector involvement in determining performance benchmarks for the concession agreement. Being a monopoly, the concessionaire has a free hand in determining the freight costs. In view of this bottleneck, the private sector[19] proposes that there is need for both the Uganda and Kenya Governments to review the rail service concession agreement so as to prevent abuse of market power.

Regarding road transport, the poor condition of the Kenya section of the Northern Corridor is a major concern to exports and importers. There are various reasons for the poor condition of this

[17] One such relevant study is the Trade and Transport Facilitation Study of 2006.

[18] Measured by export to Gross Domestic Product (GDP), Uganda's (0.124) was the 9th lowest in 2003 in a New York University database of 140 economies that incorporates information from the World Bank and others.

[19] Uganda Clearing and Forwarding Association

road, including Poor legal and legislative framework, Road planning deficiencies, and Poor governance. These bottlenecks lead to non observance of axle load limits, limited investments in the sector, misallocation of resources for road development, poor rehabilitation and poor maintenance of finances. Some sections of the Northern Corridor are especially in poor condition, which cause delays transport. Bad roads also lead to high fuel consumption and consequently to high transport costs and maintenance costs. The numerous police roadblocks whose purpose is given by police as the need to ensure security, but which transporters allege are a source of bribery and target especially commercial vehicles since private vehicles are just waved through without any time loss. There are also long queues at weigh-bridges which further contribute to transport delays and unpredictable procedures which are key concerns to the both the Ugandan and Kenyan business community. All these deficiencies contribute to transport delays and increased costs. A good example of their impact is the high cost of transporting a 20 feet container along the Northern corridor from Mombasa to Nairobi, which averages USD 760 - 1,000 for a distance of 485 Km, or between 58%-77% the cost of transporting the same container from Europe to Mombasa. On the other hand, the same cost of transporting the 20ft container from Mombasa to Kampala is USD 2,700 for a distance of 1,170 Km, or 208% the cost of transporting the same container from Europe to Mombasa. An additional impact of the poor condition of the road is that it leads to high truck maintenance cost, which is an issue of concern to freight companies. The factors in maintenance include wearing out of tyres and fuel costs due to slow trucks, which combined contribute to an average 60% of a truck's running costs according to World Bank 2005 figures.

All the above constraints have contributed to high transport costs, long transit times, high vehicle maintenance costs, high freight charges, transport delays, and road carnage. On overall, this reduces competitiveness of export products transported through roads leading to loss of business. Reducing transport and trade facilitation costs would therefore increase the competitiveness of Uganda's major export commodities that are also exported by other countries in the region, in particular fish and floriculture. Also, reducing such costs would also reduce the costs of imports and thus increase competitiveness of domestic production in Uganda.

5.6 NEW NTBS SINCE 2005/2006 SURVEY

Since the last NTB survey of 2005/2006, new NTBs have emerged which have a direct effect on export and import trade. These include

5.6.1 Transit Parking Yards

Transit parking yards have been introduced by customs at Kampala and on the route towards Katuna (Uganda-Rwandan), where transit commercial vehicles are required to park. The yards are aimed at alleviating pilferage and diversion of un-customed goods destined for export markets into the Ugandan market. While they have played a positive role in reducing diversion of such goods, they have also increased the cost of exports, since each truck has to pay an average USD 10 parking fee to the licensed private owners. Customs is in the process of designing a mechanism for computerized tracking of commercial vehicles in transit through Uganda, which will render the parking yard unnecessary in future and reduce this new cost.

5.6.2 Ownership of Commercial Vehicles

There are allegations that Kenyan Police prohibits transporting goods from Uganda to Kenya and from Kenya to Uganda in commercial vehicles that are Ugandan registered. The cost of hiring a Kenyan transporters or any other importers is higher than that of hiring a Ugandan one. Traders complain that they have already created working relationships with Uganda registered commercial vehicles and could even obtain transport credit, which is not the case with Kenyan or other foreign owned carriers. This has resulted to increased transport costs for Uganda bound goods and exports, and has generally inhibited better flow of trade. Uganda Customs is already aware of this complaint but has not found an amicable solution with Kenyan Customs/Police.

5.7 TEMPLATE FOR NTBS REPORTING, MONITORING AND ELIMINATION

Consultations with the business community through their umbrella organisations (UMA, UNCCI, UNCFA) show that a structured approach to reporting, monitoring and facilitating elimination of NTBs is still preferred as was the case in 2005/06. For NTBs that cannot be resolved at the national level, they should be referred to the regional organs to initiate the elimination process. Also, a feedback mechanism should be applied to inform the business community of NTBs that have been resolved so that they are regularly updated on importation and exportation regulations and requirements.

The EAC NTBs reporting, monitoring and elimination mechanism that was endorsed in early 2006 was therefore found by most respondents to be viable and relevant, and should be applied within EAC without delay. The same format should also be used to report NTBs applicable on Ugandan exports and imports within COMESA region. During the course of consultations, it was understood that a kick-start meeting is planned to take place under the umbrella of the Ministry of Trade and Industry, which was endorsed in 2006 as the coordinating NTB ministry. The meeting will set the agenda and structures of NTBs reporting and monitoring format.

The tabulation of the Uganda NTBs reporting, monitoring and elimination mechanism as updated during the current consultations is given in Table 9 below.

TABLE 9 UGANDA MONITORING PLAN FOR ELIMINATION OF NTBS[20]

an update on the status of those NTBs that existed at the launching of the NTB Monitoring Plan as well as NTBs that have evolved since 2005.

[20] The most severe NTBs for Uganda were categorized in the BCI report of May 2005

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part II C	Customs documentation and administrative procedures	The newly introduced ASYCUDA[21] ++ system is only operational at Malaba, and is planned to be rolled out at Busia before end of September 2005. This means that delays are still experienced in declaring and clearing imports at Busia which uses ASYCUDA 2.7 system.	On average, 49% of all customs clearance at border crossings using ASYCUDA 2.7 system takes more than 10 days, which involves declaration of imports, assessment of classification of goods and import duty payable, physical verification of goods if applicable, payment of dutiable value, and release of goods from the customs area. Also in the past, exports to Rwanda took more than 2 weeks to reach their destination, which meant tying exporter's working capital in insurance bonds.	Customs Department	Introduce ASYCUDA++ at all import entry/ export exit points, by end of 2005 so that time spent from import declaration to release is reduced from current average of 2 days for green channel goods, and from7 to 10 days for goods with import queries to not more than 3 days. Ensure ASCUDA++ works efficiently so as to maintain the current period of immediate cancellation of insurance bonds for exports to Rwanda, instead of the previous period of two weeks. For imports clearance, target Latvia's 1.2 days, which is the best case country in the world[22]. Complete and	ASYCUDA++ operational in all entry/ exit points by Dec 2007.	Mid 2007 report by Customs on entry/ exit points where ASYCUDA ++ is operational Report by the NTB National Committee.	Insufficient financial resources to roll out ASYCUDA++ at all import entry and export exit points. Integrating computer systems has caused delays in rolling out the system.	Make ASYCUDA system operational on major transit routes like Malaba, Busia, Mutukula, and Katuna. Also implement plans to roll out the system in other routes such as Mpondwe and maintain it efficiently. Allocate sufficient funds for customs modernization on imports clearance.

[21] ASYCUDA – Automated System of Customs Data. The system has more modules than ASYCUDA 2.7 system, which include Green Channel - for automatic clearance and release, yellow - for scanning and thereafter proceed for release or physical verification, and red - for physical verification. The classification depends on the degree of risk of imports, which itself depends on country of origin and also whether the importer is known to have engaged in any past trade malpractices. Further, the system has a transit module, which means information can be transmitted electronically by customs Uganda to import originating country, and vice versa. This enables insurance bonds on an export to Uganda to be cancelled much faster than if the export documents were to be posted, which is the process used under ASYCUDA 2.7.

[22] Comparisons on average number of days to clear customs for various countries of the world are given in the World Development 2005 report of the World Bank.

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part VI E	Customs documentation and administrative procedures	Kenya Customs still charges an Import Declaration Fees, although. Pre-shipment Inspection was removed in July 2005. Under the PSI, a 2.75% IDF fee was charged on value of the imports. However after removal of PSI, the fee was not waived.	IDF fee raises pries of goods b 2.75%.	Kenya Customs	Remove IDF fee since PSI is no longer applicable.	Removal of the IDF fee through 2007/08 budget	A Kenya Gazette notice to remove the IDF fee.	Customs could resist removal of IDF fee on reasons of revenue loss	Remove IDF fee and publish a Kenya Gazette notice to this effect
Part II G	Customs documentation and administrative procedures	Transit trucks using the Kampala-Malaba route destined to Kenya, and those using Kampala-Katuna route en-route to Rwanda, DRC and Burundi have to park at Transit Yards licensed by Customs. While the transit yards have	The yards delay period of transit and add onto transport costs.	Uganda Customs Department	Customs to introduce computerised tracking system.	Removal of need for parking yards.	Publication by Uganda Customs on the new computerized tracking system and report to National NTB committee on elimination	Cost implication of the program.	Complete the planned design of computerized terminals to track movement of commercial trucks during the 2007/08 financial year

[23] EAC rules of origin currently apply only where an import originating from another EAC partner state is wholly produced in that country. Where such a product may have gone through a process of transformation, change of tariff heading or other value adding processes in the EAC originating country, the COMESA rules of origin are used, until the EAC reaches consensus on its rules of origin. However, the contention by Ugandan importers is that when the COMESA rules are used, Uganda customs has sometimes insisted that rule 3 and 4 should be used together, while both are supposed to be used independently. **Rule 3** states that "local content of local raw materials should exceed 35% of the ex-factory cost of the finished product". **Rule 4** states that "the product should be classified in a separate tariff heading other than those of the non-originating raw materials used in production". The two rules are supposed to be used independently of each other, meaning an importer can either use 3 or 4, whichever applies to the import product. The EAC Rules of Origin adopted from COMESA, omitted the word "or" from the printed Text, which brought about problems in interpretation.

[24] TRA – Tanzania Revenue Authority

[25] Refer to footnote 1 on how Asycuda ++ classifies imports either under Green channel, Yellow or Red channel for purpose of clearance and release.

[26] UMA – Uganda Manufacturers Association; UCFA – Uganda Clearing & Forwarding Association.

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
		helped to reduce accidents on these routes especially at night, and have contributed to reduction of pilferage of un-customed goods into the Ugandan market, the related parking fee is considered exorbitant at an average of USD 10 per truck since the yards are privately owned.					of parking yards.		

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part II D	Transiting procedures (*exports and imports*)	Offloading cargo at the port of Mombasa is a nightmare for Ugandan importers. One has to spend between two weeks and one month to clear goods from the port. This is due to clogging of the port as a result of insufficient and slow operating cranes to offload incoming cargo and because Kenya Railways grossly lack wagons to transport goods out of the port to destinations like Uganda. As of mid September 2005, an estimated 6,000 Ugandan bound containers were held at the port.	Time lost to clear imports from the port, at an average of between 7 to sometimes more than 10 days, and more when weekends are included; and consequent demurrage charges that have to be paid for un-cleared cargo. Due to the insufficient number of railway wagons and slow operating cranes, ships cannot be offloaded fast enough, which has resulted into a large fleet of containers at the port, estimated at 11,000 as of mid September 2005. The slow speed in offloading containers results to heavy cost of surcharge by shipping vessels due to long turn-around time, currently estimated at 5 days (the *average surcharge is US$ 2,900 for a 40 foot container.*). .	KPA, Kenya Railways, Shipping lines	Continue with investment in modern equipment at the port, including cranes, which could be done as a joint investment between Kenya and affected countries, including Uganda, Rwanda, Burundi and DRC[27]. The new management of Kenya and Uganda Railways under concession agreement should urgently modernise wagons. Establish a shippers council to control surcharges	Time taken to offload and clear cargo from the port reduced from current more than 10 days to 3 days (benchmark *Durban port of 2 days to offload ships*). Rail transport cost and time from Mombasa to Kampala reduced significantly, so as to encourage rail transport instead of the more expensive road transport. The target should be to reduce transport cost of a 40 foot container by 60%, from current average of US$ 760-1,000 by road, when rail transport	BCI[28] 2006/07 reports on cost comparisons between 2005 & 2006/07 regarding time taken to clear goods at Mombasa port, transport cost from Mombasa to Kampala, & on surcharge rates by delivery vessels.	1. Cost of investment in modern cranes 2. Resistance by various officers who benefit from manual unloading/ reloading, & slow clearance of goods through corruption	Ensure lose follow up of the target achieving speedy clearance to ensure a change of transport from railway to road system. Closely monitor improvement of port operations aimed at minimising port charges[29].

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part VII D	Transiting procedures (*exports and imports*)	Kenya police requires that transit trucks carrying goods to Kenya or from Kenya to Uganda should be registered in Kenya.	Business Owners have to incur extra transport costs of hiring transport when they would have used their own trucks. This translates to high transport costs. Ugandan registered transporters are running out of business on major routes.	Kenya Police	Remove requirement under spirit of EAC integration.	Free movement of EAC registered trucks/ vehicles	Notice of elimination of the requirement in East African Gazette and local newspapers.	Kenya Police resistance to remove requirement on argument that use of Ugandan Trucks could encourage false declarations.	Conclude ongoing discussions between Ugandan/Kenya Customs on harmonised procedures for transit trucks and involve police in the discussions.

27 DRC – Democratic Republic of Congo

28 BCI refers to Business Climate Index Survey, carried out by East African Business Council (EABC). 1st survey was carried out in 2005, and the second one for 2005/06 is underway on recommendations by that it should be undertaken annually.

29 A positive change on port operations occurred on 5th March 2007, whereby Kenya Ports Authority removed storage charges and increased warehousing period from 21 days to month during which storage charges will not apply.

30 Note the warehousing period before demurrage charges apply was increased from 21 to 30 days on 5th March 2007.

31 Kenya Customs incur an average of Ksh. billion per annum to finance police escorts.

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part III B&C	Technical Barriers to Trade	UNBS[32] requires that all imported products whose standard specifications are declared as compulsory under the UNBS Act should be inspected for conformity to the relevant Ugandan Standard before release into the Ugandan market. This includes even products that are certified by accredited laboratories.	The requirement translates to unnecessary time lost and costs incurred during pre-shipment inspection and certification. Further, even if the import consignment gets certified after the evaluation as conforming to the relevant UNBS standard, the import clearance is for that batch alone, and does not apply to subsequent consignments, which means regular importers get frustrated having to go through the same process over and over again, without any due recognition of their compliance.	UNBS	The requirement to undertake conformity evaluation for products that are certified by accredited laboratories should not apply. Further, UNBS should not repeat import inspection on every consignment imported by regular importers who have a good track record of compliance to relevant standards. Training of assessors on accreditation schemes and parameters applied by accreditation laboratories is necessary, so that evaluations of products in question can be minimised to periodic sampled inspection.	Products with test certificates from accredited laboratories allowed into the country without further inspection by mid 2007, unless in periodic instances just to confirm compliance. Continuous training of product assessors carried out from the beginning of 2007.	Quarterly reports to Council of Ministers on progress in mutual recognition of certification marks and import inspection procedures. A training programme and manual on accreditation schemes available at the beginning of 2006.	UBS may still insist on evaluations, since this is practice is backed by law	Waive imports certified by internationally accredited laboratories from UNBS inspection requirements
Part II B	Technical Barriers to Trade	Kenya has quality standard requirements on selected goods, which must go through scientific analysis by SGS before they are allowed into the Kenyan market.	The requirement is a setback to progress of the integration process since an SQMT protocol has already been signed which requires recognition of various Member States standards as long as they have certification marks from EAC Standards Bureaus. A recent example of this setback is that a truck of milk into was denied entry into the Kenyan market on	Kenya Bureau of Standards	Mutual recognition of products with certification markets issued by EAC Standards Bureaus	Full application of EAC SQMT protocol	Reports to national NTB Committees reflecting NTBs related to standards.	Resistance by standards bureaus to fully implement the SQMT protocol on reasons of contravention of national standards specifications	Domesticate the SQMT protocol within EAC and adopt it within COMESA members

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part III B&C	Technical Barriers to Trade	EAC Standards Bureaus have different procedures for issuance of certification marks, which makes it difficult to undertake the same processes on imports inspection and testing.	Businesses have to face different inspection and testing procedures, which means even if one understands the procedures in one country, he has to spend extra time understanding procedures applied by the other two countries, yet EAC is supposed to be one Customs union where similar procedures should apply.	EAC Standards Bureaus	Harmonise import inspection, testing and certification procedures.	A joint publication issued by the three Standards Bureaux, specifying procedures for import inspection, testing and certification within EAC by mid 2007.	A joint report to the Council on progress in publishing import inspection, testing & certificatio n procedures	Lack of resources for developing the joint publication	Earmark funds for joint publications related to standards in EAC national budgets

[32] UNBS – Uganda National Bureau of Standards
[33] SQMT – Standardization, Quality Assurance, Metrology and Testing protocol, finalized in 2002.

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part VII E	Immigration procedures at border crossings	Clearance of travel documents through immigration involves cumbersome procedures, with a requirement to fill exit/ entry forms even where scanning of passports is undertaken.	The requirement to fill exit/ entry forms even when scanning of passports is done seems a duplicated function, since the scanning should automatically record information on the traveller. The duplicated function means unnecessary time spent at border crossings. On average, 29% of border crossings take more than 1 hour.	Immigration Department	Optimise immigration procedures by removing requirement to fill entry/exit forms in exit/ entry points where computerised scanning of passports is already operational Operate the separate immigration counters for East Africans more efficiently and remove the need to stamp EA passports on every entry/ exit, but instead issue the multiple 6 months visa and pass period.	Average time for crossing EA borders by East Africans reduced to not more than 15 minutes at all entry/ exit points by mid 2007.	Annual Business Climate Index Survey report by EABC on time taken and procedures for crossing borders	Resistance by Immigration Department to phase out exit & entry forms	Allocate sufficient budget to Computerise scanning of travel documents at all entry points so as to replace the need for entry/exit forms.
Part VI E	Immigration procedures at border crossings	While Uganda readily gives work permits to employees of East African businesses wishing to establish branches in Uganda, there are complaints that it is difficult to get such work permits in Kenya, unless the Ugandan businessman enters into partnership with a Kenyan	The potential Ugandan businessperson is forced to enter into a partnership where none was intended, if he wants to set up a branch in Kenya.	Immigration Department	Facilitate the issuance of work permits to East Africans/ COMESA citizens without discrimination, even before the Common Market comes into effect	Number of complaints recorded from Ugandans on non-issuance of work permits reduced to zero by mid 2006	Quarterly reports by the three EA immigration departments to the Council meetings	Kenyans might resist issuance of work permits to other East Africans due to fear of loss of job opportunities, especially since the unemployment rate has become a major challenge for the country.	Allocate sufficient budget to sensitize EA/COMESA citizens on potential employment opportunities within the region and to harmonise cross-border employment procedures.
Part VII E	Immigration	Many Ugandans do not yet have an East African	Many people (*especially small business people*) cross borders through	EAC Immigration Departments	Immigration Departments should speed up issuance of the	Number of illegal immigrants	Monthly reports by Immigration	Time to design new application forms East African	EAC governments to allocate

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part II Part VII E	Police checks at boarder crossings and road blocks	Police officers stop commercial vehicles at various border crossings, while officially, they are only supposed to stop vehicles based on proof that goods being transported are suspicious (*e.g. that vehicle exceeds allowed axle load, goods are smuggled, vehicle is carrying drugs or other dangerous products like arms, documentation does not conform to goods being transported, etc*)	Police checks are a source of rent-seeking opportunities while precious time is wasted on verification of goods. Ugandan businesspeople report that on average, 16% of all police documentation at border crossings takes over 1 hour	Police Department	Introduce scanners or sniffer dogs at major border points for vehicles suspected to be involved in trade malpractices, and tracking system for transit vehicles. Introduce heavy financial and other penalties for transporters involved in trade malpractices (*e.g. withdrawal of driving license*). Introduce clearly laid down procedures on which checks are undertaken at border points for commercial vehicles and inform businesspeople accordingly. Introduce EAPCCO[34] motor vehicle clearance certificate for vehicles crossing borders in EAC, and enforce the carrying of the certificate by all drivers so as to facilitate faster	Future police checks to use scanners or sniffer dogs on suspected commercial vehicles, while tracking system to be used for transit trucks	Daily records on vehicles inspected at border points, methods used and reasons for inspection	Lack of resources to introduce or purchase sniffer dogs[35] or scanners at border points, and tracking system for transit traffic. Resistance by police to implement scanners due to fear of loss or rent-seeking opportunities. Police checks are often justified for security reasons.	Central Government to allocate sufficient resources for sniffer dogs and scanners at major border points as a long term investment, and tracking gadgets for transit trucks Ensure efficient insecurity checks at borders so as to achieve less complaints from business people. Closely ensure corruption at borders are substantially minimised

[34] EAPCCO – EA Police Chiefs Cooperative Organisation, in which 9 states of Eastern Africa are members, including the 3 EA countries. Major transporters are also part of the organization.
[35] Sniffer dogs on average cost an average of US$ 50,000, the same a scanner

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
					movement across EAC borders.				

1	2	3	4	5	6	7	8	9	10
NTB Inventory under WTO codes	**Problem Area**	**Description of the most severe NTBs**	**Impact of NTB to businesses**	**Responsibility**	**Possible approach to eliminate NTB**	**Performance Benchmarks**	**Means of Verification**	**Constraints**	**Success Factor**
Part I E & Part VII E	Business registration & licensing	Registration of a new business in another EA country is cumbersome.	For 21% of all Ugandan businesses, registration in another EA country takes between 6 days to over 2 weeks	Registrar of Companies in the three EA countries	EA to be viewed as one market and investment area so as to give priority to cross-border registration of businesses within the region. Registrar of Companies in the three countries to harmonise and computerise registration procedures, and agencies responsible for business registration. The proposed system to be used as a fast track for harmonisation of business registration procedures within COMESA	Time to register cross border businesses reduced from average 6 days to 2 weeks to a few hours by end 2006; COMESA to carry a business climate index, which should include days for cross-border registration of businesses Similar agencies for business registration among EA countries in place by end 2007.	Annual reports by Registrar of Companies in the three EA countries on cross border business registrations COMESA BCI survey undertaken in 2007	Requirement might be resisted by EA/ COMESA countries on justification of national interest Corruption practices might be entrenched, making it difficult to accept proposal on computerization	Harmonise business registration procedures within EAC and COMESA Sensitise registration officials to treat all East Africans and COMESA citizens equally
Part I E & Part VII E	Business registration & licensing	Registering a new business and obtaining a business license are cumbersome procedures	The time for travelling to Kampala and associated costs to register a new business can be taxing, since the search for a business name, registration and payment through URA[36] is centralised in Kampala.	Registrar of companies, Central Government, Local authorities	Introduce online registration of new businesses so as to remove current requirement that involves travel to Kampala to search and register a business name. Allow the Registrar of Companies to retain	Business search, registration and payment transformed from a manual to an online process.	Annual reports by Registrar of Companies reflecting progress in reforms on business registration	Insufficiency of resources for computerisation Registration of business is a legal requirement, so any improvements can only be eased by amendments to the law, which	Allocate sufficient financial resources by EAC Governments aimed at comprehensive reforms of business laws and computerisation

[36] URA – Uganda Revenue Authority

Source: Original Information was obtained during consultations with Uganda trade stakeholders between September and December 2005, while an update and was obtained from consultations with various stakeholders in March 2007.

6.0 ASSESSMENT OF PROCEDURES FOR HARMONIZATION OF TRANSIT TRAFFIC BETWEEN COUNTRIES IN THE REGION

Uganda has implemented some of the COMESA schemes aimed at facilitating cross-border trade, some of which have are also being used within the EAC region. These schemes include.

6.1 Harmonized road transit charges system.

The system requires that heavy goods trucks with more than three axles pay a charge of US$10 per 100km while trucks with up to three axles pay US$6 per 100km. Buses with a capacity of more than 25 passengers pay US$5 per 100km. Uganda has implemented this program.

6.2 COMESA Carrier's License

This license allows commercial goods vehicles to transport goods throughout all COMESA member states with only one license. Uganda has implemented this program.

6.3 Harmonized Axle Loading and Maximum Vehicle Weight

This scheme aims at preserving road infrastructure by limiting the load on freight vehicles. COMESA has harmonised the axle load at 16 tonnes for double axle and Gross vehicle Mass (GVM) specifications at a maximum of 54 tonnes. Uganda has implemented the axle load component but is yet to implement the GVM component, since her specifications are at 46 tonnes which is limiting to Kenyan and Tanzanian trucks which transit through her borders en-route to Rwanda, Burundi and DRC.

6.4 COMESA Yellow Card

The COMESA Yellow Card is a motor vehicle insurance scheme which covers third-party liabilities and medical expenses of road accident victims caused by a foreign motorist from the OMESA region. A yellow card issued in one COMESA country is valid in all other member countries and is mostly applicable along the Northern Corridor route. Uganda has implemented this program.

6.5 Advance Cargo Information System

This is a computer based system consisting of Port Tracker, Road Tracker, Lake and Rail Tracker. Uganda is among the few regional members who have implemented the Rail Tracker component of this program, other being Kenya, Tanzania and Zambia. Kenya and Tanzania have also installed some components of the Port Tracker at Mombasa and Dar es Salaam respectively, which benefits Uganda transit traffic.

Uganda has also agreed to ratify the planned COMESA programs, including:

6.5 COMESA Bond Guarantee scheme

The COMESA bond will be a unique bond accepted by all the member countries for transit traffic. The objective is to reduce the cost associated with nationally executed customs bond guarantees for transit traffic. Since current bonds are country specific, implementation of this scheme will mean that transport operators do not have to get a new bond whenever their trucks cross borders.

6.6 COMESA Customs Declaration Document (CD-COM)

This is a system of declaration which is used for imports, exports and in transit of goods processes. The aim is to avoid creation of new documentation at every border point for goods in transit. It can reduce the cost and delays for economic operators and facilitate information sharing between customs. The CD-COM is compliant with the widely accepted standards (UN keys and ASYCUDA). It is being partially used on the northern corridor.

7.0 RECOMMENDED ACTION PLAN ON MONITORING AND ELIMINATION OF NTBS

The following recommendations emerge from the analysis on NTB monitoring and elimination consultations in Uganda.

7.1 Need for goodwill and commitment by member states

Partner States within EAC and COMESA need to consolidate and demonstrate their political and technical goodwill to implement aspirations of the EAC and COMESA Treaties, so that decisions passed at Council levels are respected and domesticated through timely amendments of national laws, regulations and practices. Any intended introduction of laws, regulations and practices that may have an impact on trade need to be discussed by all member states, and consensus reached before they are enforced. For EAC countries, they need to recognize that with the coming into force of the Customs Union, they have lost their sovereignty on trade issues, which is the same case regarding application of COMESA preferential trade agreements, including the Free Trade Area. Uganda should highly consider joining the COMESA FTA. This recognition is important so that policy makers do no delay implementation of actions that hinder rather than promote inter-regional trade. Goodwill and commitment will also minimize the time often lost during protracted discussions on trade issues and subsequent delays in implementation of agreed actions.

7.2 Legal and Regulatory Framework

Partner States need to ensure that the legal and regulatory framework governing the integration process is properly enshrined in their national laws, and clearly understood and complied with by all agencies responsible for enforcement of trade regulatory and administrative requirements. This is important so that such agencies do not introduce laws, regulations, practices and procedures that may contradict aspirations of the EAC and COMESA Treaties.

7.3 Capacity for monitoring and facilitating NTBs elimination

While the EAC endorsed its NTBs monitoring and elimination mechanism early in 2006, its application has been hampered by lack of capacity by the coordinating ministries. This is because while the responsible ministries may have the goodwill to apply the mechanism, their staffing capacity is only sufficient to deal with daily operational issues, which leaves little room to handle cross-border and behind-border obstacles in a structured manner as proposed under the NTBs monitoring and elimination mechanism. The same case of the need for capacity building applies to business associations which have been tasked with reporting existence of NTBs. It is therefore imperative that the partner states source for technical assistance from development partners to enable them to kick-start application of the mechanism. This initiative could be facilitated by EAC and COMESA Secretariats.

7.4 Harmonisation of regional transit traffic schemes

Uganda should be in the forefront of implementing the GVM component of the COMESA Harmonized Axle Loading and Maximum Vehicle Weight scheme and in lobbying other COMESA members to implement those programs they are yet to implement, including the planned ones. This is because Uganda has a lot to gain if transit procedures were harmonized, especially due to challenges presented by its geographical landlocked nature, which translate into added transport and trade facilitation costs. Harmonisation of transit procedures and requirements would therefore benefit Uganda businesses by reducing such exportation and importation costs, thereby increase the country's competitiveness in export commodities and in domestic production. Also, harmonization of transit traffic procedures and schemes would minimize duplication of effort and maximize use of scarce personnel and financial resources by responsible agencies.

ANNEX I: VALIDATION OF NTBS MONITORING MECHANISM PERSONS CONSULTED

Date	Name of Official and Position in Organization	Organization
9th March 2007	Mr. Elinathan Masiko Supervisor Tariff	Customs and Excise Department
	Mrs. Angella Achieng B Supervisor International Affairs	Customs and Excise Department
	Mr. Stephen Katumba Supervisor Revenue Intelligence	Customs and Excise Department
	Mr. Kassim Omar; Vice President- UNCCI Associate chairman; UCFA	Uganda National Chamber of Commerce and Industry (UNCCI) Uganda Clearing and Forwarding Agents Association
12th March 2007	Mr. Hilary Obonyo Executive Director	Uganda Manufacturers Association (UMA)
	Mr. Keith Diniz Commercial Director	Interfreight Uganda Ltd
13th March 2007	Officer in Charge of Weighbridges	Weighbridge Department
	Mr. Charles Mwebembezi Declaration/ ICD Manager	SDV Transami
14th March 2007	Ms. Maudah Atuzarirwe Registrar	Uganda Registration Services Bureau
14th March 2007	Mr. James Kisaale Ugandan Representative	Joint Permanent Commission
15th March 2007	Mr. Richard Kamajugo	Ass. Commissioner of Trade
16th March 2007	Mr. Patrick Okilangole Principal Commercial Officer- COMESA Desk	Ministry of Tourism, Trade and Industry
19th March 2007	Mr. Hitesh Shah Managing Director	Union Logistics (U) Ltd