EAC COMMON MARKET IMPLEMENTATION

IMPLEMENTATION OF TRADE POLICY INSTRUMENTS ON RICE TRADE IN THE EAST AFRICAN COMMUNITY

The Experience of United Republic of Tanzania

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Tanzania Private Sector Foundation (TPSF)

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The USAID East Africa Trade and Investment Hub (the Hub) boosts trade and investment with and within East Africa. It does this by deepening regional integration, increasing the competitiveness of select regional agricultural value chains, promoting two-way trade with the United States (U.S.) under the African Growth and Opportunity Act (AGOA) and facilitating investment and technology to drive trade growth intra-regionally and to global markets. The Hub supports the U.S. Government's presidential Trade Africa and Feed the Future initiatives. It is funded by the U.S. Agency for International Development (USAID). www.eatradehub.org

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ACRONYMS AND ABBREVIATIONS

CMP	Common Market Protocol
CoO	Certificate of Origin
CUP	Customs Union Protocol
EAC	East African Community
FAO	Food and Agriculture Organization
MT	Metric Ton
NTB	Non-Tariff Barrier
RoO	Rules of Origin
SSA	Sub Saharan Africa
USAID	United States Agency for International Development

ABOUT THE STUDY

In East Africa, rice is the second most important staple food, following maize. Local production is estimated at 1.2 million metric tonnes annually and is dominated by smallholder families who grow rice on farms of less than 3ha.[1] Tanzania is the main rice producer in the region accounting for over three quarters of rice produced in the region. The Tanzanian Government prioritized rice through its National Rice Development Strategy, which outlines a plan for doubling rice production by 2018 in order to improve food security and provide a potential surplus for export in the region.

This study followed reports in the East African Community (EAC) Time Bound Program on Elimination of Non-Tariff Barriers (NTBs) of March 2016[2] that Rwanda and Uganda do not give preferential tariff treatment for rice originating from Tanzania as per the requirement of the EAC Rules of Origin (RoO). The study reveals that, following a reaction to a looming shortage, the Government applied for and was granted exemption by the EAC Council of Ministers to import rice from outside the EAC at a lower Common External Tariff (CET) rate; the exemption was however abused with the adulteration of local Tanzanian rice destined for the EAC market with rice from Pakistan. Resultantly, Uganda and Rwanda imposed a 75% duty rate on rice imported from Tanzania. Based on the March 2016 NTB report, the EAC Secretariat commissioned a verification mission that confirmed that Pakistan rice had been repackaged and labelled as originating from Tanzania. Rwanda continued to impose the 75% duty on all rice originating from Tanzania until the NTB was reported as resolved in the 23rd EAC Time Bound Program Report of May 2017.

This study highlights the impact of EAC trade policy instruments (CET on sensitive products; stay of application of the CET; duty remission scheme and application of waivers for food security concerns) on Tanzania's rice trade in the region.

The study reveals variance in duty rates applicable on rice as a sensitive product across some of the EAC Partner States. By illustration, in June 2014, the EAC Council of Ministers agreed to increase the applied tariff rate from 25% to 35%, in the face of protests from farmers over the market price of cheap rice imports. However, Uganda declined to commit to the new 35% rate, preferring to maintain a 75% duty in order to promote domestic rice production, therefore requested for and was granted a stay of application of the CET on rice. More recently, in 2017, the EAC Council of Ministers allowed Kenya to apply a lower rate of 35% or USD 200/MT instead of 75% or USD 345/MT whichever is higher, while Rwanda was allowed to apply a duty rate of 45% or USD 345/MT instead of 75% or USD 345/MT.

This study calls for joint action at the EAC level in terms of treatment of rice as a sensitive product and harmonization of CET rates applicable to rice. The ongoing review of the CET

[1] Kilimo Trust, 2014: Expanding Rice Markets in the EAC
[2] EAC Secretariat (2016): Status of Elimination of Non-Tariff Barriers in the East African Community as at March 2016

creates an opportune time for this joint action. The study further recommends that the EAC Secretariat strengthens its monitoring mechanism on elimination of NTBs to ensure that where verifications are undertaken on particular consignments, the future of trade in products affected is not prejudiced. Otherwise, like in the case of Tanzanian rice, the continued imposition of duties undermines the spirit of regional integration and hinders trade where great potential exists.

OVERVIEW

Global production of rice has risen steadily from around 200 million MT in 1960 to over 678 million MT in 2009.[3] Global consumption of rice is estimated to exceed 550 million metric tons by 2035.

Rice production in sub-Saharan Africa (SSA) is dominated by subsistence, smallholder farmers who have limited access to markets. The average rice yield in the sub-continent is the lowest in the world, producing less than 3% of global rice, however production has expanded at 6% per annum, faster than any other cereal over the past decade.

In East Africa, local production is estimated at 1.2 million metric tons; dominated by smallholder farmers, growing rice in farms of less than 3 ha. Consumption has reached 1.8 million MT and is expanding each year driven mainly by urban consumers[4]. It is estimated that consumers in the region are currently spending an equivalent of USD 500 million per annum on rice imported into the East Africa market.

Tanzania is ranked among the five biggest producers in SSA (the other producers are: Nigeria, Madagascar, Mali and Guinea) accounting for almost 65% of production growth[5]. Tanzania is the main rice producer in the EAC region, accounting for over three quarters of rice produced in the EAC. Tanzania also has the highest consumption of rice, estimated at 1.18 million MT per annum followed by Kenya (370,000 MT), Uganda (167,000 MT) and Rwanda (83,000 MT)[6].

Rice is the primary staple for more than half the world's population with a vital role in the diets of billions of low-income, food-insecure consumers. This makes its availability and price politically sensitive for governments in various countries. Government intervention is often aimed at keeping prices affordable, especially for low-income consumers. In some cases, government intervention also encourages domestic production to promote national self-sufficiency. The thinness[7] of rice trade stems primarily from the use of protectionist

[3] CFC-EUCORD (2012): Rice Sector Development in East Africa.
[4] Kilimo Trust, 2014: Expanding Rice Markets in the EAC
[5] OECD (2016), 'Cereals', in OECD-FAO Agricultural Outlook 2016-2025, OECD Publishing, Paris, http://dx.doi.org/10.1787/agr_outlook-2016-7-en
[6] Supra n.3
[7] The concept of a 'thinness' refers to the fact that only a small amount of all annual global rice production is traded across borders on global markets.

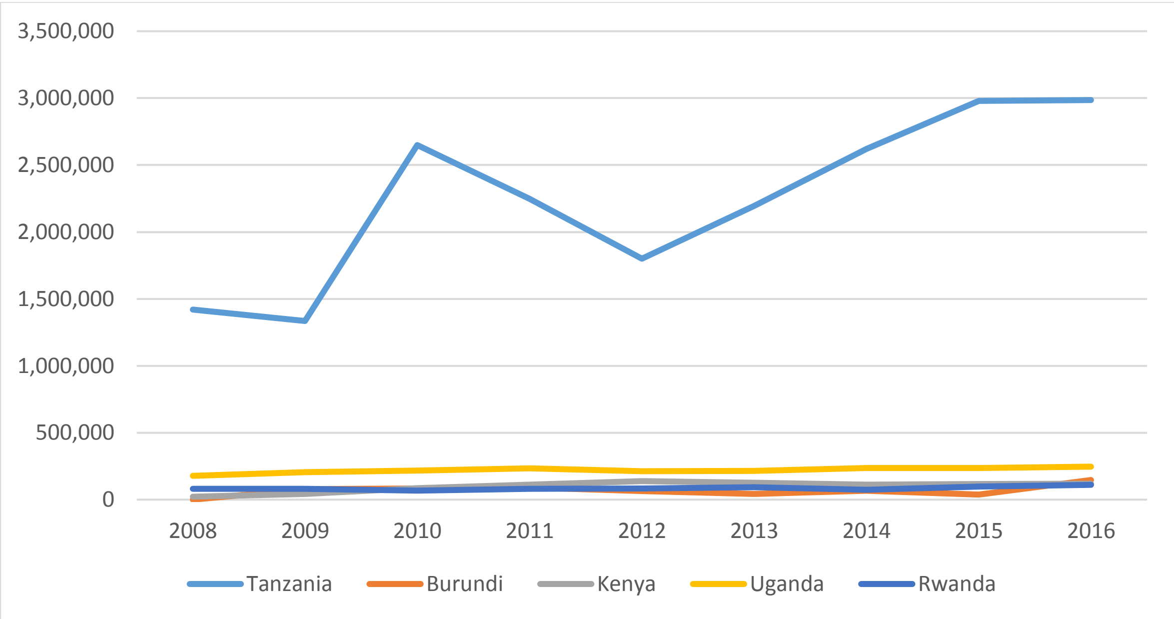
mechanisms to achieve national policy objectives of domestic food security and support for producer prices and incomes in major rice-producing and consuming countries.

The Partner States identified products with a potential for domestic production and designated 59 goods as sensitive, meaning that they are eligible for tariffs above the CET ceiling of 25%. The CET on rice imports is nominally set at 75%. Partner States have however made use of a range of exemptions approved on a year-by-year basis to apply varying CET rates on rice as a sensitive product.

THE EXPERIENCE OF TANZANIA IN RICE TRADE

In the period 2008-2016, the region produced a total of 24,469 MT of rice with Tanzania accounting for 83%. In the case of Tanzania, rice production increased from 1,800 MT in 2012 to 2,985 MT in 2016, representing an annual production average of 2,248 MT followed by Uganda (220 MT), Kenya (96 MT), Rwanda (85 MT) and Burundi (76 MT).

Rice, Paddy Production Quantity (tons) 2008-2016



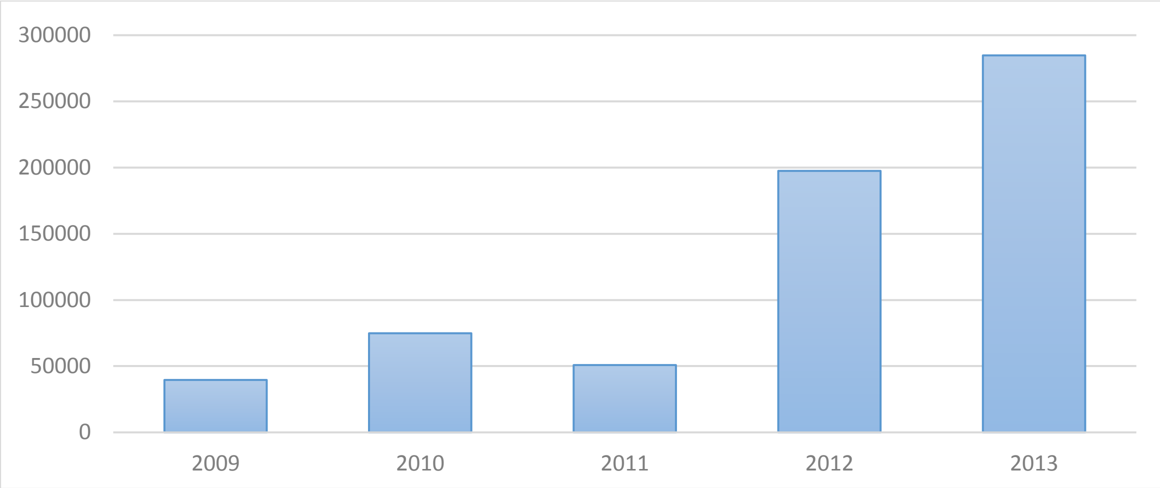
Source: FAOSTAT

These productivity levels are quite low compared to consumption; Tanzania consumes an estimated 1.18 million MT per annum followed by Kenya (370,000 MT), Uganda (167,000 MT) and Rwanda (83,000 MT)[8].

Due to low productivity, all EAC Partner States import rice to supplement local production. The table below reflects the quantity of rice imports into Tanzania for the period 2009 – 2013.

[8] Supra n.3

Tanzania Rice Imports: Quantity (tons) 2009-2013



Source: FAOSTAT

Import data suggests that Tanzania exported a total of 173,242 MT to Burundi, Kenya, Rwanda and Uganda in the period 2008-2016. Uganda and Rwanda were the largest EAC importers accounting for 47% and 24% respectively.

EAC Rice Imports from Tanzania (tons)

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016
Burundi	363,300	749,050	1,513,243	5,391,712	340,650	12,419,700	15,068,399	6,175,475	4,307,411
Kenya	5,993,200	101,000	17,773,000	10,475,000	515,000	3,568,000	15,362,000	1,705,000	7,207,400
Rwanda	7,149,951	7,328,055	25,976,642	24,228,312	4,288,016	4,732,170	4,287,065	3,635,361	4,203,703
Uganda	12,605,087	14,044,545	21,848,082	24,163,045	11,506,300	8,330,045	24,273,855	16,608,125	36,063,785

Source: COMSTAT

EAC Rice Imports from Tanzania (USD)

Country	2008	2009	2010	2011	2012	2013	2014	2015	2016
Burundi	106,506	316,519	512,311	2,177,225	140,106	43,727,838	6,038,598	2,469,015	1,603,881
Kenya	2,405,143	2,032	6,487,172	4,090,570	169,695	794,564	5,831,424	753,060	3,072,429
Rwanda	2,497,657	2,549,917	9,468,713	10,514,543	1,943,837	2,228,957	2,098,185	1,674,939	1,615,810
Uganda	3,624,039	4,138,013	6,572,100	7,274,564	3,626,084	3,212,568	11,796,732	5,793,967	11,913,463

Source: COMSTAT

EAC TRADE POLICY INSTRUMENTS

CET ON SENSITIVE PRODUCTS

Under the EAC CUP, EAC Partner States set a three-band CET: 0% for raw materials, capital goods, agricultural inputs, certain medicines and certain medical equipment; 10% for intermediate goods and other essential industrial inputs; and 25% for finished products. As part of the inbuilt flexibilities, the CUP further mandated the Council of Ministers to review the CET structure and approve measures designed to remedy any adverse effects that a Partner State may experience by reason of the implementation of the policy or, in exceptional circumstances, to safeguard community interests.[9] EAC RoO were agreed to, on the basis of which Partner States accord preferential tariff treatment to goods originating in the EAC countries. The Partner States identified products with a potential for domestic production and designated 59 goods as sensitive, meaning that they are eligible for tariffs above the CET ceiling of 25%[10]. In some cases, these sensitive products attract a mix of specific duty and ad valorem rates. Ad-valorem tariffs range from 35% to 100%. CET on rice imports is nominally set at 75% or $345/MT.

STAY OF APPLICATION OF CET

Due to challenges encountered in the implementation of CET on the listed sensitive products, Partner States have periodically submitted requests to waive application of these higher rates to import sensitive products, inter alia, when regional supply has not been able to fulfill demand. Hence, although the CET on rice imports is nominally set at 75%, Partner States have made use of a range of exemptions approved on a year-by-year basis. The import duty rates determined and adopted by the Council of Ministers are published in the EAC Gazette. In June 2014 for example, the EAC Ministers agreed to increase the applied tariff from 25% to 35%, in the face of protests from farmers over the market impact of cheap rice imports. However, Uganda declined to commit to the new 35% rate, preferring to maintain a 75% duty in order to promote domestic rice production, therefore requested for and was granted stay of application of the CET on rice.

DUTY REMISSION SCHEME

Another mechanism under the EAC Customs Management Act, 2004 is the Duty Remission Scheme. Under the Duty Remissions Scheme, a Partner State can apply for a rate that is different or lower than the prevailing CET. If granted by the Council of Ministers, the Partner State is granted a waiver to apply a different rate. The waiver is normally granted for a fixed period of time such as one year. The official notification of a waiver is published in June of every year, a request can be made to extend it on an annual basis. Goods imported at the lower import duty under the waiver and then re-exported to other EAC Partner States are subject to the import tariff rate applicable in the importing country. This may be the CET rate, or if the importing country has its own wavier, the prevailing rate of the country.

Food security related waivers are handled differently from waivers on other goods. When there is a food security concern, the Coordinating Minister of the affected Partner State writes to the EAC Secretariat requesting an extraordinary meeting of the Council of Ministers to be convened. The written request specifies the product and the proposed

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[9] Article 12 (3) of the Customs Union Protocol specifically provides for the Council of Ministers to review CET structure and approve measures designed to remedy any adverse effects which any of the Partner States may experience by reason of the CET implementation.

[10] CET 2017 designates 59 product lines as sensitive items under Schedule 2.

change to the CET or wavier; in copy to the request are the Coordinating Ministers in the other Partner States so that they are aware of the request. The EAC Secretariat then convenes an extraordinary meeting. The Council of Ministers almost always approves the request for a waiver if food security concerns are the justification. The Partner State applying for a waiver will specify a time period, a specific rate (usually zero) and a specified quantity. If products imported under the food security concern are re-exported, the importing country has the right to apply whatever rate it applies to imports from outside the EAC.

THE CASE OF TANZANIAN RICE

Sometime in 2012, reacting to a looming shortage of rice in the country due to crop failure, the Government of Tanzania applied for and was granted exemption by the Council of Ministers to import rice from outside the EAC at a lower CET. The result was massive abuse of Tanzania rice exports that were adulterated with rice from Pakistan. According to Kilombero Plantations Ltd. - Chief Executive Officer, Mr. Carter Coleman, his company posted a 4bn/- loss as a result of the Pakistan rice imports in 2013 and a similar amount due to a 25 percent price fall caused by a bumper harvest in 2013/14 season. *"Some 40,000 tons of cheap Pakistani rice that was exempt from the EAC CET was imported, dropping the wholesale price by 54 percent and impoverishing hundreds of thousands of rice smallholders…"*

In addition, Zanzibar not imposing the 75% CET on imported rice (but rather imports to Zanzibar are subject to a smaller tariff of 25 percent, or are even exempt from tariff altogether)[11] created problems in the rice market.This reportedly encouraged traders to import more than is required for Zanzibar's consumption and the surplus found its way into the Mainland through dhows and pirate ports along a porous extensive Tanzanian coast of more than 1,400 kms. For example, Chapa Africa high quality 5% broken, double polished Thai rice was selling in Dar es salaam wholesale market at TSH 1,150/kg in January/February of 2015. If the CET had been paid, the price would fetch a minimum of TSH 1,225/kg.

As a result, Uganda and Rwanda imposed 75% duty rate on rice imported from Tanzania. Tanzania raised this as a NTB and deliberate violation of Uganda and Rwanda's commitments under the EAC CUP.

At one of the meetings of the EAC Forum on the elimination of NTBs, Rwanda's delegation included a trader who had just been released from a two-year jail term for cheating the customs officials that the rice he was importing from Tanzania was a product of Tanzania and complied with the EAC RoO criteria. The trader had, in the respective customs declaration forms, written that the consignment of rice he was importing fully originated from Tanzania and supported his declaration with authentic certificates of origin. When the examination officer peeled off the outer cover of the package, it revealed that the rice had been packed, sealed and labelled "Product of Pakistan".

[11] FAO, 2015 The Rice Value Chain in Tanzania

Based on the March 2016 NTB report, the EAC Secretariat commissioned a verification mission that confirmed that Pakistan rice had been repackaged and labelled as originating from Tanzania. Rwanda continued to impose the 75% duty on all rice originating from Tanzania until the NTB was reported as resolved in the 23rd EAC Regional Forum Time Bound Program Report of May 2017.

As of May 2017, Tanzania's long-standing dispute with Rwanda - where Rwandese authorities assessed a charge of $300 per metric ton on rice originating from Tanzania - was resolved.

The Tanzania Private Sector Foundation (TPSF) led this advocacy process on behalf of Tanzania's rice sector with support from the USAID East Africa Trade and Investment Hub; convening several national-level advocacy meetings, undertaking analysis, hosting Rwanda's Trade Minister in Dar es Salaam for bilateral advocacy discussions, and further presenting Tanzania's position at EAC's regional NTB forum in Arusha.

At the 23rd EAC Regional Forum on Elimination of NTBs in May 2017, TPSF reported on its collaboration with the USAID East Africa Trade and Investment Hub in implementation of the EAC Common Market Protocol and the elimination of NTBs. TPSF presented on reported NTBs and recommended modes of solving specific NTBs.

CONCLUSIONS & RECOMMENDATIONS

Although the policy framework intended to benefit trade in sensitive products like rice and further domestic food security objectives, its application and ineffective implementation has undermined trade in the rice market for Tanzanian producers.

There is need for joint action at the EAC level in terms of 1) treatment of rice as a sensitive product and the CET rates applicable and 2) review of the inbuilt flexibilities availed through stays of application of the CET and the duty remission schemes. The opportune time exists now that the review of the CET is underway.

The EAC Secretariat should strengthen its monitoring mechanism on elimination of NTBs to ensure that where verifications are undertaken on particular consignments, the future of trade in products affected is not prejudiced, otherwise like in the case of the continued imposition of full duties on Tanzania rice, the consequences of such actions undermine the spirit of the integration and hinder trade where great potential exists.

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Status of Elimination of Non-Tariff Barriers, October 2017

Status of Elimination of Non-Tariff Barriers, April 2018