

Non-Tariff Barriers Challenge on Formation of Multilateral Trade Policy during the Covid-19 Crisis in the East African Trade Region

Beryl N. Olubandwa and Masoud Zamani

ABSTRACT

COVID-19 disrupted trade worldwide, causing supply and demand chain disruptions. As a result, trade volume dropped dramatically in the first half of 2020, forcing countries to implement new policies to defend their economies. The study revealed new Non-tariff barriers caused by COVID-19 into the East African region that prevented cooperation and effective negotiations. Without this consensus, the trade will not be able to flow freely. Trade negotiations aim to achieve the mutual reduction of barriers to trade among countries to lead to improved access to markets and stimulate economic growth. The study used inductive reasoning and an empiricist approach using a constructivist ontology to explain challenges informing multilateral trade policies during the Covid-19 crisis in Africa. The research adopted Chatham house rules to encourage participation and discussion. The study examined the challenges faced by policymakers in implementing old and new policies during the COVID-19 period and evaluated the East African countries' capacity to adopt multilateral trade policies, multilateral trade agreements, and multilateral cooperation within regional trade agreements, despite East Africa mechanisms, including the East African Community Elimination of Non-Tariff Barriers Act, 2017. NTB elimination mechanisms have proven ineffective, owing primarily to member country's political and nationalistic policies. NTBs can be effectively eliminated through legally binding systems, such as the COMESA taxing protocol, but all these measures are dependent on member states' cooperation. NTBs are complex and recurring in nature; there is a need for further research into the implementation and complexities of NTBs.

Keywords: East Africa, COVID-19, Non-Tariff Barriers, Trading Blocs, Trade Policy

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I. INTRODUCTION

Multilateral trade policies are contingent on a country's devotion to cooperating and aligning its national policies in multilateral trade negotiations with member states. During a crisis, trade policies are the first line of defence, guiding a region's trade outcome by deciding the extent to which a region can offset the negative impact of a crisis on trade explains (Olubandwa, 2020, p.1). The East Africa trade region; Kenya, Rwanda, Tanzania, Burundi and Uganda, (omitting South Sudan, as it is not yet a member of WTO. This group of member states is a part of three different but overlapping trading blocs: EAC, COMESA and SADC, as seen in Fig. 1:

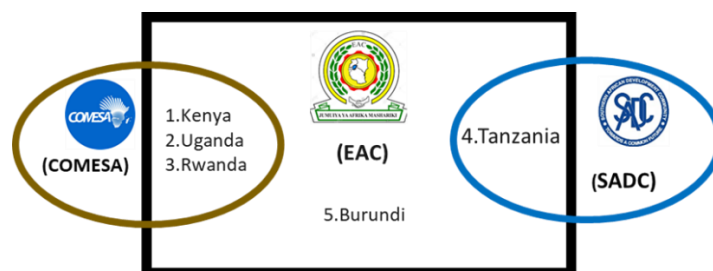


Fig. 1. East African Regional Trading Blocs (AFDB, 2020a, p. 10).

The overlapping membership was initially a strategic manoeuvre to maximise benefits from competing interests (AFDB, 2020a, p. 10). However, this overlapping membership has led to frequently conflicting agreements among the three blocks, which stagnates trade flow from time to time, resulting in a non-tariff barrier—illustrating the vitality of comprehending multilateral trade policy difficulties with NTBs (AFDB, 2020a, p. 10).

NTBs are generally defined as laws, regulations, and administrative and technical requirements imposed by a Partner State that obstruct trade (other than tariffs). They are classified as either technical or non-technical trade barriers. Technical measures include unjustified sanitary and phytosanitary measures (SPS), Technical Barriers to Trade (TBT), pre-shipment inspection, and other formalities. Non-technical measures include contingent trade-protective measures, non-automatic licensing, quotas, prohibitions, and quantity-control measures, measures other than SPSs or TBTs, price control measures, finance measures, competition-affecting measures, and trade-related investment measures (Akinyi, 2020, p. 1).

According to Anyanzwa (2019), challenges facing intra-regional trade were; inadequate value addition to major sectors distressing export prices, trade disputes, Non-tariff barriers, restrictive trade regime limiting manufacturer capacity to penetrate regional markets and competition of producers from other regional trading blocs benefiting from export subsidies from their governments (Anyanzwa, 2019). While According to the AFDB, The primary challenges of regional integration in East Africa were " Insufficient complementarity in trading, the low, competitive position of countries to supply goods in the region, weakness in institutional capacity to advance regional integration, and failure to address political issues related to regional integration" (AFDB, 2019a, p. 3).

Among the challenges were a high reliance on China for imports, trade disputes and growing protectionism, inability to implement agreed-upon policies, a slowdown in major economies, and a preference for national policies over multilateral policies, to name a few. The East African region faces various Non-tariff barriers in establishing, negotiating, and implementing global trade policies, which have impeded trade flow (AFDB, 2020a, p. 24). COVID-19 has further aggravated and intensified these challenges.

Policies are the first line of defence for a country's economy during a pandemic or crisis; they instruct member countries on alleviating the adverse effects of a potential disaster (World Bank, 2020b). Policy formation, negotiation, and implementation, on the other hand, face several obstacles that stymie the process. It is vital to recognise these issues in order to address them. The East African Community (EAC) has had several mechanisms to address/eliminate non-tariff barriers (NTBs), including the East African Court of Justice. Nevertheless, NTBs continue to be a significant barrier to trade in the region. NTB's increasing transaction costs and low intra-regional trade volumes result in a decline in intra-EAC trade and investment. Non-tariff barriers impede the free movement of goods (Akinyi, 2020, p. 1).

II. SIGNIFICANCE OF THE STUDY

In the world of international affairs, trade equals soft and hard power; the ability of a region to use trade effectively equals to trade regions possessing the power to have more advantage in international politics. A good case in point is the European Union, which has become an uncontested power in international affairs (Meunier & Nicolaïdis, 2017, p. 210). Secondly, there is a high interconnection and interdependence amongst countries worldwide. Thus, it is vital to formulate multilateral trade policies that can provide a roadmap that can effectively enable free trade flow during a pandemic. Hence, it is vital to comprehend the region's problems and potential remedies. It is critical to identify the challenges facing multilateral trade policies in East Africa to find future solutions and avoid trial and error policies. Lastly, developing nations did not participate actively in multilateral trade discussions until the Uruguay round (WTO, 2007, p. 4), requiring more profound research and support for multilateral trade policies, particularly in Africa. Filling the multilateral trade policy information gap in East Africa is critical for policymakers to incorporate into the multilateral trade policy decision-making process in the East African trade zone. The paper examines the challenge of Non-Tariff Barriers information of multilateral trade policy during the covid-19 crisis in the East African region.

Research question: What are The challenges of Non-Tariff Barriers on Formation of Multilateral Trade Policy during The COVID-19 Crisis in the East African Trade Region?

III. METHODOLOGY

The study employed an empiricist technique with a constructivist ontology under the theoretical framework, which posits that social actors shape social phenomena and meanings. Inductive reasoning was employed in this study, so the research began with facts, observations, and findings as a hypothesis were not required. The study employed both qualitative and quantitative research methods. Questionnaires were used to collect primary data, while reports collected secondary data.

A. The Population of the Study

Multilateral trade is coordinating national policies between three or more countries. Therefore, the study population consisted of Regional trade institutions, as they are concerned with formulating multilateral trade policy in the East African trade region and multilateral trade support institutions supporting multilateral trade initiatives in the East African Region.

B. Sampling Procedure and Sample Size

Primary data: The two main trading blocks in the region were picked based on purposive sampling. The study selected EAC and COMESA as the RTA contains most East African countries. The study utilises Simple random sampling to select multilateral trade policy support institutions concerned with policy formation, such as UNCTAD, UNECA, WTO and IT, among others. Considering the sensitive nature of the questions and the organisation structures, Chatham house rules were applied to encourage more participation and discussions. While *Secondary data:* was collected from reports and press releases from RTAs and multilateral trade policy support institutions.

C. Instrumentation

The research collected data using questionnaires. The research developed the research instruments based on the objective of the study. The structure of the questionnaires consisted of open and closed-ended questions.

D. Data Analysis

Because the study's theoretical framework employs constructivist ontology, which asserts that social actors shape social phenomena and meanings, the data was analysed using content analysis. Consequently, content analysis is used to analyse social phenomena that are qualitative and interpretive. The content analysis summarises qualitative data and converts dense material into a well-organised, short overview of significant findings. As a result, content analysis will adequately analyse the questionnaire created for this study.

IV. THE CHALLENGE OF NON-TARIFF BARRIERS ON FORMATION OF MULTILATERAL TRADE POLICY DURING THE COVID-19 CRISIS IN THE EAST AFRICAN TRADE REGION

The East African Community has made decisive advances in eliminating non-tariff barriers affecting trade within the region." However, several NTBs have proved hard to solve, and new ones have emerged "countries (Calabrese & Eberhard-Ruiz, 2016). NTBs vary; thus, they will require complex multi-institutional processes to remove than others. Nevertheless, some measures have been addressed severally, implying that some NTBs resurface from time to time. They appear to be complaints, requiring simple administrative acts for their resolution rather than actual NTBs (Calabrese & Eberhard-Ruiz, 2016).

A. Direct Technical Challenges to Non-Tariff Barriers

- a) *Complex Non-Tariff Barriers structure:* Approximately 82% of reported Non-Tariff Barriers in the region are operational by design, demonstrating that the mechanisms capture more operation than the behind-the-border types of NTBs.¹ thus the mechanisms established to eliminate NTBs are not as effective. "behind-the-border types of NTBs" are profoundly complex and challenging to identify and solve and thus constrain the growth and expansion of intra-regional trade and investments (COMESA, 2020 b).
- b) *Recurring Non-Tariff Barriers:* A significant number of tariffs in East Africa have been addressed. However, NTBs are still on the rise continue to be imposed by the Partner Country on trade despite the commitments undertaken with various protocols (EASSI, 2020).

B. Non-Technical Measures during COVID-19

- a) *Prioritisation of national policies over multilateral policies:* Although the EAC secretariat issued policy guidelines to facilitate goods and services during the Covid-19 pandemic (Anami, 2020),

¹ The behind-the-border measures are mainly imposed internally and include domestic legislation covering health, technical, product, labour, environmental standards, internal taxes or charges, and domestic subsidies.

countries were unwilling to overlook their national interests in favour of multilateral policies making it more challenging to negotiate and agree on new multilateral policies to address trade disruption (WTO, 2013). Refusing to prioritise multilateral policies further worsened the situation. For instance, Kenya implemented protectionist measures to protect their country from the virus by increasing transportation requirements, leading to a strained supply of trucks on the borders (COMESA, 2020, p. 14). During COVID-19, National interests and protectionist policies took priority over regional trade agreements, leading to border closures, which are affecting the export of essential goods and services along with cross-border export interruptions.

- b) *Landlocked countries*: Landlocked countries were the worst hit, Uganda, Burundi, and Rwanda experienced the most disruption in inter-regional trade due to increased cross-border restrictions and challenges (AFDB, 2020a, p. 10).
- c) *Insufficient policies for essential goods*: There were insufficient policies on essential goods². During COVID-19, essential goods were defined by World Customs Organisation as goods aiding to alleviate issues or situations related to the coronavirus outbreak (World Customs Organization, 2020).
- d) *COVID-19 health challenges to multilateral policies*
 - i. *The authenticity of tests*: There have been trading disputes surrounding the authenticity of tests; one country has different test policies from another country. This dispute in the authenticity of tests depends on trade tensions between East African member countries. Especially prominent between Kenya and Tanzania. Frustrated traders threatened to protest, appealing for urgent intervention as the cargo included highly perishable goods, which led to many traders incurring heavy trade losses.
 - ii. *Re-infection (Delta variant)*: The resurgence of new infections and re-imposition of containment measures, especially from the new COVID-19 delta variant, could undermine the projected recovery (WTO, 2021, p. 1). The progress in recovery can be alienated; thus, countries must create policies to provide new variants.
 - iii. *Delay in vaccination*: East Africa is lagging on its vaccination schedules, posing a threat to the trade recovery. Ramping up the vaccine production and dissemination increases the number of vaccinated individuals, thus allowing containment measures to be relaxed sooner and, in turn, reduces trade restrictions leading to increased trade flow and growth (WTO, 2021, p. 1). Thus, EAC should prioritise vaccination policies to provide an environment for trade to flow more easily (WTO, 2021, p.1).

C. Barriers Intensified by COVID-19

- a) *Over-reliance on imports from China*: During COVID-19, China was the first region directly impacted by the COVID-19 pandemic; East Africa's heavy reliance on China disrupted East Africa's supply chain. An average of 20 % of East Africa's imports came from China, the biggest importer to the East African trade region (AFDB, 2020 a, P.21). However, during COVID-19, Lockdowns and export bans were adopted to prevent the spread of the virus that affected imports in China, leading to severe supply and demand shocks that affected the East African region and the rest of the world.
- b) *Intensified trade disputes within the East Africa trade region*: Unfortunately, COVID-19 intensified underlying trade disputes in East Africa, making it challenging to negotiate multilateral trade policies effectively; protectionist policies lead to significant disruptions in the demand and supply chain. EAC reported that Trade disputes were one of the biggest challenges in intra-EAC trade before COVID-19. During the COVID-19, trade disputes intensified.
- c) *Intensified overlapping membership challenges*: The low trade volumes coupled with multiple and overlapping memberships in the regional trading blocs indicate the rising protectionism in trade and technology barriers and trade tensions among the member countries (AFDB, 2020 a, P.18). The EAC trading block set their policies on building back better while COMESA had also set their own, whereby some of the policies contradict each other, further causing barriers to trade (example) (AFDB, 2020 a, P.18).

D. Implementation Challenges

Policy implementation failure is a barrier to trade that undermines trade facilitation initiatives, especially during crises. Emergency policies cannot be adequately introduced if previously agreed-on policies are not established. Kenya has projected GDP performed better than Tanzania that had equal opportunities. Mainly because Tanzania had not implemented most WTO Trade Facilitation Agreements (TFA) like modernisation and digitisation, thus Kenya quickly adopted a single-window system. In contrast, some of its neighbours had to begin creating an online system before creating a single-window system, thus taking a long time.

² An essential good is defined as a physical item required by a consumer in order to sustain their health or life.

Additionally, although all member Countries have established NTBs Focal Points, several countries are yet to formalise and operationalise their National Monitoring Committees. These are considered critical to implementing the regulations and elimination of NTBs (EABW, 2020). Nations agreed upon multilateral trade policies, but the story was different on the ground.

- a) *Lack of follow up procedures and adaptability:* After a multilateral policy has been implemented, there is still an insufficient follow-up structure to ensure all countries and cross-border stuff are utilising online portals as intended. For example, the Northern Corridor Transit and Transport Coordination Authority (NCTTCA)³ noted that there is a decline in the number of people visiting the sites. (NCTTCA) wants to hold a survey to understand challenges facing users while accessing the portal to find out whether it is the portal that is difficult to manoeuvre or s it lack the structure of adhering to this policy (Freight Logistics, 2021a).
- b) *Partner countries lack the commitment to implement agreed-upon policies:* The SCIFI noted that Tanzania, Rwanda and Burundi had waived visa fees under the Common Market Protocol. However, Kenya and Uganda were still charging visa fees. (EAC, 2021). Additionally, EAC noted member countries had taken trade-restrictive measures against each other, and the council instructed member countries to comply with the notification obligations in EAC legal instruments. EAC minister advised members to eliminate NTBs by removing all discriminatory fees, levies and charges that stunt trade flow (EAC, 2021).
- c) *Capacity challenges in implementation:* In the EAC's 21st Ordinary Summit, Heads of State acknowledged that not all member countries had the capacity to sign, ratify and implement the EAC-EU-EPA agreement. Therefore it was concluded that member countries who sought to continue with the agreement could proceed and commence the EAC-EU EPA implementation, as provided for in the EAC Treaty (EAC, 2021).
- d) *Multilateral trade policies implementation challenges:* Previously, multilateral trade policies to facilitate trade in the region before COVID-19 were not implemented. For example, EAC countries had ratified the WTO's trade facilitation agreement (TFA). "The TFA encompassed provisions for expediting the movement, release and clearance of goods and set out measures for effective cooperation between customs and customs compliance issues" (WTO, 2013). However, most East African countries had not begun implementing these trade facilitation instruments, thus increasing bureaucratic delays on cross-border trade.

V. RESULTS

The data was analysed using content analysis to address the specific objectives. Due to the sensitivity of information from the charter and the nature of the given organisations. Under the Chatham House Rule, anyone who comes to a meeting can use information from the discussion but cannot reveal who made any particular comment, and This is designed to increase the openness of discussion.

Coding: The main objective of coding is to break up very long and detailed qualitative data like interviews and questionnaires.

TABLE I: POPULATION CODE AS PER CHATHAM HOUSE RULES

Code	Explanation	Example
Regional trade agreements	A regional trade agreement (RTA) is a treaty between two or more governments that define trade rules for all signatories. In the questionnaire	EAC and COMESA
Multilateral trade support institutions	United Nations organisations supporting trade in the region	such as UNECA, WTO and UNCTAD

VI. RESULTS AND DISCUSSION

1. 60% of the RTA population stated that they had no multilateral trade policy plans and response before COVID-19, while 40% said yes thus, the concept is disputable. However, 84 % of the MTSIs population state that there were proposed support policies provided before COVID-19, but the individual countries had expressed implementation challenges such as inadequate capacity and funds. From the above analysis, it can be concluded that MTSIs provided some trade support policies, but these policies were not implemented or agreed on due to implementation challenges.
2. 80 % of the RTA target population agreed that East African countries must implement multilateral trade policies. In comparison, 90% of the MTSIs target population stated that RTAs are committed to implementing multilateral trade policies. This shows that the challenges in formulating multilateral

³ The Transport Observatory platform has been tracking performance along the corridor using raw data collected from the stakeholders in all the Member countries.

trade policies do not start on this level. Nevertheless, it also demonstrates that RTAs are more committed to forming and developing multilateral trade policies than countries individually, as countries are mainly more focused on national policies.

3. In accordance with Fig. 2, RTAs stated that the biggest challenge facing RTAs information of multilateral trade policies between member countries before COVID-19 was trade disputes followed by low intra-regional trade. On MTSIs, 90% stated that the RTAs show a high level of commitment.

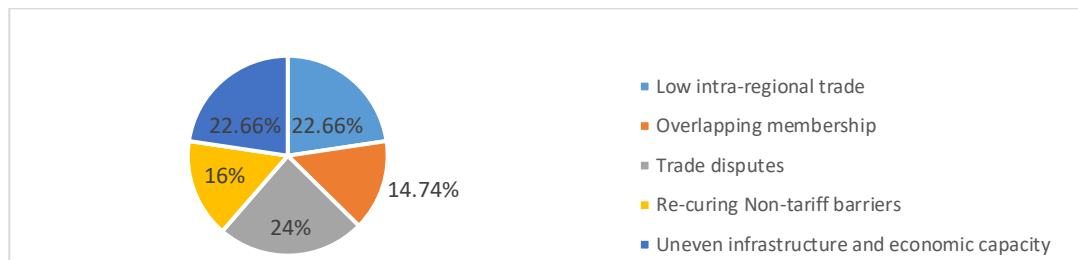


Fig. 8. Policy formulation challenges to regional trade.

- 4) In accordance with the Fig. 9-target population, both RTAs and MTSIs stated that the Biggest NTM challenges before COVID-19 in the region were cumbersome inspection requirements followed by customs and administrative documentation procedures.

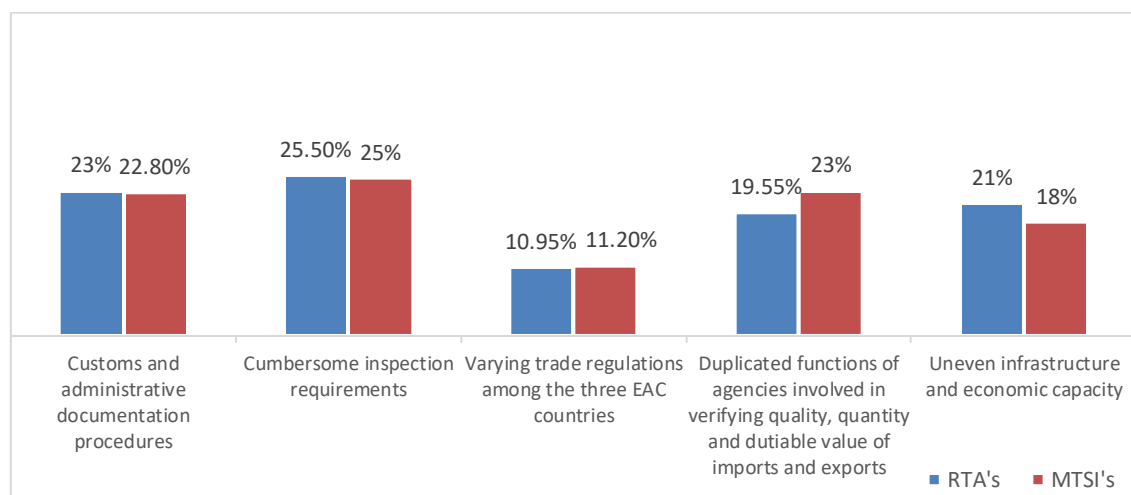


Fig. 9. Biggest NTM challenges before COVID-19 in the region.

When it came to the most significant challenges confronting the non-tariff barriers, both the RTAs and MTSIs had diverse opinions. Each segment had a very different set from the other, and both groups stated that during the COVID-19 crisis, each non-tariff barrier had a unique effect on trade 50% of the target group stated the barriers are intertwined with each other, while the remaining 50% stated that implementation was the most significant barrier. This analysis demonstrates that more profound research needs to be conducted into non-tariff barriers, implementation, and complexities.

VII. CONCLUSION AND RECOMMENDATIONS

There were increased challenges to safe trade and underlying policy implementation failure that amplified pre-existing challenges that intensified trade disputes, among other challenges. Covid-19 health policies should be observed while facilitating the free movement of merchandise in the region by demonstrating how cross-border coherence can significantly affect the flow of goods. Second, existing NTB elimination mechanisms have proven ineffective, owing primarily to member countries' political and nationalistic policies. NTBs can be effectively eliminated through rule-based or legally binding arrangements, such as the COMESA proposal of taxing member states that impose barriers without prior notification and explanation. Member countries must also demonstrate goodwill and commitment to properly implement and enforce multilateral trade policies.

RTAs should engage all potential partners (old and new) to create a suitable enabling environment for candid engagements. There is a critical Need for aligned interests. To encourage countries to merge national and multilateral policies, all partners should have a shared vision and a clear articulation of issues and

interests to be addressed, including the costs and benefits of participation. If countries and their leaders see that multilateral trade policies align with their national policies, then nationalistic/ protectionist barriers to trade will be reduced.

In a regional setting, countries meet, negotiate, and agree on what policies they need to implement in case of a crisis and without a crisis. This way, there are already agreed on policies that will prevent trade disputes between countries and reduce non-tariff barriers that hamper trade. For instance, the one-border post built between Kenya and Tanzania as well as Kenya and Uganda has already begun increasing trade flow. More pre-negotiated policies will reduce trade disputes and increase trade flows; this is a strategic way to attain a good partnership for effective policymaking.

Employing and adapting more of the WTO trade facilitation procedures is a key to reducing trade barriers, for example, Modernisation of procedures such as the use of Electronic solutions, Enhancing the digital platforms and innovative ways of facilitating cross border trade. This will enhance green lanes for essential goods and a single-window system that reduces the time barrier to trade whereby traders take less time and border procedure. Implementation of Coordinated Border Management to address cross-border procedures, including healthy controls, holistically can reduce NTB's to trade. This will ensure all the countries have similar regulations to COVID-19 health procedures, reduce trade disputes and have similar procedures for authenticating tests. There should be a focus on removing NTBs, particularly the adoption of MRA's to address challenges arising from NTM's and standardisation of documents; Documents to follow a similar format and user-friendly software to allow the same paperwork. There should be more profound research into understanding and eliminating NTBs.

CONFLICT OF INTEREST

I Beryl N. Olubandwa and Dr. Masoud Zamani declare that we do not have any conflict of interest.

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