

ASSESSING THE INFORMAL CROSS BORDER TRADE BETWEEN KENYA AND UGANDA

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ABSTRACT

Kenya and Uganda are important trading partners, but formal trade links between them have been constrained by a myriad of factors which have spurred the growth of informal trade. Trade between Kenya and Uganda is substantial and vital to both countries. The overall objective of the study was to investigate the informal cross border trade between Kenya and Uganda. Specifically the study aimed; to evaluate the role of government taxation policies on informal cross border trade between Kenya and Uganda, to establish the type of commodities being traded in the informal cross border trade between Kenya and Uganda and to assess the influence of trade liberalization policies on informal cross border trade between Kenya and Uganda. The study targeted 150 traders operating across the Kenya Uganda border as well as 10 key informants who included customs officials, security and immigration personnel. Respondents were sampled purposively, section will be picked randomly prioritize the traders perspectives of the trade and willingness to participate, however a deliberate effort will be made to triangulate all their views. The study used both primary and secondary data. Interview schedule as well as a questionnaire was used. Most of the information collected was analyzed quantitatively using SPSS and the results further triangulated with other information derived from direct observation and interviews that was derive qualitative data from key informants. The study revealed that ICBT is a major source of livelihood for people living at border posts, while for government and other institutions such as URA and Police, ICBT as illegal

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activity/disguised smuggling and a source of unfair competition thus a loss of revenue. ICBT is carried out by men and women of whom, 56 percent were Kenyans and 44% Uganda nationals, and 88 percent are able to read and write. The study further observed that 84 percent of household businesses were operating from permanent structures. This present how well ICBT thrives and benefits traders, leading to structural development. Several reasons were advanced for engaging in ICBT, including; it's a way to earn income, employment thus a major source of livelihood for people's survival. It was also reported that the lucrative markets offered by the counterparts in the bordering country promotes and attract people to engage in the trade. Besides it was mentioned that traders have a tendency to evade high taxes and other customs levies; bureaucratic licensing thus ICBT presents a viable alternative. ICBT is mainly dominated by women and the youth. The following recommendations will go a long way in informing policy and decision making processes for improving the livelihood of those engaged in ICBT as well as improving the ICBT exercise between Kenya and Uganda. Information is very valuable in facilitating informal cross border trade. Therefore at operational level there is need for gender specific strategies, programs and activities that recognize the different needs and capacities of men and women traders. Informal cross border traders cited financial services as a critical problem. The shortage of ready finance hinders the expansion of ICBT activities. Therefore, it is necessary to explore alternative lending ways that are responsive to the unique

demands of the informal cross border trade. Inclusion of informal cross border trade in the vision of policymakers will help to facilitate their individual economic empowerment as well as enhancing their

role as a significant component of the regional trade activities.

Key Words: *assessing the informal cross border trade between Kenya and Uganda*

INTRODUCTION

Many countries in Africa registered a period of growth immediately after independence. After this initial period of growth, most economies in the region faltered then went into decline.¹ Africa has witnessed a decade of falling per capita incomes, increasing hunger, and accelerating ecological degradation. This has been caused mainly by informal cross border trade. Cross-border trade is the buying and selling of goods and services between businesses in neighbouring countries, with the seller being in one country and the buyer in the other country. Garcia defines the informal trade as entailing a market-based production of legal goods and services that are deliberately concealed from public authorities and escape detection in official Gross Domestic Product (GDP statistics).²

Cross border trade in East African Community (EAC) is primarily informal which directly or indirectly escape from the regulatory framework and often go unrecorded or incorrectly recorded into official national statistics of the trading countries.³ Informal Cross Border Trade (ICBT) is at approximately 40% of the GDP in Africa Countries and considers that it comprises the majority of the trade in the EAC.⁴ The ICBT is common in every country regardless of the income level and size of the economy. It consists of activities ranging from unreported economic activities by women selling cabbages at the border to a registered business that underestimate their production.

A significant proportion of cross border trade between Uganda, Tanzania and Kenya is in the form of ICBT. Apparently, women constitute larger proportion of small scale informal cross border trade. In spite of efforts to promote trade integration among EAC Partner States and

¹Chung, O. (2010). The Lopsided International Investment Law Regime and Its Effect on the Future of Investor-State Arbitration 47 *Va J Int'l L* 953

²Garcia, C. (2004). All the Other Dirty Little Secrets: Investment Treaties, Latin America and the Necessary Evil of Investor-State Arbitration 16 *Fla J Int'l L* 301.

³Anghuie, A, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge, CUP 2004)

⁴Press release on the October 2009 Global Forum on Remittances, facts and figures from IFAD

specifically Uganda and Kenya, formal trade links are still facing several constraints.⁵ Some of these restrictions push traders to ICBT but there are also exclusive incentives or advantages that promote existence of ICBT that need to be explored. Levin and Widell argue that the extent of informal trade is directly correlated with the average applied tax rate in the importing country.⁶

While it may be relatively easy to remove constraints or restrictions to formal trading, the same may not provide better incentives for traders in the informal sector to turn to formal trading. It is worth noting that there had been a Customs Union between Kenya and Uganda from as far back as 1917, with Tanzania only joining it much later in 1927.⁷ This kind of history between the two nations precipitates a deeper understanding that should be explored. According to the Westbrook, both Kenya and Tanzania have had a marginal drop in agricultural crop production while Uganda has posted the largest drop.⁸ This is seen as a confluence of factors, not least is the move towards industries and industrialization within the greater East African Region. Whether this trend will be lasting or not will remain to be seen and further, the ICBT between Uganda will surely include industry related exchanges.

Apparently, extensive, complex and multi-directional cross-border trade of staple foods and livestock exist in the East African region.⁹ Borai state that there is scarce information on the contribution of informal trade to overall cross-border trade. Most (76%) of the volumes were traded through formal channels, except for sugar and vegetable oil, which were traded informally. Kenya and Uganda are important to each other as trading partners though formal trade links between the two countries has had problems that may have given rise to the informal trade.¹⁰ While this informal trade may be important to both nations, it takes up a large chunk of the total trade such that it may rival the formal trade.

⁵Abdulai, D. (2007). Attracting Foreign Direct Investment for Growth and Development in Sub-Saharan Africa: Policy Options and Strategic Alternatives' 37(2) *AfriDev*1

⁶ Levin, J., and L. Widell (2007): "Tax Evasion in Kenya and Tanzania: Evidence from Missing Imports," Working Papers 2007:8, Orebro University, Swedish Business School.

⁷Crucial Lessons for all member states from the collapsed EAC – The East African, December 29th 2012

⁸Westbrook, J. (2012) 'Priority Conflicts as a Barrier to Cooperation in Multinational Insolvencies' (2008-2011) 27 *Penn St Int'l L Rev* 870.

⁹ East Africa Crossborder Trade Bulletin, April 2011

¹⁰Borai, R. (2013) 'Cross-Border Corporate Insolvency: A Modest Proposal for An Enhanced International Approach' PhD Thesis, Queen Mary College, University of London.

STATEMENT OF THE RESEARCH PROBLEM

Concern about informal trade has gained precedence among researchers. Although informal trade comes in different forms or known by different names like; illegal, unofficial, underground, parallel market activities, black market activities, over and under-invoicing, smuggling or hoarding, it is characterized by not being entered in national accounts.¹¹ The lack of records gives wrong signals to policy makers. In Eastern and Southern Africa in particular, indications are that informal trade is still extremely high. For example, it is estimated that 30,000 -60,000 metric tons of maize is smuggled annually from Zambia to Zaire costing the former \$3million and that much of the Malawian surplus maize in the early 1980s was Mozambican.¹² The Uganda Petroleum Dealers Association estimate that 25 percent of petroleum fuel (petrol, diesel and paraffin) consumed in Uganda is smuggled from Kenya, costing the Ugandan government about \$1.2million annually.¹³

Kenya and Uganda are important trading partners, but formal trade links between them have been constrained by a myriad of factors which have spurred the growth of informal trade.¹⁴ Trade between Kenya and Uganda is substantial and vital to both countries. Despite trade promotion protocols and market reforms which, to a large extent, have eased exchange controls and commodity movement restrictions, high sales taxes and bureaucratic import/export procedures still inhibit formal trade between the two countries. In addition, inappropriate policy interventions in the factor and product markets tend to distort relative prices, thus encouraging informal cross-border trade.¹⁵

According to Akech interest in cross-border trade has been overwhelming, but knowledge of its magnitude, determinants, and consequences remains inadequate, leading not only to undervaluation of figures in the national accounts, but also inhibiting formulation of appropriate policies and strategies to exploit its potential impact, particularly on food security.¹⁶ As a result of this, the both countries remain in dire need of a recommendation on

¹¹Kinana, A. (2012). The Role of the East African Legislative Assembly in Enhancing Popular Participation and Harmonisation of Laws in East Africa (Annual Conference of the East Africa Law Society, Dares Salaam, 25 November.

¹²IMF, *Regional Economic Outlook: Sub-Saharan Africa* (IMF, Washington, D.C. 2009)

¹³Kenya, 'Investment Programme for the Economic Recovery Strategy for Wealth and Employment Creation 2003-2007' (Poverty Reduction Papers IMF Country Report No. 05/11, 2005)

¹⁴UNCTAD, *Economic Development in Africa Report 2009: Strengthening Regional Economic Integration for Africa* (UN, New York 2009)

¹⁵World Bank, *Doing Business Report 2011* (Washington, 2010)

¹⁶Akech, M. (2011).The Common Law Approach to Liability and Redress: Its Applicability to East Africa' (Paper presented in the Liability and Redress under Cartagena Protocol Workshop organised by International Environmental Law Research, Mombasa.

what should be done in order to control the informal cross border trade hence the need for this study.

GENERAL OBJECTIVE

The overall objective of the study was to investigate the informal cross border trade between Kenya and Uganda.

SPECIFIC OBJECTIVE

1. To evaluate the role of government taxation policies on informal cross border trade between Kenya and Uganda.
2. To establish the type of commodities being traded in the informal cross border trade between Kenya and Uganda.
3. To assess the influence of trade liberalization policies on informal cross border trade between Kenya and Uganda.

RESEARCH HYPOTHESIS

Ho₁: Government taxation policies significantly influence informal cross border trade between Kenya and Uganda

Ho₂: Type of commodities being traded significantly influence the informal cross border trade between Kenya and Uganda

Ho₃: Trade liberalization policies significantly influence informal cross border trade between Kenya and Uganda

THEORETICAL FRAMEWORK

Traditionally, there have been two competing theories of informal cross-border trade, namely territoriality and universality.¹⁷ The increasing incidences of Informal cross-border trade associated with the globalization of the world economy have, in recent years, drawn attention to, and given rise to a debate over, the theories. However, while the territorial approach has been much favoured in practice by most jurisdictions, the universality approach has enjoyed tremendous appeal to most theorists and academics. The two competing theories notwithstanding, there is also the notion of unity, which means that one court administers all assets. However, a wider treatment of universalism, in modern times, has tended to include unity as a form of pure universalism. Accordingly, universalism as envisaged in the current debate is an approach which vests in a single sovereign state, which is the home country of an insolvent debtor, an exclusive right to administer all of the assets and debts of an insolvent

¹⁷Hill, C. & Jones, R. (2001). *Strategic Management Theory: An integrate Approach*. 5th Edition, Boston: Houghton Mifflin.

debtor wherever located through one central proceeding governed by the court and the law of the home country.¹⁸

The home country's trade policy will apply to such issues as the conduct of the administration of the assets, the priority ranking, the stay of enforcements, transactions avoidance and whether to liquidate or rescue.¹⁹ Thus, assets located in countries other than the home country would be repatriated to the home country jurisdiction for administration or subjected to ancillary proceedings conducted under the substantive trade policy of the home country jurisdiction. The idea is to facilitate global distribution to creditors or approval of a single plan of rescue. Territorialism is a theory that vests in each sovereign state an exclusive right to administer assets of an insolvent debtor situated within its own borders using its own policies without having regard to the debtor's trade proceedings initiated in other sovereign states. The theory denies the extraterritorial effect of a trade administration, but caters for assets and persons within the territory of the sovereign state whose jurisdiction is asserted.²⁰ It is thus only claims that originate within the sovereign state of the relevant jurisdiction that may be included on the list of beneficiaries of any resulting distribution. In the context of the trade of a multinational corporation, a court has jurisdiction over those portions of the corporation that are within its country's borders.

According to Hay the underlying basis of territorialism is the notion of sovereignty.²¹ Traditionally, the notion is characterized by the ability of a sovereign state to exercise power to dominate a territory and assets located thereon. It includes the imposition of the law of the sovereign on all within the territorial reach of the sovereign state and the restriction of the application of foreign laws within the borders of the sovereign state. The other theoretical basis for territorialism, which descends from sovereignty, is the desire of a sovereign state to protect its local interests. This justification is related to the claim that trade policies often reflect deeply held societal norms, values, interests, policies and priorities of the respective countries.²² Conversely, universalism, in the modern parlance, traces its basis from the theory of market symmetry, which requires a legal system to be symmetrical with the market, covering all or nearly all transactions and stakeholders with respect to the legal rights and duties embraced by those systems.

¹⁸Noble, C. & Mokwa, M. (1999). Implementing Marketing Strategies: Developing and Testing a Managerial Theory, *Journal of Marketing*, 63, 57-73.

¹⁹Buxbaum, HL 'Rethinking International Insolvency: The Neglected Role of Choice-of-Law Rules and Theory' (2000) 36 *Stan J Int'l L* 23

²⁰Hathaway, O. 'Between Power and Principle: An Integrated Theory of International Law' (2005) 72 *Univ Chicago L Rev* 469

²¹Hay, J. 'Privatization in Transition Economies: Toward a Theory of Legal Reform' (1996) 40 *Eur Econ Rev* 559 349

²²Schwartz, A, 'A Contract Theory Approach to Business Bankruptcy' (1998) 107 *Yale L J* 1807

RESEARCH METHODOLOGY

The study took a multi-method approach which incorporates primary and secondary research of cross border trade both formal and informal since these are likely to be often interlinked. The study was conducted in Busia town along the Kenya Uganda border. The study targeted 150 traders operating across the Kenya Uganda border as well as 10 key informants who included customs officials, security and immigration personnel. Respondents were sampled purposively, section will be picked randomly prioritize the traders perspectives of the trade and willingness to participate, however a deliberate effort will be made to triangulate all their views.

The study used both primary and secondary data. Interview schedule as well as a questionnaire was used. The instruments will be administered in a language the trader understood such as English and Kiswahili. The questionnaires targeted the traders who have extensive information on cross border trade while interview schedules were for customs officials, security and immigration personnel. The researcher recruited research assistants who visited the places and premises where traders buy and sell as well travelling and observing what goes on at border point. The research assistants were trained to observe keenly what was going on, and what was traded, how the traders behaved in terms of apparent freedom to disclose information and their interaction with peers, customers and government officials. The same also applied to border officials.

To some extent, and without compromising the relevance of local contexts, relevant experience from other countries and regions derived from source materials was used to assess the legal frameworks of the countries under study and to gain insights and lessons that could be considered in addressing the challenges and to provide an insight into the crafting of a workable and appropriate cross-border framework for Kenya and Uganda. Kenya and Uganda were used as representative case studies for Sub Sahara Africa (SSA) countries. The use of the case studies intended to allow in depth investigations of the research questions to be undertaken

During questionnaire construction, various validity checks were conducted that ensured the instrument measures what was supposed to measure and perform as it was designed to perform. To ensure content validity, the questionnaire was formulated and operationalized as per the study variables that ensured adequacy and representativeness of the items in each variable in relation to the purpose and objectives of the study. Further, content validity was verified through expert opinions from supervisors and practitioners. The Cronbach's alpha reliability coefficient test of reliability was employed to test the reliability of the instruments.

Most of the information collected was analyzed quantitatively using SPSS and the results further triangulated with other information derived from direct observation and interviews that was derive qualitative data from key informants.

TYOLOGIES OF INFORMAL CROSS BORDER TRADE

The International Labour Organisation adopted the term ‘informal economy’ in 1972 giving it a definition that has become widely used. The International Labour Organisation, like Olarreaga, argues that this ‘marginal sector’ has the potential to be profitable and efficient. For this reason researchers have taken up the challenge of investigating the informal sector although there are some challenges they still have to overcome; one of these is finding a strategy of measuring the productivity of this sector.²³ Duval says informality is not a property of individuals, firms, or activities; rather, it is a property of social transactions and the rules and norms that govern these transactions. In an attempt to identify those rules and norms governing the informal sector, the International Labour Organisation gave a characterisation that included ease of entry, small-scale enterprises, family ownership, and use of labour-intensive technology.²⁴ Other characteristics of the informal sector given are that it includes activities and enterprises outside the systems of formal wage labour and low productivity activities that are not in compliance with the formal norms, such as licensing and taxation, and is not included in a nation’s GDP.

The informal economy is untaxed, has no formal contracts, no fixed hours, no job security, and no employment benefits, such as paid sick leave or pension arrangements. The potential of the informal economy activities vary from survivalist to small enterprises including activities, such as subsistence occupations, bartered skills, unpaid domestic work, self-employment and informal cross-border trade.²⁵ In addition, Peberdy asserts that the informal sector is characterised by activities that are not legally recognised and do not follow recognised official channels.²⁶ Tegegne argues that attempting to define the informal economy using its characteristics or by just saying it is the opposite of the formal sector is very problematic because ‘formal sector’ on its own also does not have a straight forward definition.²⁷ Although there is much confusion around the definition of the informal economy, researchers should still work towards a proper definition for the concept.

In the continued attempt to define the concept of informal economy it would be of great importance to consider what Otsuki meant by saying informality does not imply a lack of structure or predictability.²⁸ It simply means that structure and predictability are achieved

²³Olarreaga, M. (2003). Tariff Evasion and Customs Corruption: Does pre-shipment Inspection Help?, *World Bank Policy Research Paper No. 3156*, World Bank, Washington D.C

²⁴Duval, J. (2007). Trade Facilitation Beyond the Doha Round of Negotiations, *Asia-Pacific Research and Training Network on Trade Working Paper Series, No. 50*, December 2007, ESCAP, Bangkok.

²⁵Ishengoma, E., and Kappel, R. (2006). Economic Growth and Poverty, Does Formalisation of Informal Enterprises Matter?, *GIGA Working Paper No.20*, German Institute of Global and Area Studies, Hamburg.

²⁶Peberdy, S. (2002). Hurdles to Trade? South Africa’s Immigration Policy and Informal Sector Cross-Border Traders in the SADC, paper presented at the *Workshop on Regional Integration, Poverty and South Africa’s Proposed Migration Policy*, Pretoria, 23 April 2002.

²⁷Tegegne, G. (1999). Cross-Border Livestock Trade and Food Security in the Southern and South-eastern Ethiopia Borderlands, *OSSREA Development Research Report Series, No. 1*, Addis Ababa.

²⁸Otsuki, T. (2003). Trade Facilitation and Economic Development: Measuring the Impact, *World Bank Working Paper 2988*, Washington D.C.

through a different set of rules and norms than those associated with formal institutions. Subramanian and Matthijs argues that these rules that govern informal transactions are constructed by the larger social context; putting emphasis on the importance on networks, kinship, regional origin and ethnicity, for the success of these informal transactions.²⁹

Porto also noted the importance of such networks in the success of informal cross-border trade. Other forms of non-recording are under invoicing and mis-declarations of cargo which invariably occur with the cognisance of the customs officials and are hence fiendishly difficult to document for purposes of research.³⁰ Efforts will be made to establish the total annual volume of trade that does not go onto the official government records. This form of trade can also be referred to as unofficial or informal trade Community transactions along the open border not served by established roads and trading centres will not be covered due to budgetary and sampling reasons.

CBT concern the scale and spatial aspects of the activity. Much CBT involves small amounts of food products moved over short distances for example, the Ugandan trader who bicycles with two sacks of beans across the border to sell in Kenya but other types entail large volumes and vast distances.³¹ The latter might include large scale Kenyan traders who transport truckloads of animals 250 km across the Uganda border to be exported, relying on market information transmitted via hand radios and faxes. The merchants then return home with considerable amounts of imported foods to be sold in eastern Ethiopia. Recent policies by some governments to permit small-scale (low value) CBT within certain distances of borders show recognition that important scale differences that characterize the activity.³²

However, to date, there is still limited information on its dimension as the tools for its measurement have not been very well developed.³³ The situation has had some adverse impact on the estimation and reporting of intra-African trade, impacting negatively on African countries ability to seize the opportunities offered by comparative advantage in informal cross border trade to improve efficiency and specialization. It is hence prudent for ICBT to now be brought to the fore fronts of the whole intra-African trade and the African integration agenda. This was strongly emphasized during the last 7th Session of the Committee on Trade, Regional Cooperation and Integration, which called for the

²⁹Subramanian, U., & Matthijs, M. (2007). Can Sub-Saharan Africa Leap into Global Network Trade?, World Bank Policy Research Working Paper 4112, January 2007.

³⁰ Porto, G. (2005). *Informal Export Barriers and Poverty*, Development Research Group, World Bank, Washington D.C.

³¹Stern, R.E. (2005), *Designing a Small Business Tax System that Enhances Growth: Lessons from Africa*, FIAS, World Bank Group, Washington D.C.

³²Mansour, M. (2007). Revenue Mobilization in Sub-Saharan Africa: Challenges from Globalization, paper presented on 15 October 2007 at the *USAID Economic Growth Officers Workshop*, Washington, D.C.

³³Dzaka-Kikouta, T. (2004), *Focus on Cross-Border Exchanges Between Brazzaville/Congo and Kinshasa/DRC*, Nov-Dec. 2004, Initiative for Central Africa (INICA), Paris.

development of a tool/instrument for measuring and tracking the contribution of the informal trade sector in regional integration and intra-African trade in general.³⁴

Trade between Sub-Saharan Africa and the developed world has always been in a narrow range of traditional commodities such as tea, coffee, tobacco, cotton, sisal and minerals. At the same time, trade within Sub-Saharan Africa not only remains woefully low in physical and value terms but is also fraught with selfish regulations and policies adopted by the incumbent governments. The 1982 Preferential Trade Agreement (PTA), which has now assumed a wider operational mandate and a new title, the Common Market for Eastern and Southern Africa, has been working for several years to enhance intra-African trade.³⁵ While progress has been made in reducing tariff and non-tariff barriers, formal trade among African countries is still depressed. In Eastern and Southern Africa in particular, indications are that informal (unrecorded) trade is still extremely high. For example, it is estimated that 30,000 - 60,000 metric tons of maize is smuggled annually from Zambia to Zaire costing the former US\$ 3 million and that much of the Malawian “surplus” maize in the early 1980s was Mozambican.³⁶

The Uganda Petroleum Dealers Association estimates that 25 percent of petroleum fuel (petrol, diesel and paraffin) consumed in Uganda are smuggled from Kenya, costing the Ugandan government about US\$1.2 million annually.³⁷ The phenomenon of unofficial trade across the borders most likely arises from unfavourable agricultural and macroeconomic policies being followed by the African governments. In particular, uncoordinated and partial implementation of structural adjustment programs and the reluctance to eliminate all formal trade barriers significantly influence unrecorded (informal) cross-border trade.³⁸ Interest in the informal cross-border trade has been overwhelming but inadequate knowledge of its magnitude not only leads to misleading figures in the national accounts, but also inhibits formulation of appropriate policies and strategies to exploit its potential impact particularly on regional food security.

Foreign exchange controls contribute to distortions of recorded trade by encouraging over invoicing of imports and under-invoicing of exports as a means of capital flight. This overstates recorded imports and understates recorded exports. Smuggling has also been facilitated in the past by barter trade and by the semi-convertibility of currencies in border

³⁴Ndlela, D. (2006). Informal Cross-Border Trade: The Case of Zimbabwe, *Occasional Paper, No. 52*, Institute for Global Dialogue, Johannesburg. Business Action for Improving Customs Administration in Africa (BAFICAA) (2006), *Customs and Business in Africa: A Better Way Forward Together*, July/August 2006.

³⁵ OECD, (2003b), *Trade Facilitation Reforms in the Service of Development*, TD/TD/WP(2003)11/FINAL, OECD, Paris.

³⁶ Perry, G.E, Maloney, W.F., Arias, O.S., Fajnzylber, P., Mason, A.D., Saavedra-Chanduvi, J. (2007), *Informality: Exit and Exclusion*, World Bank, Washington D.C.

³⁷Oyejide T.A. (2010). *Policies for Regional Integration in Africa Economic Research Papers*, University of Ibadan, Ibadan, Nigeria.

³⁸Oduor, N.W (2007), *Difficulties faced by Eastern & Southern African Trade Development Bank in implementing the strategy of capital resource mobilization*: Unpublished MBA project: University of Nairobi.

areas.³⁹ Import licensing, often a response to an overvalued currency, restricts the supply of imports and raises their domestic price which in turn provides incentives for a parallel market in smuggled goods. Relative price differentials between countries and shortages in a particular country also encourage border trade. Scarcity and shortages in some of the neighbouring countries create effective demand and high profits thus making it extremely difficult to control smuggling. The other cause could be the uncoordinated and partial implementation of structural adjustment programs and half measures aimed at removal of formal trade barriers.⁴⁰

INFORMAL CROSS BORDER TRADE BETWEEN KENYA AND UGANDA- CRITICAL EVALUATION

Category of Participants in ICBT

The youth were ranked second in engagement in ICBT because many of them were reported to be orphaned or lacked fees and could not continue with education. However, this was disputed by participants as insignificant factor because most of the youth especially girls were cited to drop out of school and were being taken to neighbouring countries to perform petty jobs as housemaids, barmaids and as sex workers.⁴¹ One elderly male FGD participant observed that: *“these young girls have helped in child trafficking as a result of money enticements. These young girls usually come to Uganda and convince other young girls to join them in Kenya for better life after conniving with Kenyan lords who have gained out of selling them to people who need them.”* [Male FGD participant, Busia]

The Persons with Disabilities (PwDs) were ranked third in participating in Kenya – Uganda ICBT. They are mainly employed to provide transport of ICBT materials on their wheel chairs. The PwDs are neither intercepted by the customs staff nor by the revenue collectors and are able to cross the border so many times without restrictions. The PwDs mainly constituted men although there were a negligible number of women among them. Men were said to be the least participants in ICBT because they fear to secure loans to run business. Besides, the few who had secured loans had not used them productively because they ended up marrying other women, drinking as well as spending it on prostitution.⁴² Besides, men had failed to acquire the investment capital due to limited savings and heavy family responsibility and expenditure. Thus they cannot effectively compete with their female counterparts. One male respondent noted that: *“Women are suckers to our financial resources and they depend*

³⁹ Meagher, K. (2003). A Back Door to Globalization? Structural Adjustment, Globalization and Transborder Trade in West Africa. *Review of African Political Economy* 95: 57-75.

⁴⁰ Smith, Alasdair, and Anthony Venables (2012), Completing the Internal Market in the European Community: Some Industry Simulations. *European Economic Review* 32 (7): 1501-25

⁴¹ Nzuma, J.M. 2010. An Economic analysis of the impacts of trade liberalization on Kenya's maize sector. University of Guelph, Canada, Unpublished PhD Thesis

⁴² Rich, K. and Lundberg, M. 2012. Multimarket model and policy: An application to Madagascar. Mimeo, Development Economics Research Group/Poverty reduction Group, Environment and Infrastructure Team. Washington, DC: World Bank.

on us for everything. As a result, many men have ended up in brokerage services, and casual labour of loading and offloading trucks, working in gardens, and rearing of cows and goats.’’ [Male FGD participant, Busia]

ICBT Activities

Diverse ICBT activities were reported to be conducted by border the communities only separated by nationality but interact with each other very often for activities like trade. Trading in agricultural and manufactured goods across the border was reported to be the major ICBT activity. This is mainly carried out between 5.00 am and 9.00 am and from 3.00 pm to 9.00 pm. However, the peak times differed among border posts and individual traders.⁴³ During the FGD meeting, one male FGD participant observed that: *‘the choice of time depends on how well it works for individual traders’* [FGD participant, Busia].

Participants/traders reported use of informal routes due to restrictions at the boarder point in regards to certain items. This was mainly with regard to beans, milk, firewood and charcoals which fetched high returns and attracted many customers. The majority of the ICBT traders involved in food products are also engaged in small-scale agricultural production.⁴⁴

Commodities Traded in ICBT

Mauyo et al., assert that trade between Sub-Saharan Africa and the developed world has always been in a narrow range of traditional commodities such as tea, coffee, tobacco, cotton, sisal and minerals.⁴⁵ At the same time, trade within Sub-Saharan Africa not only remains woefully low in physical and value terms but is also fraught with selfish regulations and policies adopted by the incumbent governments.

Respondents were asked to indicate to what extent they felt the following type of commodities should be tax free; 41% who were the majority indicated agricultural products, 11% were for machinery while the least (5%) indicated other products. Barrett asserts that one way of categorizing the commodities is to distinguish them as agricultural products and inputs; manufactured consumer goods, including textiles; or minerals and forest resources.⁴⁶

⁴³ Weliwita, A., Nyange, D., and Tsujii, H. 2013. Food demand patterns in Uganda: A censored regression analysis of microdata. *Sri Lankan Journal of Agricultural Economics* 5(1): 9-34.

⁴⁴ Wood, S. and You, L. 2012. *Assessment of strategic land use options for Uganda. Potential economic benefits of increased agricultural productivity in Uganda*. Washington, DC: The International Food Policy Research Institute.

⁴⁵ Mauyo, J. R. Okalebo, R. A. Kirkby, R. Buruchara, M. Ugen and R.O. Musebe (2012); *Legal and Institutional Constraints to Kenya-Uganda Cross-Border Bean Marketing*

⁴⁶ Barrett, C. (2008). Smallholder market participation: concepts and evidence from Eastern and Southern Africa. *Food Policy* 33:299–317

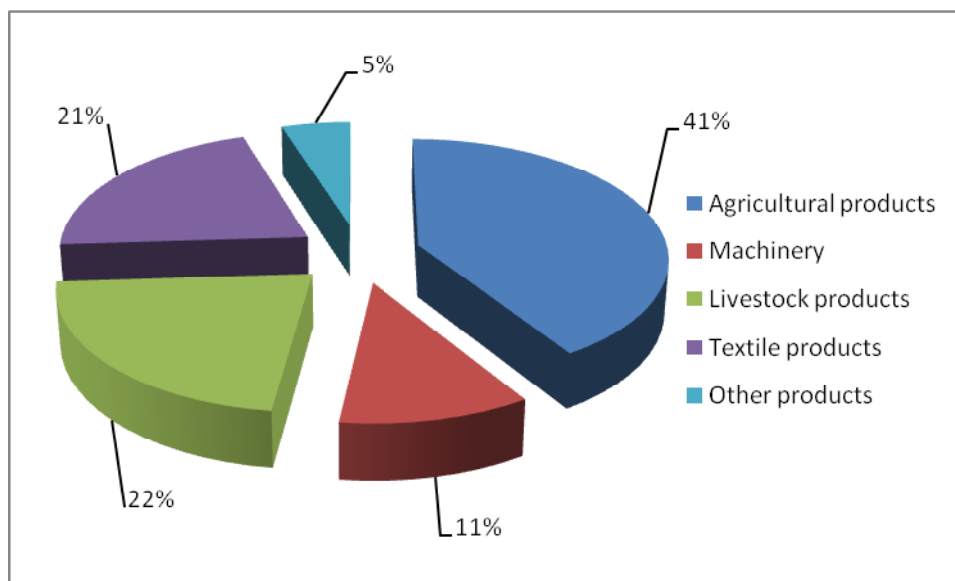


Figure 1: commodities stranded in ICBT

Seasonality was reported to be the key determinant for the types and quantities of commodities traded under ICBT especially for agricultural commodities. This explains the demand and supply forces on either side across the borders as one of the key informant had this to say: “Seasonality is a key determinant for the types as well as quantities of commodities traded. For example during times of food scarcity trucks of matooke are taken to Kenya while beans are brought in to Uganda” [KRA Customs Official].

Commodities traded in ICBT include forest products such as timber, firewood and charcoal, agricultural and manufactured goods. The agricultural commodities include cereals, beans, cow peas, cabbages, cassava, groundnuts, fish, tomatoes, matooke, ripe bananas, Irish potatoes, yams, and carrots (food items). The agricultural commodities traded were reported to be influenced by the food items grown around the border and neighbouring districts. The driving force for exportation of these products was linked to the high prices offered as a result of the high demand and scarcity of food items, poor soils and harsh climatic conditions that are not conducive to agricultural production.⁴⁷ Hawking of second hand shoes and clothes, plastic wares, radios, watches, padlocks, were also mentioned as items of ICBT activity. On the other side of the border, a male FGD participant who operates an eating place in Sofia suburb of Busia border post remarked that: ‘Most of the Kenyan border population cross and eat from Sofia because of their limited food options.’ [Male FGD participant, Busia]

The manufactured goods traded include crafts, cooking oil, salt, paraffin, wheat flour, plastic wares, electronic goods, second-hand clothes, soap, mattresses, perfumes, polyethene bags, leather products, electronic goods, building materials, bicycle parts, drinks, human and veterinary drugs, and general merchandise. The importation of these items was linked to the

⁴⁷ Lutz C, Kuiper WE, van Tilburg A (2010) Maize market liberalisation in Benin: a case of hysteresis. J Afr Econ 16:102–133

low cost prices in the countries of manufacture and high profit margins when sold in Uganda. A female FGD participant had this to say: “I can get salt from Kenya for as low as UGX 100- 150, paraffin can be bought for as low as UGX 900 per litre, a child’s clothing can be acquired for as low as UGX 100 and a man’s shirt can be bought at UGX 500 which is not the case in Uganda.”

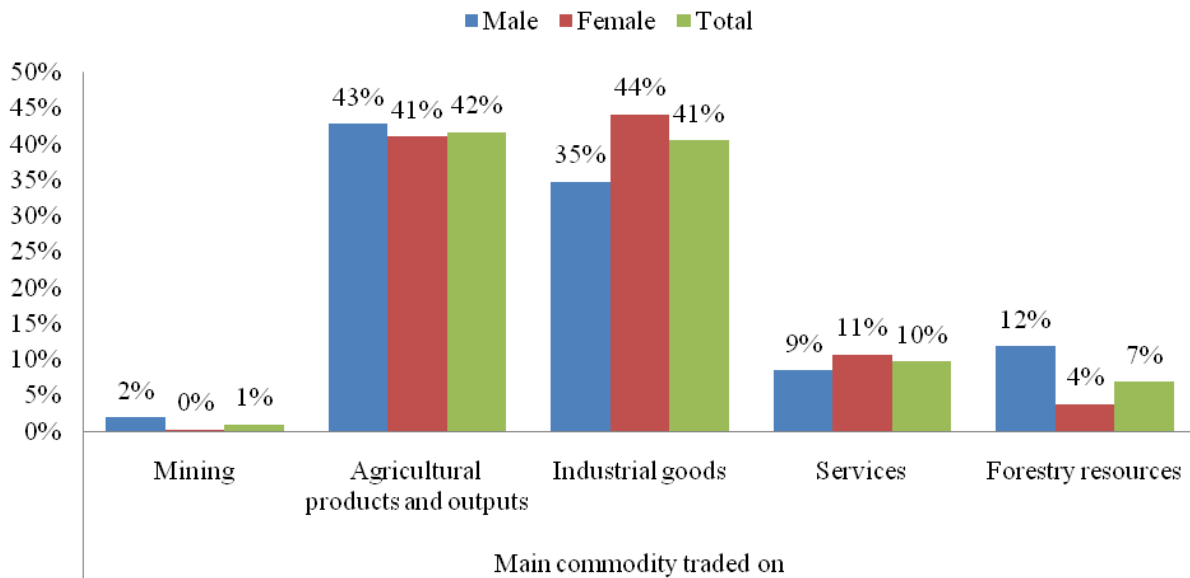


Figure 2: Main commodities the ICBTs trade

The direction and composition of trade both confirm the common view that Kenya, in relation to her neighbors, has a comparative advantage in manufactured and processed goods. Uganda informally has been exporting to Kenya an estimated 84,250 metric tons (MT) of maize valued at about \$12.4 million.⁴⁸ Kenya produces about 200,000 MT of beans annually, but this falls short of consumption requirements.⁴⁹ Part of the excess demand is met by imports from Uganda and Tanzania. Kenya has been exporting an estimated 9,300 MT of beans that were not registered by the customs officials. These imports were valued at close to \$5 million, using an average price of \$520 per MT. About 13,000 MT of sorghum, simsim, choroko, millet, groundnuts, and rice, with a total value of \$5 million, were also imported from Uganda. In addition, Kenya also imported bananas and other fruits valued at more than \$0.5 million and roots/tubers estimated at about \$2 million.⁵⁰

ICBT was balanced by exchange of food products for manufactured goods, minerals and forest resources. Discrimination in favor of agricultural commodities is therefore likely to generate a bias in estimates of the unrecorded trade. Commodities are also categorized according to their origin as follows: locally produced in country under study; re-exports

⁴⁸ Rashid S (2014) Spatial integration of maize markets in post-liberalised Uganda. J Afr Econ 13:102–133

⁴⁹ African Development Bank, United Nations Economic Commission for Africa. 2009. “Assessing Regional Integration in Africa IV: Gender and Intra-African Trade, The case of East Africa”. Nairobi, Kenya.

⁵⁰ African Development Bank, United Nations Economic Commission for Africa. 2009. “Assessing Regional Integration in Africa IV: Gender and Intra-African Trade, The case of East Africa”. Nairobi, Kenya.

originating from a third country; and goods in transit. There have been cases of goods in transit being off-loaded for sale before reaching their final destination thereby evading official records and payment of duty.

Beneficiaries of ICBT

At Busia border post, the major beneficiaries of ICBT were reported to be women and PwDs.

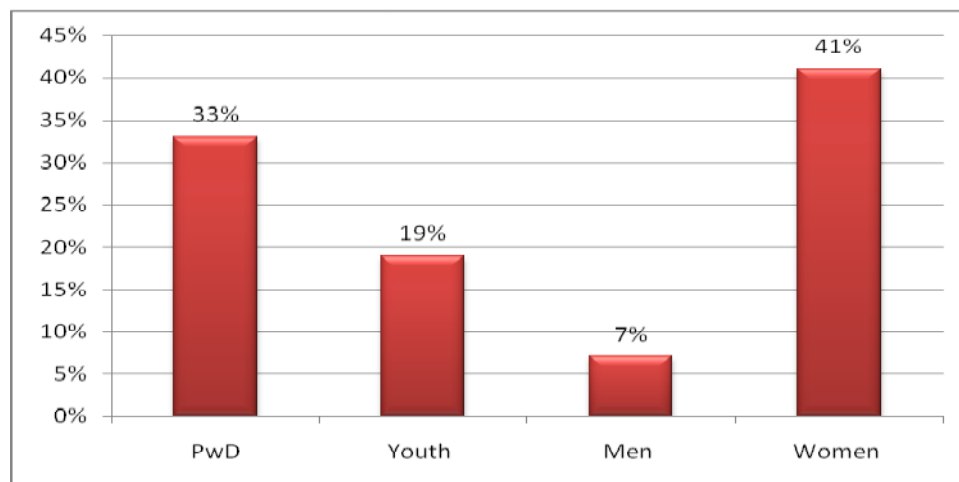


Figure 3: Beneficiaries ranking

The women were reported to have benefited by supporting the education of their children as well as providing for their households. One female FGD participant noted that: *‘as for me I feed my children as well as dress them’* [Female FGD participant, Busia]. Women have also been able to secure and service loans while engaging in ICBT. Many women testified that they have acquired plots of land and constructed houses for rent as a result of involvement in ICBT. One female FGD participant indeed noted that: *‘for me I brew waragi and sell it to Kenyans because of the loan I got and I have been able to service it adequately. I have also been able to buy a plot of land in Bugiri where I intend to settle with my children during my old age.’* [Female FGD participant, Busia].

Women also confessed that they were earning more money than men. However, they reported losing some of it to their husbands who take the entire capital upon sighting it. One female FGD participant noted that: *‘our men if you don’t keep the money very secretively, a man can carry the whole of it if he comes across it. For me I keep my money on my waist and the man can’t eat on it except my child.’* [Female FGD participant, Busia]. At Busia border, PwDs were ranked second in benefiting from ICBT and this was linked to the sympathy and favours from the customs and other revenue officials from either side of the border. They transact their trade without any interference. Besides, the PwDs have also organized themselves into groups through which they have accessed financial support as well as access

to other resources.⁵¹ In Busia these groups included Foster Group for Disabilities, Syoteba Syobona Disability Group and Widows and Orphans Group for Disabilities.

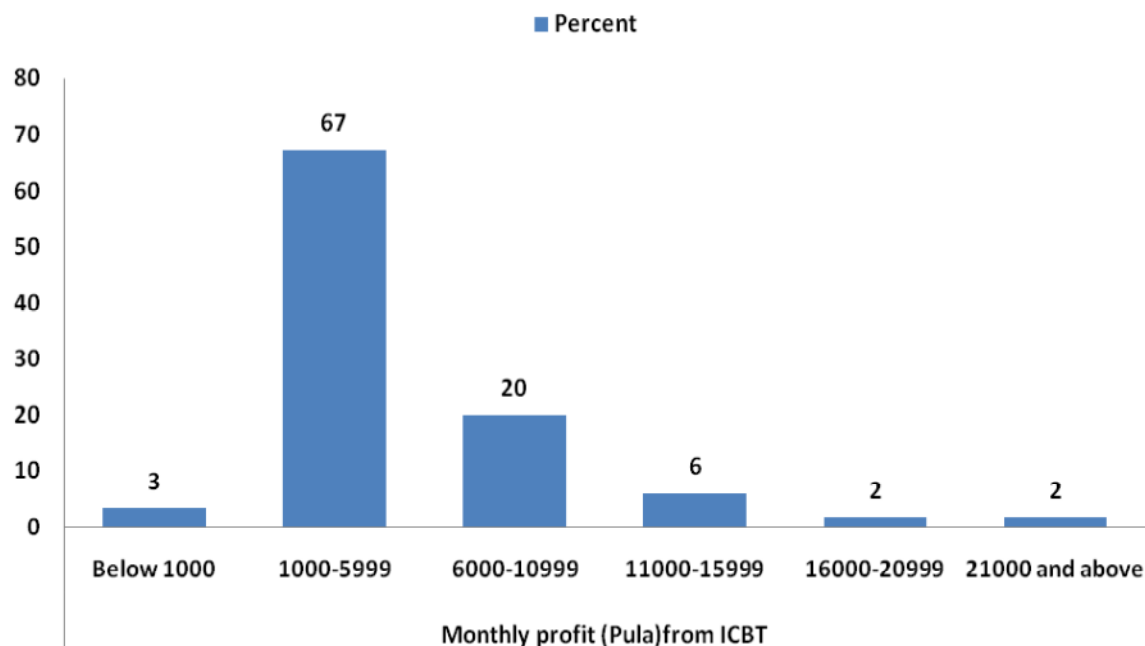


Figure 4: The average monthly profit made by the ICBT traders

The youth on the other hand were ranked third in benefiting in ICBT but had not registered any significant achievement because they spend their earnings on social enjoyments such as discos, playing cards, drinking, and promiscuity.⁵² One elderly FGD male participant noted that: *“Our youths love quick and soft life”* [Male FGD participant, Busia] On the other hand, the men were reported to benefit less in terms of development since they spend much on polygamous unions, drinking and are weak hearted in accessing and utilizing loans. As for the children, they have minimal involvement in ICBT. The few children in ICBT were mainly reported to be errant children who had escaped from their parents just to come and earn money. It was reported that these children keep waiting at the gate for the PwDs with wheel chairs so that they can provide support services by pushing the PwDs while transporting their goods across the border points. As for the Karamojong children, they pick grains from produce markets, accumulate the quantities and sell them across. One elderly woman noted that: *“Karamojong children save every coin they get and accumulate big chunks of money which they carry back to their homes.”* [Elderly woman, Community FGD, Busia].

As to why they don’t attend school, one female participant remarked that: *“If parents of these children in Karamoja have not controlled them, how do you expect us in Busia to manage them?”* [Female FGD participant, Busia]. Besides, the children who are schooling and staying with their parents were reportedly to be periodically involved in ICBT during holidays. They

⁵¹IGAD (Intergovernmental Authority on Development). 2011. “Study on the status of Cross Border Trade in the IGAD region”.

⁵² Musonda, M. 2010. “Overview of Informal Trade in the SADC Region: Where are we now?”.Regional Workshop for SADC Informal Traders 11-12 February. Harare, Zimbabwe.

do it with the consent of their parents in an effort to raise school fees. The positive aspects of informal cross-border trade include availability of markets, food security, and income.⁵³ The role played by ICBT in terms of income, employment, and market to food producers could be substantial. Opportunities offered through cross-border markets should be explored as these markets provide an important outlet for producers who may not have access to domestic markets due to poor infrastructure and internal marketing inefficiencies.

Constraints Experienced in ICBT

Traders involved in ICBT experience several obstacles ranging from infrastructure, legal and administrative framework which often results in increase in the cost of doing business and market distortion. The cost of goods entering Uganda becomes expensive thereby reducing profit margins significantly.⁵⁴ Profit margins remain small leaving limited funds for reinvestment; hence traders tend to remain poor. The traders cited lack of access to finance as a critical problem to initiate and even expand their businesses. They cannot access finance from banks and are unable to solicit finance from other formal financial institutions as they are considered to be involved in high risk businesses. Hence they fund their activities from their personal savings or through backstreet moneylenders, merry-go-rounds, friends and relatives. Only a few are able to raise money from banks or savings and credit institutions. The stringent measures demanded by banks compound the situation for this partially developed sector. The high interest rates attached to loans from financial institutions have especially affected women's abilities to save and re-invest in businesses.⁵⁵

The fluctuation of exchange rates sometimes results into losses especially when the goods have to be sold in Uganda at prices lower than the equivalent of the cost price in the neighbouring countries.⁵⁶ The currency fluctuation was attributed to lack of a common currency in the EAC and monetary policy. Adoption of common currency and harmonization of monetary policies could enable informal cross border traders to carry out trade easily without incurring much loss and creating unnecessary demand for hard currencies. Informal traders are asked to pay heavy penalties and bribes when caught with goods from neighbouring countries hence impacting negatively on the growth of their businesses. Women further reported incurring losses as a result of unfair trade with their clients who take their goods on credit and fail to effect payments. One female FGD participant who deals in ICBT mentioned that: *'These customers are very unpredictable. They start by paying at first but*

⁵³Ugandan Bureau of Statistics. 2009. "Informal Cross Border Trade 2009- 2010 Report (11-35)". Kampala, Uganda

⁵⁴Beghin, J., and Bureau, J.C. 2011. Quantitative policy analysis of sanitary, phytosanitary and technical barriers to trade. *Économie internationale* 87, 107-130.

⁵⁵Delgado C., Minot, N., and Tiongco, M. 2013. Evidence and implications of nontradability of food staples in Uganda 2010-2013. Presented at the American Agricultural Economics Association Annual Meeting, Montreal, Canada, July 27-30.

⁵⁶ Karugia, J., Gbegbelegbe, S., Nzuma, J., Massawe, S., Freeman, A., Bahiigwa, G., Berisha-Krasniqi, V., Bouet, A., Dimaranan, B., Mevel, S. and Roy, D. 2008a.

when they get used to us they begin telling us that they have not fully sold the merchandise. This has retarded our businesses.” [Male FGD participant, Busia]

In addition, women in informal trade complained of excessive harassment especially when men do the body search for any hidden goods. They complained of embarrassment and discomfort and would prefer any inspection to be done by women colleagues at the border posts.⁵⁷ Other problems faced by women who participate in ICBT included domestic violence, sexual harassment, loss of goods to customs/police officials, force to pay bribes, and fights with fellow traders as well as imprisonment/detention. As for men who participate in ICBT, they mainly face imprisonment/detention and losses of goods to customs and police officials. Other problems faced include high transport costs, high taxes; harassment for identification, charged when convicted, and restriction from entry and markets.

Although some border posts had restrictions on child participation in ICBT, the children who involve themselves mainly face problems of imprisonment/detention, loss of goods to customs officials/police, cheating by adults, beatings by police and parents, as well as child labour charges. Lack of trade facilitation makes trading along the border lengthy and costly.⁵⁸ Crossing formal borders can take days at times and costs of clearance, processing fees, tariffs and taxes are generally above the value of goods being traded informally.

Inadequate border infrastructure including proper warehousing facilities, community markets, transport networks and especially functional and adequately staffed border institutions and agencies makes it unattractive, inefficient and sometimes downright dangerous to trade via formal routes. Lack of adequate public and private transportation systems causes delays, forcing traders to miss community market days and their consumable goods especially agricultural produce to perish.⁵⁹ Border infrastructure issues should be addressed in order to enhance the movement and security of traders and their goods.

Limited access to finance also plays a prominent role since traders are not bankable and transactions are cash based or bartered. Most traders lack working capital and tangible business assets making it difficult for them to get financing.⁶⁰ The absence of banks in the rural areas makes access to financial services virtually impossible. Since policymakers generally regard ICBT as illegal, the scope and opportunities for developing ICBT related trade finance facilities have not been adequately explored. Access to finance could provide a tremendous incentive for informal traders to join the formal economy. Limited market

⁵⁷Musyoka, M.P. 2012. An analysis of urban household food demand in Nairobi, Kenya. Egerton University, Department of Agricultural Economics and Agri-Business Management, Unpublished Thesis.

⁵⁸WFP/FEWS-Net.(2006), *Informal Cross Border Food Trade in Eastern Africa*. Issue 17. January 2006. Nairobi, Kenya.

⁵⁹ Streatfeild, J. (2012). *An Examination of Regional Trade Agreements: A Case Study of the EC and the East African Community*. Tralac Working Paper, November.

⁶⁰ Oyejide T. A. (2012), Regional integration and trade liberalization in Sub-Saharan Africa: *An AERC Collaboration Research Project Summary Report*. AERC Special Paper, No 28, AERC, Nairobi.

information makes it difficult for informal cross border traders to tap into regional and local market opportunities.⁶¹

In most African regions, the provision of information on cross-border markets is at best, minimal. Since most traders operate outside regular business circles, market information on prices, demand and supply is generally not available to them.⁶² They generally rely on informal sources which sometimes give unreliable information. Information on policies, regulations, agreements and protocols for the facilitation of cross-border trade is equally difficult to obtain. These should be published in reader friendly language and conspicuously displayed at border points in order to enhance communication and expedite implementation. More must be done to provide market intelligence services at key border points to facilitate flow of information on prices, demand and supply but also policies and regulations affecting cross-border trade.⁶³

Corruption and Insecurity at the border fuels ICBT. Corrupt law-enforcement agencies often take advantage of the local traders' lack of knowledge on customs procedures to take bribes. Traders carrying money run the risk of having money seized. Some regions have recorded high incidences of rapes.⁶⁴ Lack of effective policing at border points and market ports increases the incidence of crimes against traders, forcing them to travel in groups to protect themselves, or simply use informal routes mainly called "panya routes". Low knowledge, education and business management skills are also at the core of addressing the ICBT issue. ICBT traders are generally less educated and often lack basic business management skills. Business skills are generally acquired via traditional means and numeracy as well as literacy levels are notoriously low in some regions.⁶⁵ This is exacerbated by a lack of knowledge and understanding of customs procedures and regional trade protocols. Conducting border community sensitization campaigns and empowering local traders with basic knowledge on management and customs procedures could go a long way in addressing the ICBT issue.

Government Taxation Policies

Respondents were asked the extent to which government taxation policies influence informal cross border trade, Majority as shown by 56% in figure 3.5 indicated Kenya while 44% indicated Uganda.

⁶¹ Tumuhimbise, C. and Ihiga, S. 2010. A survey of non-tariff barriers that affect Ugandan imports and exports within EAC and COMESA countries.

⁶² Mwaniki, K. (2013); the Impact Of Informal Cross Border Trade On Regional Integration In SADC And Implications For Wealth Creation.

⁶³ Kimenyi, F. 2008. Rwanda: Country Welcomes Kenyan Decision to Reduce Number of Weighbridges. The New Times (Kigali), 11 August 2008.

⁶⁴ Goletti, F. and Rich, K., 1998. Policy issues and policy analysis for post-harvest research. Washington DC: International Food Research Institute, Washington DC.

⁶⁵ Umar, A. (2007), Risk Taking for a Living: Trade and Marketing in the Somali Region, Ethiopia. Addis Ababa, Ethiopia: UN-OCHA/Pastoral Communication Initiative Project.

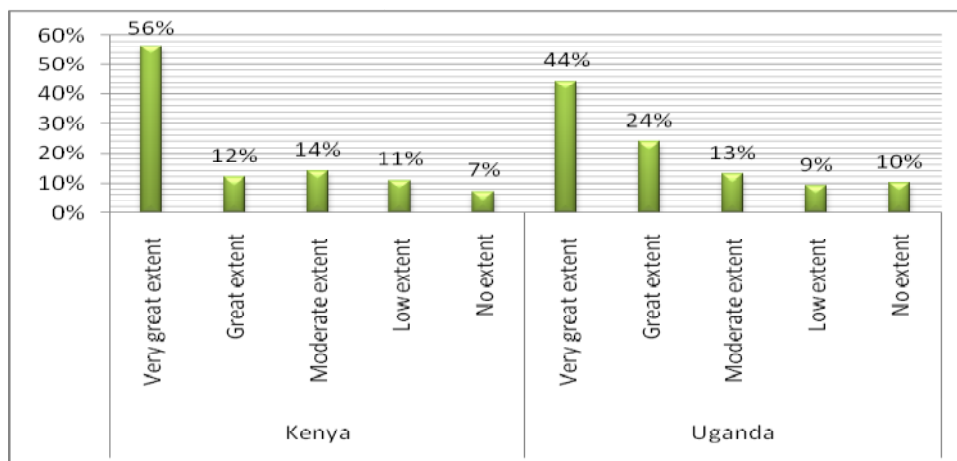


Figure 5: Government Taxation Policies

In support of the above findings respondents indicated that there was not enough information disseminated by official sources or people who know it. The researcher did not find evidence of official structures for disseminating such information to women and even male traders. The average male trader or transporter interviewed demonstrated more knowledge of the protocol as well as confidence at dealing with customs/immigration using their acquired knowledge. Further, customs officials were of the view that male traders had proved more difficult to handle, this was as a result of gangs formed against the custom official and every time the authorities tried to regulate the trade attacks were inevitable. Women traders did not show similar knowledge and assertiveness which implied that customs officials were more likely to be more careful to do things right when handling male traders than female traders.

Closely related to the women's knowledge gap is the age old rampant corruption that thrives on ignorance, fear and impunity of government officials at border posts. Corruption and impunity make it difficult for women traders to believe that they should expect professionalism and adherence to the law when going trading across borders. This is the main reason for their preference for aliases such as middlemen and brokers who appeared to smooth the way and shield women traders from what could be unpleasant confrontation with officialdom.⁶⁶ It may appear that there is a possibility that government officials at the border crossings are silently sabotaging the protocol for their selfish gain from corruption. The conspiracy may include security personnel, local council officials and administration personnel who stand to lose money and/or influence if the protocol is implemented in full.

The study also established that conflicting local council by-laws on both sides of the Kenya and Uganda border have not been reviewed with the signing of the protocol.⁶⁷ Local council officials present at the borders were seen stopping people they suspected to be traders and even attempting to take away goods they were carrying across the border because they had

⁶⁶ Mshomba R. (2010), *Africa in the Global Economy* London: Lynne Rienner Publishers.

⁶⁷ Little, D. (2010), *The Global Dimensions of Cross-Border Trade in the Somalia Borderlands*. In *Globalization, Democracy, and Development in Africa: Future Prospects*. In A.G. M. Ahmed, ed. Pp. 179-200. Addis Ababa, Ethiopia: Organization for Social Science Research in Eastern and Southern Africa (OSSREA).

allegedly not paid some local council tax. Officials interviewed were reluctant to state what exact by-laws were broken but still they felt justified in accosting traders because they know that goods crossing the border must be taxed at a higher rate than locally available goods. The potency of such threats to arrest traders or take away their goods as a consequence of non-compliance appears to be under threat by the EAC protocol so it is in the interest of the officers to prove or at least demonstrate that the more things change-the more they remain the same.⁶⁸

Reasons for Engaging in ICBT

Informal cross border trade thrives due to a number of factors. The tendency for traders to evade high taxes and other customs levies; bureaucratic licensing; attractive prices offered in neighbouring countries, registration requirements; and local market failures as a result of different policies adopted by the East African States and poor road infrastructure.⁶⁹ This latter can result into poor access to domestic markets where Ugandans find it easier to market across the borders of Kenya, Democratic Republic of Congo, Tanzania and Rwanda rather than to other parts of Uganda.⁷⁰ In some cases, due to wider price differentials among the neighbouring countries Ugandans take advantage of existing market niches out of the country. The readily available market in Kenya, Rwanda, Democratic Republic of Congo and Tanzania was mentioned as one the factor facilitating ICBT. One male FGD participant noted that: “*you cannot fail to sell off your item if you take it to Kenya.*”

The Kenyans have liquid capital to buy the trade items and this is an motivation for the traders to increasingly carry their goods across the border. On the other hand, Rwanda was reported to have fewer businesses and commodities to be traded in and this was responsible for the influx of people crossing to Uganda to buy a variety of goods. The political stability and good relations existing between the Ugandans and her neighbours enables citizens from either country to freely cross the border and transact business in search for better livelihood.⁷¹ This has promoted interactions among community members at the border posts. One district level key informant had this to say: “*Neighbours naturally do interact, intermarry, and usually have social gatherings and cultural issues that force them to interact. In due course they are even bound to engage in trade easily more so because of their proximity*” [Security personal].

Furthermore, it was reported that there is, free interaction on the Ugandan side. One key informant at the border post indeed remarked that: “*When these people come to trade in*

⁶⁸ Boko, S. H., Balamoune-Lutz, M. and Kimuna, S. R. eds, (2013), *Women in African Development: The Challenges of Globalization and Liberalization in the 21st Century*. Trenton, NJ: Africa World Press.

⁶⁹ Walsh, J.T. (2006), —New Customs!, in *Finance and Development, March 2006*, Vol. 43, No. 1, Washington D.C.

⁷⁰ Little, P.D. (2009). Unofficial Trade When States are Weak: The Case of Cross-Border Commerce in the Horn of Africa, *Research Paper No. 2005/13*, United Nations University/WIDER, Helsinki.

⁷¹ Clarke, G.. (2005). Beyond Tariffs and Quotas: Why Don't African Manufacturers Export More?!, *World Bank Policy Research Working Paper 3617*, June 2005, World Bank, Washington D.C

Uganda, they are not limited in any way regarding the need for documentation” [Customs Border Post]. The existence of strict formal laws governing the border posts coupled with the inability to meet these requirements results in use of informal routes as an escape alternative. These include immigration, security, taxation requirements and perceived delays that might hinder them from making quick money. The existence of weekly market days attracts people from across borders to purchase items on either sides thereby facilitating ICBT.⁷² At Busia, the low cost prices of some commodities from the respective border countries and availability of ready market for items from Uganda was also noted to be a driving factor for engagement in ICBT.

Informal cross border traders leave their homes and country determined to earn money by buying, and selling, an assortment of products ranging from food items to electronic appliances.⁷³ It was revealed that traders engage in ICBT as a way to earn income, employment to cater for their families and buy cheap goods across the border points. Thus ICBT is a source of livelihood to people involved in it for survival. A female FGD participant mentioned; *“Most of us came to the border to look for survival. In search for better livelihoods many of us have engaged in trade which has translated into further interactions within these areas ”* [Female FGD participant, Mirama Hills].

The involvement in ICBT was also linked to the lucrative markets offered by the counterparts in the bordering country.⁷⁴ The high profit margins obtained were reported to be a driving force for engagement in ICBT. One male FGD participant said that: *“the high market prices for Ugandan agricultural products across have encouraged people to engage in ICBT to fetch high profits and therefore keep in business.”* [Male FGD participant, Busia]. Another female FGD participant noted that: *“A fish of 1-1.5 kg costs UGX 5000 in Kenya so traders have found it profitable to sell it to Kenya at a higher price. This has left us with fish remains popularly known as ‘philly’ or spoilt / skeletal fish.”* [Female FGD participant, Busia border].

The scarcity of food supplies in the neighboring countries could have encouraged people to participate in ICBT. This was emphasized by one female FGD participant indeed noted that: *“our neighbouring countries do not have adequate food supplies because they lack conducive climate and fertile soils that can support growth of food.”* [Female FGD participant, Busia]

⁷² Helble, M., Sheperd, B. and Wilson, J. (2007). Transparency, Trade Costs and Regional Integration in the Asia Pacific, *World Bank Policy Research Working Paper No. 4401*, World Bank, Washington, D.C.

⁷³ Eastern Africa Community (EAC) (2005), *A Guide for Maize Traders on Regulatory Requirements for Imports and Exports of Maize in East African Community*, EAC, Arusha.

⁷⁴ Ackello-Ogotu, C. (2012). Methodologies for Estimating Informal Cross-Border Trade in Eastern and Southern Africa, *USAID Technical Paper No. 29*, USAID Africa Bureau, Washington.

Another reason for engaging in ICBT was the preference to buy items at a cheaper cost or being paid in foreign currency which was stronger than the Ugandan currency.⁷⁵ At Mutukula engagement in ICBT was linked to buying of goods such as cooking oil and rice from Tanzania at cheaper prices. At Busia border traders revealed that the sale of Ugandan goods to Kenya facilitates the procurement of manufactured goods. Lack of alternative job opportunities was also reported as one of the reasons why people engage in ICBT. At Busia, many people were reported to be unemployed and this had made men, women and PwDs to engage in ICBT. An elderly man from Busia said that: *‘In Busia here we don’t have any factory to employ us and this trade has helped to employ most of the people from this border area.’*

Obstructed Entry/Exit of Certain Goods and Lack of Formal Trade Finance

Furthermore, informal cross-border trade might be motivated by the existence of import quotas in the importing country or export bans in neighboring exporting countries. In Zimbabwe and Nigeria, the government imposed important quantitative restrictions on selected imports such as rice which limited their formal entry into the country and triggered informal trade.⁷⁶ When in 1995, the Nigerian government decided to lift these restrictions; it helped divert trade flows back to the formal market. Similarly, in Malawi, Zambia and Zimbabwe, the government has maintained export bans on cereals, which have limited formal export flows of these commodities to neighbouring countries in 2004-2007.⁷⁷

In addition, measures that negatively affect access to foreign currency and to trade finance can also motivate small firms and entrepreneurs to trade informally. African countries that introduce foreign exchange controls when faced with balance of payment problems impede the entry of formal imports, as traders are unable to convert their currency into the currency of their trading partner. In addition, when traders have difficulties in contracting formal credits, they might turn to informal sources of finance. This can in turn provide additional incentives to trade informally. Ogutu, for example, finds that when credit is used in cross border trade in the Horn of Africa, more than 95% is obtained informally from kinsmen or friends since very few traders have had access to formal sources of finance in the reviewed periods.⁷⁸ This finding is corroborated by the latest World Bank/IFC Enterprise Survey which

⁷⁵Engman, M. and Yasui, T. (2005). The Role of Automation in Trade Facilitation, *OECD Trade Policy Working Paper No.22*, OECD, Paris

⁷⁶Ariga J, Jayne TS, Njukia S (2010) Staple food policies in Kenya. A paper prepared for the COMESA policy seminar on variation in staple food prices: causes, consequence, and policy options, the Comesa-MSU-IFPRI African Agricultural Marketing Project (AAMP), Maputo, Mozambique, 25–26 Jan 2010

⁷⁷ Ackello-ogutu, Chris (2010), “Unrecorded Cross-Border Trade between Kenya and Uganda” Implications for Food Security. SD Publication Series; Office of Sustainable Development Bureau for Africa.

⁷⁸ Ogutu, Chris, (2013), “Methodologies for Estimating Informal Cross-border Trade in Eastern and Southern Africa”: A USAID SD Publication Series; Office of Sustainable Development Bureau for Africa

indicates that more than 30% of the respondents interviewed identify access and cost of finance as a major impediment to their domestic operations.⁷⁹

INFORMAL CROSS BORDER TRADE BETWEEN KENYA AND UGANDA: ANALYTICAL EVALUATION

Impacts of Informal Cross Border Trade

Depending on border specificities, regional and local circumstances, ICBT impacts consumers, producers and the government differently. In terms of revenue collection, governments are generally on the losing end.⁸⁰ Countries with low revenue bases but higher incidence of ICBT along their borders such as Ethiopia, Benin, Togo, Niger, Mali, Congo, South Sudan, Somalia may experience macroeconomic imbalances due to revenue losses. Coastal countries such as Benin and Togo spend foreign exchange importing merchandise that are later informally sold across its borders on local currencies hence exerting a drain on their economies. However, this doesn't mean that governments should criminalize the practice. Uganda showed that although its government lost potential revenues from ICBT, the economy as whole was better with foreign exchange earnings on ICBT amounting to (positive informal trade balances) of US\$ 717 million and US\$ 461 million respectively for 2009 and 2010.⁸¹

Consumers usually come out as winners, but not all the time. ICBT generally benefits consumers by increasing the availability of goods at affordable prices.⁸² However, consumption of tradable goods not subjected to customs clearance and other border formalities may in some cases lead to loss of consumer welfare. Most foodstuff and other commodities traded informally are not subject to Sanitary and Phytosanitary (SPS) measures thus making consumption riskier. Failure to subject goods to standards inspection exposes consumers to health, safety and environmental risks.⁸³

Where traded goods are counterfeits or adulterated merchandise, ICBT may have a negative effect on competition. Local producers could fall victim to copyrights infringement, or find they are unable to compete against cheaper (sub-standard) products from Asia and gradually see their market shares erode.⁸⁴ This is exacerbated by the fact that African countries

⁷⁹ Sokol (eds.) (2013), *Customs Modernisation Handbook*, World Bank, Washington D.C. tad/tc/wp(2008)13/final.

⁸⁰ Boko, S. H., Balamoune-Lutz, M. and Kimuna, S. R. eds, (2013), *Women in African Development: The Challenges of Globalization and Liberalization in the 21st Century*. Trenton, NJ: Africa World Press

⁸¹ Ackello-Ogut, C. (2012). Methodologies for Estimating Informal Cross-Border Trade in Eastern and Southern Africa, *USAID Technical Paper No. 29*, USAID Africa Bureau, Washington.

⁸² Peberdy, S. A. (2010), Border Crossings: Small Entrepreneurs and Cross-Border Trade Between South Africa and Mozambique. *Tijdschrift voor Economische en Sociale Geografie*. 91 (4): 361-378.

⁸³ Lesser C., Leeman E.M. 2009. "Informal Cross Border and Trade Facilitation Reform in Sub-Saharan Africa Final Report OECD" Trade Policy Working Paper No. 86. Paris, France.

⁸⁴ Campenhout B. (2007). Modeling trends in food market integration: method and an application to Tanzania maize markets. *Food Policy* 32:112-127

generally have weak regulatory frameworks and capacity to protect intellectual property rights and competition. Even ICBT in foodstuff, in spite of its many food security benefits, can in some cases adversely affect the livelihoods of farmers. This is especially true when the crops are brought in more cheaply from neighboring countries, creating a glut, decreasing prices in the local market and leaving local farmers with no market for their products.⁸⁵

Generally, the positive impacts of ICBT outweigh the negative ones. The knock-on effects of ICBT on employment creation, income generation and the improvement of welfare for the participants is an important contribution to the economy from informal trade.⁸⁶ In Southern and Eastern Africa, ICBT has proven to lessen the impact of food crises and help reduce price volatility. ICBT can lead to wider market access and a greater availability of goods at affordable prices and can also contribute to macroeconomic stabilization. The example of Uganda where ICBT accounted for 33.8% and 24.6% of total exports trade in 2009 and 2010 respectively provides empirical evidence and demonstrates how beneficial ICBT can be to some African economies.⁸⁷ The following categories of people were observed;

a) Traders

Traders consist of registered wholesalers, retailers, and informal hawkers/dealers. It will be essential to estimate the proportion of the traders' stocks meant for export as distinct from that going to the local community.⁸⁸ This is a particularly important point to consider in sampling and monitoring at border sites where frontier wholesalers and retailers target the bulk of their merchandise for the export market.⁸⁹

b) Agents

Agents may be registered firms or individuals acting on behalf of importers and exporters.⁹⁰ At some of the border towns, public officials double as agents, but this is usually a very closely guarded secret. The involvement of public officials in the informal trade makes it extremely difficult to stomp out the habit of non-registration of goods. It would be in the interest of the officials to bureaucratize the documentation procedures thus boosting the informal sector in which the officials are active participants. Shopkeepers and other retail

⁸⁵Engman, M. and Yasui, T. (2005). The Role of Automation in Trade Facilitation, *OECD Trade Policy Working Paper No.22*, OECD, Paris

⁸⁶Little, D. (2010), The Global Dimensions of Cross-Border Trade in the Somalia Borderlands. In *Globalization, Democracy, and Development in Africa: Future Prospects*. In A.G. M. Ahmed, ed. Pp. 179-200. Addis Ababa, Ethiopia: Organization for Social Science Research in Eastern and Southern Africa (OSSREA).

⁸⁷Tumuhimbise, C. and Ihiga, S. 2010. A survey of non-tariff barriers that affect Ugandan imports and exports within EAC and COMESA countries.

⁸⁸Karugia, J., Gbegbelegbe, S., Nzuma, J., Massawe, S., Freeman, A., Bahiigwa, G., Berisha-Krasniqi, V., Bouet, A., Dimaranan, B., Mevel, S. and Roy, D. 2008a

⁸⁹Musonda, M. 2010. "Overview of Informal Trade in the SADC Region: Where are we now?". Regional Workshop for SADC Informal Traders 11-12 February. Harare, Zimbabwe.

⁹⁰Rashid S (2014) Spatial integration of maize markets in post-liberalised Uganda. *J Afr Econ* 13:102-133

dealers also act as agents for established importers and exporters by prodding temporary storage facility.⁹¹

c) Hawkers

Hawkers generally do not have permanent structures and hence operate at the open border markets and along the roads in competition with the registered retailers. Some of the hawkers may be selling on behalf of the bigger shops and dealers.⁹² The hawkers may carry goods which originally came into the country through the official channels, but invariably, the goods are products of smuggling routes and generally sell at relatively lower prices compared to those quoted by the retail shops. Electronics, textiles, soft drinks, utensils and cooking ware are the most popular items for hawkers. Hawkiers may carry the same items back and forth across the border in search of buyers, thus disqualifying the goods they carry from the observational techniques to be described in the subsequent sections of this report.⁹³

d) Transporters/Couriers

This is a fairly visible group at most of the borders with the traders they serve invariably playing a seemingly innocuous role.⁹⁴ Transportation is done using trucks, boats, carts, bicycles or by hand/head, depending on load, route and distance. Most of the goods that pass through the unofficial channels are brought in large trucks and are subsequently broken down into smaller parcels which can readily be carried even by children who act as couriers. This method works well for maize, wheat flour, petrol, soft drinks, beer and many other bulky items originating from the commercial centres of the exporting country.⁹⁵

e) Consumers

Consumers freely cross the border with what the customs officials refer to as hand/head luggage that are never recorded or taxed.⁹⁶ Such consumers are not the same as the couriers who also operate in the same fashion but on behalf of bigger traders or transporters, as described above. Due to the fact that border communities from two neighboring countries are generally closely integrated through common dialects and/or, movement across the border is

⁹¹Gunning W. (2001), Regional integration and strategies for trade policy in Sub-Saharan Africa Elbadawi and Ngulu (ed) *Economic development in Sub Saharan Africa* Palgrave

⁹²Yaya H. and Meagher K. (2011). Cross Border Trade and the Parallel Currency Market Trade and finance in the context of Structural Adjustment, A Case Study from Kano, Nigerial, *Research Report No. 113*, Nordica Afrikainstitutet, Uppsala.

⁹³Schneider F., (2006). Shadow Economies and Corruption All over the World: What Do We Really Know?!, *Discussion Paper No. 2315*, Institute for the Study of Labour (IZA), Bonn.

⁹⁴OECD (2004), *Istanbul Ministerial Declaration on Fostering the Growth of Innovative and Internationally Competitive SMEs*, OECD, Paris.

⁹⁵De Wulf, L. (2005a). Ghanal, in *Customs Modernization Initiatives, Case Studies*, World Bank, Washington D.C.

⁹⁶Goorman A. (2005). Customs Valuation in Developing Countries and the World Trade Organisation Valuation Rules”, in De Wulf, L. and J.B. Sokol (eds.) (2005), *Customs Modernisation Handbook*, World Bank, Washington D.C.

not easy to control. The small transactions made amount to fairly large unrecorded trade between the two countries.⁹⁷

f) Public Officials

This, for various reasons, is a crucial group in cross border trade and generally consists of customs officials, police officers, provincial/district administrators and cess collectors. They are an important source of secondary information as well as information relating to how trade is conducted across the border.⁹⁸ Furthermore, they also operate in other nonofficial capacities which may be of interest.

Implications of ICBT between Kenya and Uganda

According to the findings in Chapter three the informal cross border trade is an integral position in the survival and basic economic arrangement of humankind is well documented. Nevertheless, Chung asserts that the sector can however no longer be considered as a temporary phenomenon.⁹⁹ The informal sector as in this study has been described as the unregulated and mostly unregistered sector of the economy. According to him, the trade is operated by artisans, peasants and other micro entrepreneurs, within the economy. According to Borai regardless of the level of state involvement in the economy, the informal cross border trade provides employment for a significant number of the unemployed and underemployed.¹⁰⁰

Borai study shows that ninety percent (90%) of poorer developing countries is informal employment. According to estimates by the International Labour Organisation (ILO), 1.8 billion, compared to 1.2 billion (formal sector) people are employed in the informal sector. UNCTAD report given this interface between the informal sector and the formal sector, some complexity is obvious.¹⁰¹ A continuum exists between the informal and the formal economy in which backward linkages and forward linkages are involved. With respect to the sustainable management of local resources hence greening the economy, the informal actors are better informed to deal with the environment given their closeness to environmental products. Besides, sustainability embraces the notion of social justice. Kinana observes that the informal actors are commonly powerless and voiceless, particularly women hence the

⁹⁷Oyejide T.A. (2010). *Policies for Regional Integration in Africa Economic Research Papers*, University of Ibadan, Ibadan, Nigeria.

⁹⁸Ndlela, D. (2006). Informal Cross-Border Trade: The Case of Zimbabwe, *Occasional Paper, No. 52*, Institute for Global Dialogue, Johannesburg. Business Action for Improving Customs Administration in Africa (BAFICAA) (2006), *Customs and Business in Africa: A Better Way Forward Together*, July/August 2006.

⁹⁹Chung, O. (2010). The Lopsided International Investment Law Regime and Its Effect on the Future of Investor-State Arbitration 47 *Va J Int'l L* 953

¹⁰⁰Borai, R. (2013) 'Cross-Border Corporate Insolvency: A Modest Proposal for An Enhanced International Approach' PhD Thesis, Queen Mary College, University of London.

¹⁰¹UNCTAD, *Economic Development in Africa Report 2009: Strengthening Regional Economic Integration for Africa* (UN, New York 2009)

empowerment embedded in informal opportunities can be capitalised upon towards poverty eradication and promotion of gender equality.¹⁰²

According to Harris ICBT does not only promote a developing community (through regional integration), ensure employment creation and income generation- especially for people who are unable to find formal employment due to various socio-economic reasons; but it also plays an important role in ensuring food security by moving agricultural produce and other foodstuffs across borders where they are needed the most.¹⁰³ With the two countries beginning to feel the realities of climate change, through high food prices, severe droughts and flooding informal trade offers people an alternative to still live in dignity. Furthermore, and often overlooked is that ICBT is a key source of empowerment for women who constitute the majority of traders. It has been found that over 70 percent of informal cross border traders are women who are either widowed, divorced or simply undertake this business to supplement their husbands' incomes.¹⁰⁴

According to Akech one of the key factors contributing to ICBT is the interaction and mutual reinforcement between the so called labor-supply push and low-income-demand pull.¹⁰⁵ Within the context of the present situation in Kenya – Uganda border, what is referred to as the labor-supply push is characterized by: high unemployment, resulting in an increasingly cheap labor supply; and the search for alternative or complementary income earning opportunities as a result of eroded income levels, decreases in the labor force in productive enterprises and lack of skills to enter into the shrinking formal sector.

The low-income-demand pull on the other hand has the following features: the existence of a large number of poor consumers with low effective demand for basic consumer goods offered in the formal sector; and the existence of suppressed demand for goods normally offered by the commercial network and inefficiency of formal suppliers who quite often face tremendous liquidity problems.¹⁰⁶ Despite its significant contribution to the economy, scale cross-border trade remains largely an informal sector and the voices of the traders are seldom

¹⁰²Kinana, A. (2012). The Role of the East African Legislative Assembly in Enhancing Popular Participation and Harmonisation of Laws in East Africa (Annual Conference of the East Africa Law Society, Dares Salaam, 25 November).

¹⁰³Harris, J. (2007). International Regulation of Hedge Funds: Can the Will find a Way? 28 *Company Lawyer* 277

¹⁰⁴Malik, M. (2008). Recent Developments in Regional and Bilateral Investment Treaties (A Background paper for the 2nd Annual Forum for Developing Country Investment Negotiators, Marrakech, Morocco 2-4 November).

¹⁰⁵Akech, J. (2012). The African Growth and Opportunity Act: Implications for Kenya's Trade and Development. *International Law and Politics* 651.

¹⁰⁶Kieck, E. (2010). Coordinated Border Management: Unlocking Trade Opportunities through One Stop Border post. *World Customs Journal*, 4(1).

heard.¹⁰⁷ Statistics on this subsector are still estimated and there are no clear and targeted programs to formalize and enhance competitiveness of the sub-sector so as to enable traders take advantage of the benefits of regional integration. Traders have not even been able to take advantage of the simplified customs processes and procedures available for them at the border under the Simplified Trade Regimes (STR) established by both the EAC and COMESA.¹⁰⁸

There is enormous potential for trade to drive growth and poverty reduction in the region. ICBT has considerable opportunities were traders can benefit from in a range of goods and services. The trade has contributed to food security and has increased employment in the two countries. Trade across borders is essential to improve access and lower prices for critical inputs into economic activities including the exports of other goods and services. ICBT between these two countries has improved access of consumers to basic food products and to increase the returns to farmers.¹⁰⁹

All the above mentioned characteristics of ICBT in the two countries reveal a positive impact on employment.¹¹⁰ As the findings in chapter three have shown, many people are engaged in this activity in response to unemployment. Most of them had been previously employed by the shrinking formal sector. One of the most important implications of ICBT is in relation to income.¹¹¹ The monthly net income obtained by informal traders has been estimated, on average, to be equivalent to more than four times the minimum salary paid in the formal sector. Furthermore, the average income earned by informal traders is about two times the cost of essential goods for a family of five people, while the minimum salary only covers about 40 percent.¹¹² As a result, many people either switch from formal employment to ICBT or combine the two. Others are even unwilling to join the formal sector or do so only for purposes of social status.

¹⁰⁷Ogalo, V. (2010). Informal Cross-Border Trade in EAC: Implications for Regional Integration and Development. A CUTS publication under BIEAC Research Series.

¹⁰⁸Martinez-Zarzoso, I. and Marques-Ramos, L., (2007), The Effect of Trade Facilitation on Sectoral Trade, *Discussion Paper No. 167, Dec. 2007*, University of Gottingen, Germany.

¹⁰⁹Hummels, D. (2006), Benefiting from Globalisation: Transport Sector Contribution and Policy Challenges, Topic I, Global Trends in Trade and Transportation, paper prepared for the *ECMT/OECD 17th International Symposium on Theory and Practice in Transport Economics and Policy*, Berlin, 25-27 October 2006

¹¹⁰Heracleous, L. (2000). The Role of Strategy Implementation in Organization Development, *Organization Development Journal*, 18, 75-86.

¹¹¹Porto, G. (2005). *Informal Export Barriers and Poverty*, Development Research Group, World Bank, Washington D.C.

¹¹²Heracleous, L. (2000). The Role of Strategy Implementation in Organization Development, *Organization Development Journal*, 18, 75-86.

Although this study did not set out to assess the number of people employed in ICBT, it was evident that many individuals of both sexes were engaged in this activity.¹¹³ This trend was necessitated mainly by the structural adjustment programs taking place in these two countries. Another reason why ICBT attracts a huge number of people is the ease of entry, as there is no requirement for registration or enrolment for one to be involved. The fact that a small amount of initial capital is required is another reason that attracts the involvement of a large number of people engaged in ICBT.¹¹⁴

Equally important is the fact that ICBT activities are, in general, labor intensive. For example, the activities of transporting across the border small quantities of merchandise (mainly as a strategy to avoid confiscation) requires a large labor force before the goods are reassembled on the other side of the border for onward transportation.¹¹⁵ According to the study findings ICBT trade plays a positive role on poverty alleviation by providing employment and incomes. This role is important, particularly in view of the fact that more than two thirds of the population in this two countries live in absolute poverty. It could be argued that ICBT might not be the best way to address the poverty alleviation issues, but it is definitely one of the forms that people find extremely easy to adopt.¹¹⁶

KEY FINDINGS

The informal cross border trade is significant and contributes immensely to household welfare and the country's economic growth. Designing appropriate policies with adequate mobilization of informal traders could enhance government revenue and tap from the benefits of the informal trade sector. Specific policies that acknowledge and encourage formalization of ICBT activities could exploit the comparative and competitive advantage the traders enjoy in the region.¹¹⁷ This could impact positively on the local food security situation, attract investments in agro-processing, development of market and transport infrastructure; reduction of price volatility and market imperfections. By recognizing the importance of ICBT rather than discouraging it, the government can greatly expand its revenues through

¹¹³Porto, G. (2005). *Informal Export Barriers and Poverty*, Development Research Group, World Bank, Washington D.C.

¹¹⁴Perry, G.E, Maloney, W.F., Arias, O.S., Fajnzylber, P., Mason, A.D., Saavedra-Chanduvi, J. (2007), *Informality: Exit and Exclusion*, World Bank, Washington D.C.

¹¹⁵International Finance Corporation (IFC) (2007a), *Designing a Tax System for Micro- and Small Businesses: Guide for Practitioners*, IFC, Washington D.C. IFC (2007b), *Reforming the Regulatory Procedures for Import and Export: Guide for Practitioners*, IFC, Washington.

¹¹⁶Gonzalez, A. and F. Lamanna (2007). Who Fears Competition from Informal Firms? Evidence from Latin America, *Policy Research Working Paper 4316*, World Bank, Washington D.C.

¹¹⁷Keen, M. (2003). The Future of Fiscal Frontiers and the Modernisation of Customs Administration. In Keen, M. (ed.) (2003), *Changing Customs: Challenges and Strategies for the Reform of the Customs Administration*, IMF, Washington D.C.

customs and tax collection at borders and market towns, and improve the welfare of its citizens at the same time.

The participation of the both Kenya and Uganda government in the guidance, monitoring and organization of the informal trade sector players impact immensely on the traders incomes and the quality of goods exported. Sensitization of traders on sanitary and phy to sanitary requirements, observance of standards and quality control is of paramount importance. Moreover informal traders are not aware of their rights in the process of transacting business within the EAC region.¹¹⁸ Further, according the survey results, the common problems encountered in transacting informal trade included; visa restrictions, duties and taxes, licensing, access to finance for trade, sexual harassment, and non-uniformity in customs and immigration regulations within EAC, which requires a multi-faceted approach to be employed in order to minimize these problems.¹¹⁹

There also exists an urgent need to increase gender awareness and sensitivity of institutions such as Revenue Authorities to conduct their work in a way that recognizes gender issues and other targeted beneficiaries based on clearly identified needs, which may vary according to gender. It is not only ineffective but also counter-productive to continue to talk in generalities, without acknowledging the specific differences in the situations, capacities, needs and interests of traders.¹²⁰

Government and private sector (Civil societies, NGOs, partnership Faith institutions, cultural groups etc) involvement in providing appropriate information and financial services could spur informal trade to unprecedented levels. The informal trader's are in dire need of market information, financial services, and understanding their role in the EAC regional integration processes. Other initiatives pursued under COMESA, New Partnership for Africa Development (NEPAD) need to be demystified to encourage participation and input from the informal traders.¹²¹

CONCLUSION

The study revealed that ICBT is a major source of livelihood for people living at border posts, while for government and other institutions such as URA and Police, ICBT as illegal activity/disguised smuggling and a source of unfair competition thus a loss of revenue. ICBT is carried out by men and women of whom, 56 percent were Kenyans and 44% Uganda nationals and 88percent are able to read and write. The study further observed that 84 percent

¹¹⁸Smith, Alasdair, and Anthony Venables (2012), Completing the Internal Market in the European Community: Some Industry Simulations. *European Economic Review*32 (7): 1501-25

¹¹⁹Hummels, D. (2006), Benefiting from Globalisation: Transport Sector Contribution and Policy Challenges, Topic I, Global Trends in Trade and Transportation, paper prepared for the *ECMT/OECD 17th International Symposium on Theory and Practice in Transport Economics and Policy*, Berlin.

¹²⁰Widdowson, D. (2005). Managing Risk in the Customs Context, in *Customs Modernization Handbook*, World Bank, Washington D.C. TAD/TC/WP(2008)13/FINAL 51

¹²¹Soko, D., (2006). Why Trade facilitation is Key to Boosting Intra-African Trade?, in *Africa Growth Agenda*, November 2006.

of household businesses were operating from permanent structures. This present how well ICBT thrives and benefits traders, leading to structural development.

Several reasons were advanced for engaging in ICBT, including; it's away to earn income, employment thus a major source of livelihood for people's survival. The political stability and good relations existing between the Ugandans and her neighbours also facilitated ICBT.¹²² It was also reported that the lucrative markets offered by the counterparts in the bordering country promotes and attract people to engage in the trade. Besides it was mentioned that traders have a tendency to evade high taxes and other customs levies; bureaucratic licensing thus ICBT presents a viable alternative. ICBT is mainly dominated by women and the youth.¹²³

The study reported several ICBT activities; however, trading in agricultural and manufactured goods across the border was mentioned to be the major ICBT activity. Informal routes constituted the major crossing of goods. The majority of the agricultural and manufactured goods under ICBT are sourced from other districts other than the district where the border is located. This presupposes that there is less or no production of goods within the district where the border is located. It was also observed that seasonality was key determinant for the types and quantities of commodities traded under ICBT.

The study reported that transportation of goods was reportedly to be mainly by carts, bicycles, vehicles, and head and by hand. On how ICBT is organized, the survey found out that traders mainly work on their own while others mobilize themselves to work in groups.¹²⁴ The study also revealed that ICBT transactions are cash based as opposed to cheques. Across all border posts, the major beneficiaries of ICBT were reported to be women. The study presented testimonies of improved household welfare as result of women engaging in ICBT. FGD data revealed that the more male PWDs, earn from ICBT, the greater their involvement in polygamous unions because of the expected daily earnings.

As for the youths, they have not sustained their ICBT because of their uncontrollable behaviour of extravagancy, overdrinking, promiscuity and sometimes defilement as well as being robbed due to movements in the late night. The survey presents positive aspects of informal cross-border trade include availability of markets, food security, and income.¹²⁵ However, ICBT was reported to impact negative mainly on food security. Besides, border communities have limited access to services such as education, health, agricultural extension,

¹²²Otsuki, T. (2003). Trade Facilitation and Economic Development: Measuring the Impact, *World Bank Working Paper 2988*, Washington D.C.

¹²³Subramanian, U., & Matthijs, M. (2007). Can Sub-Saharan Africa Leap into Global Network Trade?, *World Bank Policy Research Working Paper 4112*, January 2007.

¹²⁴Mansour, M. (2007). Revenue Mobilization in Sub-Saharan Africa: Challenges from Globalization, paper presented on 15 October 2007 at the *USAID Economic Growth Officers Workshop*, Washington, D.C.

¹²⁵Dzaka-Kikouta, T. (2004), *Focus on Cross-Border Exchanges Between Brazzaville/Congo and Kinshasa/DRC*, Nov-Dec. 2004, Initiative for Central Africa (INICA), Paris.

and finance and marketing. Increased neglect of family responsibilities by men has left many women to fend for their families.

The situation is made worse by some men who steal women's money if not kept secretly. The informal cross border traders particularly face poor socio-economic conditions, particularly the factors of vulnerability, such as gender inequality, poor living and working conditions, separation from families, exploitation and discrimination, lack of access to health and other services. Sensitization of informal traders is important, as this would facilitate easy access to information.¹²⁶ This would empower traders to promote business and make strategic investment decisions with the finances generated from ICBT. The traders require information on available market for their products, access to loans, value addition and the opportunities offered under EAC Customs Union. Lack of business management skills was linked to low literacy levels which was cited as a constraint to ICBT.

RECOMMENDATIONS

The following recommendations will go a long way in informing policy and decision making processes for improving the livelihood of those engaged in ICBT as well as improving the ICBT exercise between Kenya and Uganda.

Information is very valuable in facilitating informal cross border trade. The governments of EAC should promote the establishment of information centers for people involved in informal cross border trade, to enable them access information on what is available, pricing systems, markets, where to access finance and so on. The policies must be reviewed within the framework of EAC policies. The information would be disseminated through some literature written in vernacular since most border areas use diversities of languages.

The mobility experiences of women differ significantly from those of men. The current social norms and practices discriminate against women in all sorts of ways, limiting their life choices and restricting their physical mobility. Therefore at operational level there is need for gender specific strategies, programs and activities that recognize the different needs and capacities of men and women traders. These should focus on improving the operating environment, access to resources and opportunities for traders, especially female traders so as to improve the efficiency and effectiveness of informal cross border traders. As many citizens from the East African States benefit from informal cross border trade by purchasing a variety of goods. However, few service agencies actually think about the quality of life led by this largely invisible population involved in ICBT. Therefore, there is need to provide the necessary service so as to facilitate the livelihoods of the Informal Traders across the various borders.

¹²⁶Levin, J. and Widell, L. (2007). Tax Evasion in Kenya and Tanzania: Evidence from Missing Imports, *Working Paper No.8*, Department of Business, Economics, Statistics and Informatics, University of Orebro, Sweden.

Informal cross border traders cited financial services as a critical problem. The shortage of ready finance hinders the expansion of ICBT activities. Therefore, it is necessary to explore alternative lending ways that are responsive to the unique demands of the informal cross border trade. Furthermore, experience from the Focus Group Discussions proved that microfinance institutions are not reaching out to the neediest in this sector. Their interest rates are out of reach for the poor traders involved in informal cross border trade. More so, the demand for weekly payments prohibits their movements. Hence, the government should explore the viability of establishing a fund primarily to benefit the small-scale commodity producers, traders, exporters, artisans and artists engaged in their sustainable livelihood initiatives. The fund could also be envisaged for use in infrastructural development, such as in the improvement of feeder roads which would enhance marketing opportunities, promote small scale manufacturing and processing ventures in the informal sector. In this way, Informal traders would tremendously contribute to the achievement of the Millennium Development Goals (MDGs).

At regional level, governments should harmonize their policies to ensure effective trade integration to support the work of informal cross border traders. It is important that policy formulation processes are facilitated and promoted, and that their implementation is closely monitored by the regional bodies of EAC Customs Union. Inclusion of informal cross border trade in the vision of policymakers will help to facilitate their individual economic empowerment as well as enhancing their role as a significant component of the regional trade activities.

The movement of informal cross border traders remains a major issue of concern. The identification formalities at the various border points make it hard for the small-scale traders to operate effectively. These take a lot of time and delays business transactions. The introduction of the EAC passport and temporary business permits would come in handy to facilitate movement of people as well as trade. In addition, the Local authorities along the borders should collaborate more effectively within EAC and establish similar bye-laws to facilitate informal cross border traders as well as establish business districts to promote business development in the region.

The further expansion of intra-EAC trade will require a sustained effort toward reducing and eventually eliminating the various institutional and regulatory barriers identified in this policy brief. All the agencies operating at the border points need to have harmonized inspection processes to hasten the clearance process and reduce delays at the borders. Consideration should be made to establish a one-stop border shop. The agencies should simplify various application forms with a view to reducing lengthy and technical procedures. More point offices that are focal points for obtaining important information regarding the EAC are required. Currently, there are only two regional offices, in Busia and Namanga, and these lack adequate staff.

On regulatory barriers, Kenya and the other EAC governments should streamline customs clearance procedures, rules of origin and standards by reducing the number of trade documents required and by harmonizing the nature of the information to be contained in these documents. Such documentation should also be designed and standardized in accordance with internationally accepted standards, practices and guidelines and should be adaptable for use in computer systems. In addition, the customs departments in partner states need to harmonize information and communication technology programs. The international community can play a key role in enhancing technical capacity in the region by helping to identify, communicate and advise institutions on how to eliminate barriers to trade.

The EAC governments should encourage policies that promote processing for export markets by providing attractive incentives. Processed goods are more durable and fetch high prices. In addition, an initiative should be made by our government to provide incentives to the private sector to add value to their produce as well as stream lining food distribution from food surplus areas to food deficit areas that are hard to reach across the country. This calls for sustained investment and maintenance of physical infrastructure such granaries, energy and roads especially in the rural areas.

The agricultural commodities transacted under informal trade like maize, beans, rice, groundnuts, and tubers (cassava, Irish potatoes, and yams) have direct implications on the country's food security situation. Building silos and applying modern preservative methods on perishable commodities in bumper harvest period could ensure availability of such foodstuffs during scarcity times is highly recommended. This would lessen the burden of the government to meet food demands during disasters when the country experiences food scarcity.

EAC countries should commission studies to create a database of informal traders to guide policy to planning process for easy access of government resources and facilitation. Lastly, government should enhance management of people's expectations through increased household awareness of alternative livelihood systems and pro-poor coping mechanisms to enhance their preparedness for any future food and nutrition insecurity. This would encourage households to take advantage of existing opportunities, programmes and projects aimed at improving their agricultural production, welfare and prosperity. The programmes among others would include access to domestic and regional markets, physical infrastructure especially rural roads through the already existing programs like the NAADS, UPE, USE, immunization as well as support to livestock and fish production. Data collection/estimation capacities should be strengthened as a basis for further economic analyses on the exact impact of ICBT and the most ideal policy responses.

ANNEXES: PLATES OF ICBT



Categories of people engaged in ICBT